

1 [Amending the Jobs Housing Linkage Program Ordinance.]

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3 **Ordinance amending the San Francisco Planning Code by amending Section 313.5 to**
4 **change the formula used in the Jobs Housing Linkage Program to determine the**
5 **number of affordable housing units a housing developer is required to build if an office**
6 **developer elects to comply with the Jobs Housing Linkage Program Ordinance by**
7 **payment of money or land to a housing developer.**

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

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

13 Section 1. Findings. In February, 2001, the Board enacted the "Jobs Housing Linkage
14 Program." This program, formerly known as the Office Affordable Housing Production
15 Program, imposes the cost of the increased burden of providing housing necessitated by
16 large-scale commercial development projects directly upon the sponsors of the development
17 projects. The Jobs Housing Linkage Program requires that the sponsors of large-scale
18 commercial developments contribute land or money to a housing developer or pay a fee to the
19 City to subsidize housing development as a condition of the privilege of development.

20 The required housing exaction in the Jobs-Housing Linkage Program is based upon
21 formulas derived in the report entitled "Jobs Housing Nexus Analysis" prepared by Keyser
22 Marston Associates, Inc., dated June, 1997. The "Jobs Housing Nexus Analysis"
23 demonstrates the validity of the nexus between new, large-scale entertainment, hotel, office,
24 research and development, and retail development and the increased demand for housing in
25 the City, and the numerical relationship between such development projects and the formulas
for provision of housing set forth in the Jobs Housing Linkage Program.

1 Under the February, 2001 Jobs Housing Linkage Program ordinance, if the sponsor of
2 an office development elects to comply with the Jobs Housing Linkage Program by payment
3 of money or land to a housing developer, the housing developer must build 16.1 units of
4 affordable housing units for every 100,000 square feet of net additional office space. As
5 demonstrated in the Jobs Housing Nexus Analysis, this number represents approximately
6 thirty-one percent of the number of affordable housing units needed to offset the demand in
7 affordable housing created by the development.

8 This ordinance increases the number of affordable housing units required to 27 units
9 for every 100,000 square feet of net additional office space. This number represents
10 approximately fifty-two percent of the number of affordable housing units needed to offset the
11 demand in affordable housing created by the development. The number of units required by
12 this ordinance is well within the maximum number of units needed to offset the demand in
13 affordable housing created by the development, as demonstrated in the Jobs Housing Nexus
14 Analysis.

15 Section 2. The San Francisco Planning Code is hereby amended by amending Section
16 313.5, to read as follows:

17 **SEC. 313.5. COMPLIANCE THROUGH PAYMENT TO HOUSING DEVELOPER.**

18 (a) If the sponsor elects to pay a sum or contribute land of value at least equivalent to the in-
19 lieu fee to one or more housing developers to meet the requirements of this ordinance, the
20 housing developer or developers shall be required to construct at least the number of housing
21 units determined by the following formulas for each type of space proposed as part of the
22 development project and subject to this ordinance:

23 Net Addition Gross Sq. Ft. Entertainment Space × .000140 = Housing Units

24 Net Addition Gross Sq. Ft. Hotel Space × .000110 = Housing Units

25 Net Addition Gross Sq. Ft. Office Space × ~~.000161~~ .000270 = Housing Units

1 Net Addition Gross Sq. Ft. R&D Space × .000200 = Housing Units

2 Net Addition Gross Sq. Ft. Retail Space × .000140 = Housing Units

3
4 The housing units required to be constructed under the above formula must be
5 affordable to qualifying households continuously for 50 years. If the sponsor elects to
6 contribute to more than one distinct housing development under this Section, the sponsor
7 shall not receive credit for its monetary contribution to any one development in excess of the
8 amount of the in-lieu fee, as adjusted under Section 313.6, multiplied by the number of units in
9 such housing development.

10 (b) Within one year of the final determination under Section 313.4(c) or a
11 revised final determination under Section 313.4(e), or prior to the issuance by the Director of
12 Building Inspection of the first site or building permit for a development project subject to this
13 ordinance, whichever occurs first, the sponsor shall submit to the Director of Planning, with a
14 copy to the Director of the Mayor's Office of Housing:

15 (1) A written housing development plan identifying the housing project or
16 projects to receive funds or land from the sponsor and the proposed mechanism for enforcing
17 the requirement that the housing units constructed will be affordable to qualifying households
18 for 50 years; and

19 (2) A certification that the sponsor has made a binding commitment to
20 contribute an amount of money or land of value at least equivalent to the amount of the in-lieu
21 fee that would otherwise be required under Section 313.6 to one or more housing developers
22 and that the housing developer or developers shall use such funds or land to develop the
23 housing subject to this Section.

24 (3) A self-contained appraisal report as defined by the Uniform Standards of
25 Professional Appraisal Practice prepared by an M.A.I. appraiser of the fair market value of any

1 land to be contributed by the sponsor to a housing developer. The date of value of the
2 appraisal shall be the date on which the sponsor submits the housing development plan and
3 certification to the Director of Planning.

4 If the sponsor fails to comply with these requirements within one year of the final
5 determination or revised final determination, it shall be deemed to have elected to pay the in-
6 lieu fee under Section 313.6 to comply with this ordinance. In the event that the sponsor fails
7 to pay the in-lieu fee within the time required by Section 313.6, the Director of Building
8 Inspection shall deny any and all site or building permits or certificates of occupancy for the
9 development project until the Director of Planning notifies the Director of Building Inspection
10 and the Director of the Mayor's Office of Housing that such payment has been made or land
11 contributed, and the Director of Planning shall immediately initiate lien proceedings against
12 the sponsor's property pursuant to Section 313.9 to recover the fee.

13 (c) Within 30 days after the sponsor has submitted a written housing
14 development project plan and, if necessary, an appraisal to the Director of Planning and the
15 Director of the Mayor's Office of Housing under subsection (b) of this Section, the Director of
16 Planning shall notify the sponsor in writing of his or her initial determination as to whether the
17 plan and appraisal are in compliance with this Section, publish the initial determination in the
18 next Planning Commission calendar, and cause a public notice to be published in an official
19 newspaper of general circulation stating that such housing development plan has been
20 received and stating the Director of Planning's initial determination. In making the initial
21 determination for an application where the sponsor elects to contribute land to a housing
22 developer, the Director of Planning shall consult with the Director of Property and include
23 within his or her initial determination a finding as to the fair market value of the land proposed
24 for contribution to a housing developer. Within 10 days after such written notification and
25 published notice, the sponsor or any other person may request a hearing before the

1 Commission to contest such initial determination. If the Director of Planning receives no
2 request for a hearing within such 10-day period, the determination of the Director of Planning
3 shall become a final determination. Upon receipt of any timely request for hearing, the
4 Director of Planning shall schedule a hearing before the Commission within 30 days. The
5 scope of the hearing shall be limited to the compliance of the housing development plan and
6 appraisal with this Section, and shall not include a challenge to the amount of the housing
7 requirement imposed on the development project by the Department or the Commission. At
8 the hearing, the Commission may either make such revisions to the Director of Planning's
9 initial determination as it may deem just, or confirm the Director of Planning's initial
10 determination. The Commission's determination shall then become a final determination, and
11 the Director of Planning shall provide written notice of the final determination to the sponsor,
12 the Director of the Mayor's Office of Housing, and to any person who timely requested a
13 hearing of the Director of Planning's determination. The Director of Planning shall also
14 provide written notice to the Director of Building Inspection and the Director of the Mayor's
15 Office of Housing that the housing units to be constructed pursuant to such plan are subject to
16 this ordinance.

17 (d) In making a determination as to whether a sponsor's housing
18 development plan complies with this Section, the Director of Planning and the Commission
19 shall credit to the sponsor any excess Interim Guideline credits or excess credits that the
20 sponsor elects to apply against its housing requirement. The remaining housing units
21 required shall be subject to the requirements of subsection (a) of this Section.

22 (e) Prior to the issuance by the Director of Building Inspection of the first site
23 or building permit for a development project subject to this Section, the sponsor must:
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25

1 (1) Provide evidence to the Director of Planning in writing that it has paid in
2 full the sum or transferred title of the land required by subsection (a) of this Section to one or
3 more housing developers;

4 (2) Notify the Director of Planning that construction of the housing units has
5 commenced, evidenced by:

6 (A) The City's issuance of site and building permits for the entire housing
7 development project,

8 (B) Written authorization from the housing developer and the construction
9 lender that construction may proceed,

10 (C) An executed construction contract between the housing developer and a
11 general contractor, and

12 (D) The issuance of a performance bond enforceable by the construction
13 lender for 100 percent of the replacement cost of the housing project; and

14 (3) Provide evidence satisfactory to the Director of Planning that the units
15 required to be constructed will be affordable to qualifying households for 50 years through an
16 enforcement mechanism approved by the Director of Planning pursuant to subsections (b)
17 through (d) of this Section.

18 The Director of Building Inspection shall provide notice in writing to the Director
19 of Planning and the Director of the Mayor's Office of Housing at least five business days prior
20 to issuance of the first site or building permit for any development project for which the
21 sponsor elects to pay a sum or contribute land to one or more housing developers. If the
22 Director of Planning notifies the Director of Building Inspection within the five business days
23 that the conditions of (1) through (3) of this subsection have not been met, the Director of
24 Building Inspection shall refuse any and all site or building permits or certificates of occupancy
25 for the development project. If the Director of Planning notifies the Director of Building

1 Inspection that the sponsor has complied with these conditions or fails to respond within five
2 business days, the Director of Building Inspection shall not disapprove a site or building permit
3 or certificate of occupancy pursuant to this Section. Any failure of the Director of Building
4 Inspection or the Director of Planning to give any notice under this Section shall not relieve a
5 sponsor from compliance with this Section. Where the Director of Building Inspection issues
6 any site or building permit or certificate of occupancy for the development project in error, the
7 Director of Planning shall initiate lien proceedings against the development project under
8 Section 313.9, and the Director of Building Inspection shall revoke any permit or certificate
9 issued in error and refuse any site or building permit or certificate of occupancy until the
10 sponsor has complied with this Section.

11 (f) Where the sponsor elects to pay a sum or contribute land of value
12 equivalent to the in-lieu fee to one or more housing developers, the sponsor's responsibility
13 for completing construction of and maintaining the affordability of housing units constructed
14 ceases from and after the date on which:

15 (1) The conditions of (1) through (3) of subsection (e) of this Section have
16 been met; and

17 (2) A mechanism has been approved by the Director of Planning to enforce
18 the requirement that the housing units constructed will be affordable to qualifying households
19 continuously for 50 years.

20
21
22 APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

23 By: *Arlene Pearson*
24 Deputy City Attorney
25



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 011102

Date Passed:

Ordinance amending the San Francisco Planning Code by amending Section 313.5 to change the formula used in the Jobs Housing Linkage Program to determine the number of affordable housing units a housing developer is required to build if an office developer elects to comply with the Jobs Housing Linkage Program Ordinance by payment of money or land to a housing developer.

November 5, 2001 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval, Yee

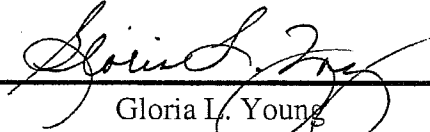
November 13, 2001 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,
Newsom, Peskin, Yee

Absent: 1 - Sandoval

File No. 011102

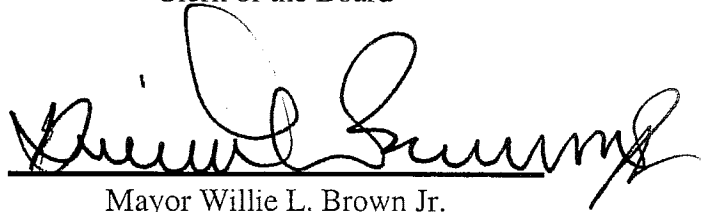
I hereby certify that the foregoing Ordinance
was FINALLY PASSED on November 13,
2001 by the Board of Supervisors of the City
and County of San Francisco.



Gloria L. Young
Clerk of the Board

NOV 21 2001

Date Approved



Mayor Willie L. Brown Jr.

