

1 [Planning, Administrative Codes - Development Impact Fee Reductions]

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3 **Ordinance amending the Planning Code to: 1) reduce Inclusionary Housing Program**
4 **requirements of the Planning Code, for projects, including requirements for projects**
5 **approved under the Housing Opportunities Means Equity – San Francisco (HOME-SF)**
6 **program, exceeding a stated unit size for projects that have been approved prior to**
7 **November 1, 2023 and that receive a first construction document within a specified**
8 **period; 2) adopt a process for those projects to request a modification to conditions of**
9 **approval related to development impact fees, subject to delegation by the Planning**
10 **Commission; 3) reduce Article 4 development impact fees, including Inclusionary**
11 **Affordable Housing fees for projects exceeding a stated unit size, for projects**
12 **approved before November 1, 2026 that receive a first construction document within 30**
13 **months of entitlement; and, 4) modify the Inclusionary Housing Program Ordinance**
14 **effective November 1, 2026 to reduce applicable fees, and on-site or off-site unit**
15 **requirements, for projects that exceed a stated unit size; amending the Administrative**
16 **Code to update the Inclusionary Housing Technical Advisory Committee member**
17 **requirements; affirming the Planning Department’s determination under the California**
18 **Environmental Quality Act; making public necessity, convenience, and welfare findings**
19 **under Planning Code, Section 302; and making findings of consistency with the**
20 **General Plan and the eight priority policies of Planning Code, Section 101.1.**

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

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

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3 Section 1.

4 (a) The Planning Department has determined that the actions contemplated in this
5 ordinance comply with the California Environmental Quality Act (California Public Resources
6 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
7 Supervisors in File No. 230769 and is incorporated herein by reference. The Board affirms
8 this determination.

9 (b) On July 13, 2023, the Planning Commission, in Resolution No. 21353, adopted
10 findings that the actions contemplated in this ordinance are consistent, on balance, with the
11 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
12 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
13 Board of Supervisors in File No. 230769, and is incorporated herein by reference.

14 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
15 amendments will serve the public necessity, convenience, and welfare for the reasons set
16 forth in in Planning Commission Resolution No. 21353, and the Board adopts such reasons as
17 its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File
18 No. 230769 and is incorporated herein by reference.

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20 Section 2. General Findings.

21 (a) San Francisco's Inclusionary Affordable Housing Program is intended to help
22 address the demonstrated need for affordable housing in San Francisco. As rents and sales
23 prices for housing outpace what is affordable to the typical San Francisco family, the City
24 faces a continuing shortage of affordable housing for all but households with the highest
25 incomes. The California Association of Realtor's "California Housing Affordability Update," for

1 the first quarter of 2023, reported that the median home price in San Francisco was
2 \$1,550,000, requiring a minimum qualifying income of \$384,000 to purchase such a home.
3 San Francisco's median home prices are over twice the State of California's median of
4 \$619,900, and over four times the national median home price of \$371,200. The majority of
5 market-rate homes for sale in San Francisco are priced out of the reach of low- and moderate-
6 income households.

7 (b) San Francisco is facing a shortage of all types of housing. To meet San
8 Francisco's share of the regional need for housing between 2023-2031, the City must
9 accommodate over 82,000 units, including ~~32,884~~ 46,598 units for extremely low, very-low
10 ~~and low- and moderate-~~ income households, ~~and 49,188 units for moderate and above-~~
11 ~~moderate income households~~. The Inclusionary Housing Program is an important part of the
12 City's overall strategy for providing affordable housing to very-low, low- moderate-, and
13 middle-income households, and has created more than 3,300 units since its inception. But the
14 success of the Inclusionary Housing Program is contingent on the overall feasibility of
15 residential development. For that reason, Planning Code Section 415.10 requires periodic
16 review of the program's requirements.

17 (c) From October 2022 through April 2023, consistent with Planning Code Section
18 415.10, the Controller and the Affordable Housing Technical Advisory Committee (TAC) met
19 to conduct and review the feasibility of the City's inclusionary affordable housing obligations.
20 The Controller and the TAC studied five condominium prototypes and five rental apartment
21 prototypes, and considered key economic parameters, such as: interest rates, capitalization
22 rates, land prices, construction costs, use of the State Density Bonus law, rents and sale
23 prices.

24 (d) The Controller and TAC found that none of the development prototypes studied
25 were financially feasible at the current inclusionary housing rates in the Planning Code. Most

1 prototypes studied had significant negative land value, indicating that the prototype would not
2 be financially feasible, even setting aside the cost of land. The prototypes, which were studied
3 because they represent the types of residential development that are common in San
4 Francisco, account for a majority of the housing production in San Francisco. The finding that
5 these two prototypes are not feasible suggests that residential development is, broadly
6 speaking, not financially feasible under current economic conditions at current inclusionary
7 housing rates.

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

12 (f) On June 30, 2023, the Controller ~~will submit~~ submitted a report to the Board of
13 Supervisors that summarizes the residential development feasibility analysis and the
14 recommendations developed by the Controller, with TAC agreement, between October 2022
15 and April 2023. ~~That~~ The report ~~will recommend~~ recommended that the City's inclusionary
16 housing rates be reduced from the current rates of 22% - 33%, to a range of 12% to 16%.

17 (g) The City's inclusionary housing requirements are an important policy lever, that, if
18 optimized, can facilitate robust and ongoing production of both market rate housing and
19 inclusionary housing. The Controller and the TAC found that the current citywide rates of 22%
20 to 33% directly contribute to the economic infeasibility of residential development. By reducing
21 the rates in line with the Controller and TAC's recommendation, the City will stimulate
22 residential development, increase production of inclusionary affordable housing, create jobs,
23 and grow tax revenue.

24 (h) In addition to reducing the inclusionary obligations for new projects seeking
25 entitlement from the City, the TAC discussed and recommended reducing inclusionary

1 obligations for projects that already have been approved, but have not been constructed.
2 These “pipeline projects” represent tens of thousands of units that could quickly move into the
3 construction phase of development should the project’s economics improve. The sponsors of
4 these pipeline projects have likely spent considerable money securing land, pursuing
5 entitlements, and advancing design, but have also been subject to significant construction
6 cost escalation and rising interest rates during the time between project conception and today.
7 By reducing their inclusionary obligation below that of new projects seeking entitlement over
8 the next three years, the City will incentivize these projects to advance into the construction
9 phase, and swiftly provide much needed market rate and inclusionary units.

10 (i) This ordinance amends the Inclusionary Housing Ordinance to create a temporary
11 program to reduce the inclusionary obligations for projects approved before November 1,
12 2023; and (2) a temporary program to reducing inclusionary housing obligations for projects
13 that are approved between November 1, 2023 and November 1, 2026, so long as they obtain
14 a first construction document within 30 months. The ordinance requires the TAC to convene
15 again, no later than January 1, 2026, to review the economic feasibility of the City’s
16 inclusionary housing obligations and sets the requirements for projects approved after
17 November 1, 2026, unless the City amends the requirements before that date. The ordinance
18 creates a temporary program to reduce other development impact fees for projects that get a
19 first construction document within 30 months of project approval, thereby providing an
20 incentive for projects to advance to the construction stage.

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Section 3. Article 4 of the Planning Code is hereby amended by adding new Section
415A, to read as follows:

1 **SECTION 415A. TEMPORARY REDUCTION OF INCLUSIONARY REQUIREMENTS FOR**
2 **RESIDENTIAL AND LIVE/WORK DEVELOPMENT PROJECTS APPROVED PRIOR TO**
3 **NOVEMBER 1, 2023.**

4
5 **SEC. 415A.1. PURPOSE.**

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

12 **SEC. 415A.2. DEFINITIONS.**

13 *The following terms shall have the following definitions:*

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

18 *“Finally Approved” or “Final Approval” shall mean (1) approval of a project’s first*
19 *Development Application, unless such approval is appealed; or (2) if a project only requires a building*
20 *permit, issuance of the first site or building permit, unless such permit is appealed; or (3) if the first*
21 *Development Application or first site or building permit is appealed, then the final decision upholding*
22 *the Development Application, or first site or building permit, on the appeal by the relevant City Board*
23 *or Commission. “Finally Approved” or “Final Approval” shall not include any modification of the*
24 *approval under Section 415A.5.*

25 **SEC 415A.3. APPLICATION.**

1 This Section 415A shall apply to Pipeline Projects. This Section 415A shall not apply to (1) any
2 mixed-use project that has entered into a development agreement executed pursuant to Chapter 56 of
3 the Administrative Code or other similar binding agreement with the City on or before November 1,
4 2023, or (2) projects that have chosen to comply with affordable housing requirements by dedicating
5 land, including but not limited to projects meeting the requirements set forth in Sections 419.5(a)(2) or
6 249.33(b)(16), or (3) projects that have paid development impact fees, including inclusionary impact
7 fees, on or before November 1, 2023.

8 **SEC. 415A.4. MODIFICATION OF PIPELINE PROJECTS.**

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

20 **(a) Affordable Housing Fee.** If a project sponsor of a Pipeline Project elected to pay
21 the inclusionary housing fee pursuant to Section 415.5, the project shall be entitled to a modification of
22 the inclusionary housing requirements set forth in Section 415.5(b)(1)(A), 415.5(b)(1)(B) or
23 415.5(b)(1)(C), or if applicable 415.3(b)(2)(A) through (2)(C), as follows:

24 (1) For Ownership or Rental Housing Pipeline Projects consisting of ~~25~~10 units
25 or more, the applicable percentage shall be 16.4%.

1 (2) For any Pipeline Project consisting of ~~25~~ 10 units or more located in an
2 area with a specific affordable housing requirement set forth in a Special Use District, Area Plan, or in
3 any other section of the Code, including 415.3(d), 419, or 428, the applicable percentage shall be
4 54.5% of the rate for Rental Housing Projects in the specific area, rounded to the nearest tenth of one
5 percent. This reduction shall not apply to fees subject to the Temporary Fee Reduction Program set
6 forth in Section 403.

7 (3) Notwithstanding subsections ~~(1) and~~ (2), in no case shall a Pipeline Project
8 be entitled to a modification of an affordable housing fee that would result in an applicable percentage
9 lower than 16.4%.

10 **(b) On-site Affordable Housing Alternative.** If a project sponsor of a Pipeline Project
11 elected to provide on-site affordable units pursuant to Section 415.5(g), the development project shall
12 be entitled to the following modifications to the on-site percentages in Sections 415.6(a)(1),
13 415.6(a)(2), or 415.6(a)(3), or if applicable, the on-site percentages set forth in Sections
14 415.3(b)(1)(A) to (b)(1)(D), or Section 206.3:

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

17 ~~(1)(2)~~ (2) For Pipeline Projects consisting of 25 units or more, the number of
18 Affordable Units constructed on-site shall be 12% of all units constructed on the project site. Such
19 projects shall ensure that a minimum of 8% of the units are affordable to low-income households, 2%
20 are affordable to moderate-income households, and 2% are affordable to middle-income households.

21 ~~(2)(3)~~ (3) For any Pipeline Project consisting of ~~25~~ 10 units or more that is located
22 in an area with a specific affordable housing on-site requirement set forth in a Special Use District,
23 Area Plan, or in any other section of the Code, including Sections 415.3(b)(1)(E), 415.3(d), 419, or
24 428, the applicable percentage shall be 54.5% of the rate for Rental Housing Projects in that specific
25 area, rounded to the nearest tenth of one percent. For any Pipeline Project consisting of 10 units

1 or more that was approved pursuant to Section 206.3, the applicable percentage shall be
2 54.5% of the rate in Section 206.3(f).

3 ~~(3)~~(4) Notwithstanding subsections (1) and ~~(2)~~(3), in no case shall a Pipeline
4 Project be entitled to a modification of an on-site affordable housing obligation that would result in an
5 applicable percentage lower than 12%.

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

9 (1) For Pipeline Projects consisting of 10 units or more, but less than 25
10 units, the applicable percentage shall be 16.4%.

11 ~~(1)~~(2) For Pipeline Projects consisting of 25 units or more, the applicable
12 percentage shall be 16.4%. Such projects shall ensure that a minimum of 9.4% of the units are
13 affordable to low-income households, 4% are affordable to moderate-income households, and 3% are
14 affordable to middle-income households.

15 ~~(2)~~(3) For any Pipeline Project consisting of ~~25~~ 10 units or more located in an
16 area or Special Use District or in any other section of the Code, including Sections 415.3(d), 419, and
17 428 with a specific affordable housing requirement, the applicable percentage shall 54.5% of the rate
18 for Rental Housing Projects in the specific area, rounded to the nearest tenth of one percent.

19 ~~(3)~~(4) Notwithstanding subsections (1) and ~~(2)~~(3), in no case shall a Pipeline
20 Project be entitled to a modification of the off-site affordable housing alternative that would result in a
21 percentage lower than 16.4%.

22 (d) Site Permit and First Construction Document Timing Requirements; Conditions of
23 Approval.

24 (1) Notwithstanding any contrary provision in this Code, project sponsors of
25 Pipeline Projects shall be entitled to a modification under Section 415A.5 of any conditions of approval

1 or conditions on a project permit, requiring procurement of a site permit within a specified time, but in
2 no event may such a deadline be extended past May 1, 2029.

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

9 (e) **Density Bonus Projects: Affordability Levels, Concessions, Incentives and**
10 **Waivers.**

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

16 (1) the number of units to be restricted as affordable units and the affordability levels of
17 those units;

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

19
20 **SEC. 415A.5. PROCESS FOR MODIFICATION OF INCLUSIONARY AFFORDABLE**
21 **HOUSING PROGRAM REQUIREMENTS.**

22 The purpose of this Section 415A.5 is to provide for the efficient review and approval of
23 requests for modifications to conditions of approval, conditions on a project permit, or notice of special
24 restrictions, for projects eligible for such modifications under Section 415A. The Planning Commission
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1 shall be responsible for reviewing and approving such requests, or may delegate those functions to the
2 Planning Director.

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

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

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

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

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

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

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

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

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

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

20 This ~~s~~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
24 Section 4. Article 4 of the Planning Code is hereby amended by adding new Section
25 415B, to read as follows:

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2 **SEC. 415B. TEMPORARY REDUCTION IN REQUIREMENTS FOR NEW**
3 **RESIDENTIAL AND LIVE/WORK DEVELOPMENT PROJECTS.**

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

15 **SEC. 415B.1. AFFORDABLE HOUSING FEE.** If a project sponsor elects to pay the
16 affordable housing fee under Section 415.5, the project shall comply the requirements set forth in
17 Section 415.65(b)(1), except as follows:

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

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

1 **SEC. 415B.2. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.** *If a project sponsor*
2 *elects to provide on-site Affordable Units pursuant to Section 415.5(g), the housing development shall*
3 *be subject to the following required percentages rather than the percentage of units set forth in Section*
4 *415.6(a):*

5 *(a) For any housing development consisting of 25 or more units, the number of*
6 *Affordable Units constructed on-site shall be 15% of all units constructed on the project site. Project*
7 *sponsors shall ensure that a minimum of 10% of the Affordable Units shall be affordable to low-income*
8 *households, 2.5% of the Affordable Units shall be affordable to moderate-income households, and*
9 *2.5% of the Affordable Units shall be affordable to middle-income households.*

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

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

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

18 *(a) For any housing development consisting of 25 units or more, the applicable*
19 *percentage shall be 20.5%. Project sponsors shall ensure that a minimum of 11.5% of the Affordable*
20 *Units shall be affordable to low-income households, 5% of the Affordable Units shall be affordable to*
21 *moderate-income households, and 4% of the Affordable Units shall be affordable to middle-income*
22 *households.*

23 *(b) For any housing development that is located in an area with a specific off-site*
24 *affordable housing requirement set forth in a Special Use District, Area Plan, or in any other section of*
25

1 the Code including Section 415.3(d), 419, or 428, the percentage shall be the 68% of the applicable
2 rate for Rental Housing Projects in the area, rounded to the nearest tenth of one percent.

3 **SEC. 415B.4. INCLUSIONARY FEE ANNUAL FEE UPDATES.**

4 Notwithstanding any other provision of the Code, during the period that this Section 415B
5 applies:

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

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

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

13
14 Section 5. Article 4 of the Planning Code is hereby amended by revising Sections 403
15 and 415.10, to read as follows:

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17 **SEC. 403. PAYMENT OF DEVELOPMENT FEE(S) OR SATISFACTION OF**
18 **DEVELOPMENT IMPACT REQUIREMENT(S) AS A CONDITION OF APPROVAL**
19 **~~PLANNING COMMISSION REVIEW; TEMPORARY FEE REDUCTION PROGRAM~~**
20 **~~RECOMMENDATION CONCERNING EFFECTIVENESS OF FEE DEFERRAL PROGRAM.~~**

21 ~~(a) Condition of Approval.~~ In addition to any other condition of approval that may
22 otherwise be applicable, the Department or Commission shall require as a condition of
23 approval of a development project subject to a development fee or development impact
24 requirement under this Article that such development fee or fees be paid prior to the issuance
25 of the first construction document for any building or buildings within the development project,

1 in proportion to the amount required for each building if there are multiple buildings, with an
2 option for the project sponsor to defer payment of 85 percent of the fees, or 80 percent of the
3 fees if the project is subject to a neighborhood infrastructure impact development fee, to prior
4 to issuance of the first certificate of occupancy upon agreeing to pay a Development Fee
5 Deferral Surcharge on the amount owed, as provided by Section 107A.13.3 of the San
6 Francisco Building Code ("Fee Deferral Program"). The Department or Commission shall also
7 require as a condition of approval that any development impact requirement imposed on a
8 development project under this Article shall be satisfied prior to issuance of the first certificate
9 of occupancy for any building or buildings within the development project, in proportion to the
10 amount required for each building if there are multiple buildings.

11 **Temporary Fee Reduction Program.** The following development fees assessed on or before
12 November 1, 2026 shall be reduced by 33% for (1) projects that receive a First Construction
13 Document, as defined in Building Code Section 107A.13.1, within 30 months of Final Approval, as
14 defined in Section 415A.2; and (2) for Pipeline Projects, as defined in Section 415A.2, modified
15 under Section 415A.5, if such Pipeline Projects receive a First Construction Document on or before
16 May 1, 2029. Projects approved pursuant to a development agreement under Chapter 56 of the
17 Administrative Code shall not be eligible for a fee reduction under this Section 403. Upon receipt of a
18 First Construction Document, the Planning Department shall determine whether the project is eligible
19 for the Temporary Fee Reduction Program, and update the fees assessment as applicable. If the
20 project is found eligible, the following fees shall be reduced:

- 21 (1) The Transportation Sustainability Fee (Section 411A);
22 (2) The Downtown Park Fee (Section 412);
23 (3) The Jobs Housing Linkage Program (Section 413);
24 (4) The Childcare Requirement for Office and Hotel Development Projects (Section
25 414);

- 1 (5) The Childcare Requirements for Residential Projects (Section 414A);
- 2 (6) Market and Octavia Area Plan and Upper Market Neighborhood Commercial
- 3 District Affordable Housing Fee (Section 416);
- 4 (7) Eastern Neighborhoods Area Plan Affordable Housing Requirement (Section
- 5 417);
- 6 (8) Rincon Hill Community Improvements Fund and SOMA Community Stabilization
- 7 Fund (Section 418);
- 8 (9) Visitation Valley Community Facilities and Infrastructure Fee and Fund (Section
- 9 420);
- 10 (~~8~~10) The Market and Octavia Community Improvements Fund (Section 421);
- 11 (~~10~~11) Balboa Park Community Improvements Fund (Section 422);
- 12 (~~11~~12) Eastern Neighborhood Impact Fees and Public Benefits Fund (Section 423);
- 13 (~~12~~13) Van Ness & Market Affordable Housing and Neighborhood Infrastructure Fee
- 14 and Program (Section 424);
- 15 (~~13~~14) Transit Center District Open Space Impact Fee and Fund (Section 424.6) and
- 16 Transportation and Street Improvement Impact Fee (Section 424.7);
- 17 (~~14~~15) Van Ness and Market Community Facilities Fee and Fund (Section 425);
- 18 (~~15~~16) Open Space requirements (Sections 426 and 427);
- 19 (~~16~~17) Public Art Fee (Section 429);
- 20 (~~17~~18) Bicycle Parking fee (Section 430);
- 21 (~~18~~19) Central SOMA Community Services Facilities Fees and Fund (Section 432);
- 22 (~~19~~20) Central SOMA Infrastructure Fee and Fund (Section 433);
- 23 (~~20~~21) Union Square Park, Recreation, and Open Space Fee (Section 435);
- 24
- 25

1 Fees eligible for reduction under this section, including the amount with a reduction, shall be
2 included in the Controller's Citywide Development Fee and Development Impact Requirements Report
3 described in Section 409(a).

4 ~~(b) **Hearing to Review Effectiveness of Fee Deferral Program.** Under 107A.13.3 of the San~~
5 ~~Francisco Building Code, the option to defer the payment of development fees expires on July 1, 2013~~
6 ~~unless the Board of Supervisors extends the Fee Deferral Program. Prior to the July 1, 2013 expiration~~
7 ~~date, the Planning Commission shall hold a public hearing to review the effectiveness of the Fee~~
8 ~~Deferral Program, the economy at large, and whether the simulative effects of the Fee Deferral~~
9 ~~Program are still necessary. Following the public hearing, the Commission shall forward a~~
10 ~~recommendation to the Board of Supervisors as to whether the Fee Deferral Program should be~~
11 ~~continued, modified, or terminated.~~

13 **SEC. 415.10. REPORTING TO BOARD OF SUPERVISORS.**

14 (a) Findings.

15 San Francisco continues to experience a housing crisis that requires a broad spectrum
16 of land use and financing tools to address. The 2022 Housing Element Update of the City's
17 General Plan calls for 40% ~~38%~~ of all new housing production to be affordable for lower
18 income households below 80% of area median income and ~~19%~~ 17% of new housing
19 affordable to be built for moderate/middle income households up to 120% of area median
20 income. San Francisco's inclusionary housing program, which requires housing developers to
21 provide affordable units as part of their projects, is a critical component of the City's programs
22 to expand affordable housing options. The Inclusionary Housing program is one of the City's
23 tools for increasing affordable housing dedicated to lower income San Franciscans without
24 using public subsidies, and in particular it is a useful tool for creating any affordable housing to
25 meet the growing need of moderate/middle income households.

1 The City adopted an Inclusionary Housing ordinance in 2002 that set requirements on
2 market rate development to include affordable units at 12% of the total for the first time. The
3 inclusionary program has successfully resulted in more than ~~2,000~~ 3,330 units of below-market,
4 permanently affordable housing since its adoption. The City prepared a Nexus Study in 2007
5 in support of the program, which was updated in 2016. The reports demonstrated the necessary
6 affordable housing in order to mitigate the impacts of market rate housing, ~~and the inclusionary~~
7 ~~requirements were increased to 15% of total units~~. The City's inclusionary housing requirements,
8 which have been set at various levels since 2002 in response to changing economic conditions, are
9 codified in Section 415 of the Planning Code. ~~The City is now in the process of updating that nexus~~
10 ~~analysis~~.

11 ~~In 2011, Governor Jerry Brown dissolved the State Redevelopment Agency, which was the~~
12 ~~City's primary permanent funding stream for affordable housing. In 2012, in response to this loss, the~~
13 ~~voters amended the San Francisco Charter to create the Affordable Housing Trust Fund, which~~
14 ~~included a provision to lower the on-site inclusionary requirement to 12%. In November 2014, in~~
15 ~~response to an escalating affordable housing crisis, the voters passed Proposition K, which set forth a~~
16 ~~policy directive to the City to ensure that additional affordable housing is a minimum of 33% of its~~
17 ~~overall housing production to low- and moderate/middle-income households up to 120% of the Area~~
18 ~~Median Income and at least another 17% affordable to households from 120% to 150% of the Area~~
19 ~~Median Income~~.

20 ~~The Board of Supervisors has proposed to the voters a Charter amendment that will appear on~~
21 ~~the June 7, 2016 ballot. The Charter amendment would authorize the City to enact by ordinance~~
22 ~~subsequent changes to the inclusionary housing requirements, including changes to the minimum or~~
23 ~~maximum inclusionary or affordable housing obligations applicable to market rate housing projects~~.

24 ~~On March 1, 2016, the Board of Supervisors unanimously adopted Resolution No. 79-16~~
25 ~~declaring that (1) it shall be City policy to maximize the economically feasible percentage of affordable~~

1 ~~inclusionary housing in market rate housing development to create housing for lower and~~
2 ~~moderate/middle income households; (2) if the voters adopt the proposed Charter amendment on June~~
3 ~~7, the Board intends to adopt a future ordinance requiring the Controller and other City departments to~~
4 ~~conduct a periodic economic study to maximize affordability in the City's inclusionary housing~~
5 ~~requirements; and (3) the future ordinance would create an advisory committee to ensure that the~~
6 ~~economic study is the result of a transparent and inclusive public process.~~

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

12 * * * *

13
14 Section 6. Article XXIX of Chapter 5 of the Administrative Code Chapter is hereby
15 amended to revise Sections 5.29-1, 5.29-4, and 5.29-6 to read as follows:

16 **ARTICLE XXIX:**

17 **INCLUSIONARY HOUSING TECHNICAL ADVISORY COMMITTEE**

18 **SEC. 5.29-1. CREATION OF ADVISORY COMMITTEE.**

19 The Board of Supervisors hereby establishes the Inclusionary Housing Technical
20 Advisory Committee (the "Advisory Committee") of the City and County of San Francisco.

21 * * * *

22 **SEC. 5.29-4. ORGANIZATION AND TERMS OF OFFICE.**

23 (a) Each member shall serve at the pleasure of the member's appointing authority, and
24 may be removed by their appointing officer at any time for any reason. Each member appointed to
25 the Advisory Committee shall serve for an unlimited term. ~~in 2016 shall serve until three months~~

1 ~~after the date the Controller produces the first economic feasibility analysis required by Planning Code~~
2 ~~Section 415.10, at which point the member's term shall expire. The Board of Supervisors and the Mayor~~
3 ~~shall appoint members to the Advisory Committee in anticipation of each subsequent economic~~
4 ~~feasibility analysis by the Controller, and those members' terms shall similarly expire three months~~
5 ~~after the date the Controller produces the economic feasibility analysis required by Planning Code~~
6 ~~Section 415.10. Members shall not may hold over after the expiration of their terms.~~

7 * * * *

8 **SEC. 5.29-6. MEETINGS AND PROCEDURES.**

9 The Advisory Committee shall hold a regular meeting not less than once every four
10 months until the sunset date set forth in Section 5.29-7. Notwithstanding any other provision of
11 this Section 5.29 or Planning Code section 415.10, the Advisory Committee shall convene no later than
12 January 1, 2026.

13 * * * *

14
15 Section 7. Article 4 of the Planning Code is hereby amended to revise Sections 415.3,
16 415.5, 415.6, 415.7, 419.3, 419.5, 428, and 428.3, to read as follows:

17 **SECTION 415.3 APPLICATION.**

18 * * * *

19 (b) Except as provided in subsection (3) below, any development project that has
20 submitted a complete Environmental Evaluation application prior to January 12, 2016 shall
21 comply with the Affordable Housing Fee requirements, the on-site affordable housing
22 requirements or the off-site affordable housing requirements, and all other provisions of
23 Section 415.1 et seq., as applicable, in effect on January 12, 2016. For development projects
24 that have submitted a complete Environmental Evaluation application on or after January 1,
25 2013, the requirements set forth in Planning Code Sections 415.5, 415.6, and 415.7 shall

1 apply to certain development projects consisting of 25 dwelling units or more during a limited
2 period of time as follows.

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

6 * * * *

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

14 (2) If a development project pays the Affordable Housing Fee or elects to provide
15 off-site affordable housing, and such requirements have not been amended on or before November 1,
16 2026, the development project shall provide the following fee amount or amounts of off-site
17 affordable housing during the limited periods of time set forth below.

18 (A) Any development project that has submitted a complete Environmental
19 Evaluation application prior to January 1, 2014, shall pay a fee or provide off-site housing in
20 an amount equivalent to ~~25%~~ 20.5% of the number of units constructed on-site.

21 (B) Any development project that has submitted a complete Environmental
22 Evaluation application prior to January 1, 2015, shall pay a fee or provide off-site housing in
23 an amount equivalent to ~~27.5%~~ 22.5% of the number of units constructed on-site.

24
25

1 (C) Any development project that has submitted a complete Environmental
2 Evaluation application on or prior to January 12, 2016 shall pay a fee or provide off-site
3 housing in an amount equivalent to ~~30%~~ 24.5% of the number of units constructed on-site.

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

7 (E) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and
8 (C) of this Section 415.3, for development projects proposing buildings over 120 feet in height,
9 as measured under the requirements set forth in the Planning Code, except for buildings up to
10 130 feet in height located both within a special use district and within a height and bulk district
11 that allows a maximum building height of 130 feet, such development projects shall pay a fee
12 or provide off-site housing in an amount equivalent to ~~30%~~ 24.5% of the number of units
13 constructed on-site. Any buildings up to 130 feet in height located both within a special use
14 district and within a height and bulk district that allows a maximum building height of 130 feet
15 shall comply with the provisions of subsections (b)(2)(A), (B) and (C) of this Section 415.3
16 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
19 South of Market Youth and Family Zoning District, and pays the Affordable Housing Fee or
20 elects to provide off-site affordable housing pursuant to Section 415.5(g), or elects to comply
21 with a Land Dedication Alternative, such development project shall comply with the fee, off-
22 site or land dedication requirements applicable within such Zoning Districts, as they existed on
23 January 12, 2016, plus the following additional amounts for the Affordable Housing Fee or for
24 land dedication or off-site affordable units: (i) if the development project has submitted a
25 complete Environmental Evaluation application prior to January 1, 2014, the Project Sponsor

1 shall pay an additional fee, or provide additional land dedication or off-site affordable units, in
2 an amount equivalent to 5% of the number of units constructed on-site; (ii) if the development
3 project has submitted a complete Environmental Evaluation application prior to January 1,
4 2015, the Project Sponsor shall pay an additional fee, or provide additional land dedication or
5 off-site affordable units, in an amount equivalent to 7.5% of the number of units constructed
6 on-site; or (iii) if the development project has submitted a complete Environmental Evaluation
7 application on or prior to January 12, 2016, the Project Sponsor shall pay an additional fee, or
8 provide additional land dedication or off-site affordable units, in an amount equivalent to 10%
9 of the number of units constructed on-site. Notwithstanding the foregoing, a development
10 project shall not pay a fee or provide off-site units in a total amount greater than the equivalent
11 of ~~30%~~ 24.5% of the number of units constructed on-site.

12 * * * *

13 (d) Notwithstanding the provisions set forth in Section 415.3(b), or the inclusionary
14 affordable housing requirements contained in Sections 415.5, 415.6, and 415.7, such
15 requirements shall not apply to any project, consisting of 25 dwelling units or more, that has
16 not submitted a complete Environmental Evaluation Application on or before January 12,
17 2016, if the project is located within the Eastern Neighborhoods Mission Planning Area, the
18 North of Market Residential Special Use District Subarea 1 or Subarea 2, or the SOMA
19 Neighborhood Commercial Transit District, because inclusionary affordable housing levels for
20 those areas will be addressed in forthcoming area plan processes or an equivalent community
21 planning process. Until such planning processes are complete and new inclusionary housing
22 requirements for projects in those areas are adopted, projects consisting of 25 units or more
23 shall (1) pay a fee or provide off-site housing in an amount equivalent to ~~30%~~ 24.5% if the
24 Principal Project is a Rental Housing Project, or ~~33%~~ 27% if the Proposed Project is an
25 Ownership Housing Project, or (2) provide Affordable Units in the amount of ~~25%~~ 20.5% of the

1 number of units constructed on-site in a Rental Housing Project, or ~~27%~~ 22.1% of the number
2 of units constructed on-site in an Ownership Housing Project. For Rental Housing Projects,
3 15.5% of the on-site Affordable Units shall be affordable to low-income households, ~~5%~~ 2.5%
4 shall be affordable to moderate-income households and ~~5%~~ 2.5% shall be affordable to
5 middle-income households. For Ownership Housing Projects, ~~15%~~ 16.1% of the on-site
6 Affordable Units shall be affordable to low-income households, ~~6%~~ 3% shall be affordable to
7 moderate-income households and ~~6%~~ 3% shall be affordable to middle-income households.

8 * * * *

9
10 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

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

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

17 (b) **Amount of Fee.** The amount of the fee that may be paid by the project sponsor
18 subject to this Program shall be determined by MOHCD utilizing the following factors:

19 (1) The number of units equivalent to the applicable off-site percentage of the
20 number of units in the Principal Project.

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

23 (B) For development projects consisting of 25 units or more, the
24 applicable percentage shall be ~~27%~~ 33% if such units are Owned Units.

1 (C) For development projects consisting of 25 units or more, the
2 applicable percentage shall be ~~24.5%~~30% if the development project is a Rental Housing
3 Project. In the event a Rental Housing Project becomes an Ownership Housing Project, the
4 Project Sponsor shall either (A) reimburse the City the proportional amount of the Inclusionary
5 Affordable Housing Fee, which would be equivalent to the current Inclusionary Affordable
6 Housing Fee requirement for Ownership Housing Projects, or (B) provide additional on-site or
7 off-site Affordable Units equivalent to the current inclusionary requirements for Ownership
8 Housing Units, apportioned among the required number of units at various income levels in
9 compliance with the requirements in effect at the time of conversion. Any additional Affordable
10 Units provided on-site or off-site shall comply with Section 415 and the Procedures Manual.

11 (2) The affordability gap, using data on MOHCD's cost of construction of
12 affordable residential housing. ~~No later than January 31, 2018, the Controller, with the support of~~
13 ~~consultants as necessary, and in consultation with the Inclusionary Housing Technical Advisory~~
14 ~~Committee (TAC) established in Planning Code Section 415.10, shall conduct a study to develop an~~
15 ~~appropriate methodology for calculating, indexing, and applying the appropriate amount of the~~
16 ~~Inclusionary Affordable Housing Fee. To support the Controller's study, and annually thereafter,~~
17 ~~MOHCD shall provide the following documentation: (1) schedules of sources and uses of funds and~~
18 ~~independent auditor's reports ("Cost Certifications") for all MOHCD-funded developments completed~~
19 ~~within three years of the date of reporting to the Controller; and, (2) for any MOHCD-funded~~
20 ~~development that commenced construction within three years of the reporting date to the Controller but~~
21 ~~for which no Cost Certification is yet complete, the sources and uses of funds approved by MOHCD~~
22 ~~and the construction lender as of the date of the development's construction loan closing. Cost~~
23 ~~Certifications completed in years prior to the year of reporting to the Controller may be increased or~~
24 ~~decreased by the applicable annual Construction Cost Index percentage(s) for residential construction~~
25 ~~for San Francisco reported in the Engineering News Record. MOHCD, together with the Controller~~

1 ~~and TAC, shall evaluate the cost to construct data, including actual and appraised land costs, state~~
2 ~~and/or federal public subsidies available to MOHCD-funded projects, and determine MOHCD's~~
3 ~~average costs. Following completion of this study, the Board of Supervisors, in its sole and absolute~~
4 ~~discretion, and within the legal allowances of the Residential Nexus Analysis, will review the analyses,~~
5 ~~methodology, fee application, and the proposed fee schedule; and may consider adopting legislation to~~
6 ~~revise the Inclusionary Affordable Housing fees. The method of calculating, indexing, and applying the~~
7 ~~fee shall be published in the Procedures Manual. The Department and MOHCD shall update the fee~~
8 ~~methodology and technical report every three years, with analysis from the Technical Advisory~~
9 ~~Committee, in order to ensure that the affordability gap remains current, consistent with the~~
10 ~~requirements set forth below in Section 415.5(b)(3) and Section 415.10.~~

11 * * * *

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

21
22 * * * *

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

25

1 If a project sponsor elects to provide on-site units pursuant to Section 415.5(g), the
2 development project shall meet the following requirements:

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

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

11 ~~(2) For any Ownership Housing Project consisting of 25 or more units, the number of~~
12 ~~Affordable Units constructed on-site shall generally be 20% of all units constructed on the project site.~~
13 ~~A minimum of 10% of the units shall be affordable to low-income households, 5% of the units shall be~~
14 ~~affordable to moderate-income households, and 5% of the units shall be affordable to middle-income~~
15 ~~households. 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 ~~Owned Units for low-income households shall have an affordable purchase price set at 80% of Area~~
18 ~~Median Income or less, with households earning up to 100% of Area Median Income eligible to apply~~
19 ~~for low-income units. Owned Units for moderate-income households shall have an affordable purchase~~
20 ~~price set at 105% of Area Median Income or less, with households earning from 95% to 120% of Area~~
21 ~~Median Income eligible to apply for moderate-income units. Owned Units for middle-income~~
22 ~~households shall have an affordable purchase price set at 130% of Area Median Income or less, with~~
23 ~~households earning from 120% to 150% of Area Median Income eligible to apply for middle-income~~
24 ~~units. For any Affordable Units with purchase prices set at 130% of Area Median Income, the units~~
25 ~~shall have a minimum occupancy of two persons. This unit requirement shall be outlined within the~~

1 ~~Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than February 26,~~
2 ~~2018. MOHCD may reduce Area Median Income pricing and the minimum income required for~~
3 ~~eligibility in each ownership category.~~

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

21 ~~(1) For housing development projects consisting of 10 dwelling units or more, but less~~
22 ~~than 25 dwelling units, the number of affordable units constructed on-site shall generally be 15% of all~~
23 ~~units constructed on the project site. The affordable units shall all be affordable to low-income~~
24 ~~households. Owned Units shall be affordable to households earning up to 100% of Area Median~~
25 ~~Income, with an affordable sales price set at 80% of Area Median Income or less. Rental Units shall be~~

1 affordable to households earning up to 65% of Area Median Income, with an affordable rent set at 55%
2 of Area Median Income or less.

3 (2) For any Ownership Housing Project consisting of 25 or more units, the number of
4 Affordable Units constructed on-site shall generally be 20% of all units constructed on the project site.
5 A minimum of 10% of the units shall be affordable to low-income households, 5% of the units shall be
6 affordable to moderate-income households, and 5% of the units shall be affordable to middle-income
7 households. In no case shall the total number of Affordable Units required exceed the number required
8 as determined by the application of the applicable on-site requirement rate to the total project units.
9 Owned Units for low-income households shall have an affordable purchase price set at 80% of Area
10 Median Income or less, with households earning up to 100% of Area Median Income eligible to apply
11 for low-income units. Owned Units for moderate-income households shall have an affordable purchase
12 price set at 105% of Area Median Income or less, with households earning from 95% to 120% of Area
13 Median Income eligible to apply for moderate-income units. Owned Units for middle-income
14 households shall have an affordable purchase price set at 130% of Area Median Income or less, with
15 households earning from 120% to 150% of Area Median Income eligible to apply for middle-income
16 units. For any Affordable Units with purchase prices set at 130% of Area Median Income, the units
17 shall have a minimum occupancy of two persons. This unit requirement shall be outlined within the
18 Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than February 26,
19 2018. MOHCD may reduce Area Median Income pricing and the minimum income required for
20 eligibility in each ownership category.

21 (3) For any Rental Housing Project consisting of 25 or more units, the number of
22 Affordable Units constructed on-site shall generally be 18% of all units constructed on the project site,
23 with a minimum of 10% of the units affordable to low-income households, 4% of the units affordable to
24 moderate-income households, and 4% of the units affordable to middle-income households. In no case
25 shall the total number of Affordable Units required exceed the number required as determined by the

1 application of the applicable on-site requirement rate to the total project units. Rental Units for low-
2 income households shall have an affordable rent set at 55% of Area Median Income or less, with
3 households earning up to 65% of Area Median Income eligible to apply for low-income units. Rental
4 Units for moderate-income households shall have an affordable rent set at 80% of Area Median Income
5 or less, with households earning from 65% to 90% of Area Median Income eligible to apply for
6 moderate-income units. Rental Units for middle-income households shall have an affordable rent set at
7 110% of Area Median Income or less, with households earning from 90% to 130% of Area Median
8 Income eligible to apply for middle-income units. For any Affordable Units with rental rates set at
9 110% of Area Median Income, the units shall have a minimum occupancy of two persons. MOHCD
10 may reduce Area Median Income pricing and the minimum income required for eligibility in each
11 rental category.

12 (4) Notwithstanding the foregoing Area Median Income limits for Rental Units
13 and Owned Units, the maximum affordable rents or sales price shall be no higher than 20%
14 below market rents or sales prices for the neighborhood within which the project is located,
15 which shall be defined in accordance with the American Community Survey Neighborhood
16 Profile Boundaries Map. MOHCD shall adjust the allowable rents and sales prices, and the
17 eligible households for such units, accordingly, and such potential readjustment shall be a
18 condition of approval upon project entitlement. The City shall review the updated data on
19 neighborhood rents and sales prices on an annual basis.

20 (5) Starting on January 1, ~~2018~~2028, and no later than January 1 of each year
21 thereafter, MOHCD shall increase the percentage of units required on-site for projects
22 ~~consisting of 10–24 units, as set forth in Section 415.6(a)(1), by increments of 0.5% each year, until~~
23 ~~such requirement is 15%. For all development projects with 25 or more units, the required on-site~~
24 ~~affordable ownership housing to satisfy this Section 415.6 shall increase by .5%~~1% annually for two
25 consecutive years starting January 1, ~~2018~~2028. The increase shall be apportioned to units

1 affordable to low-income households, as defined above in subsection 415.6(a)(3). Starting
2 January 1, ~~2020~~2030, the increase to on-site housing developments with 25 or more units shall
3 increase by 0.5% annually, with such increases allocated equally to moderate_ and middle_
4 income households, as defined above in subsection 415.6(a)(3). The total on-site inclusionary
5 affordable housing requirement shall not exceed 26% for Ownership Housing Projects or 24%
6 for Rental Housing Projects, and the increases shall cease at such time as these limits are
7 reached. MOHCD shall provide the Planning Department, DBI, and the Controller with
8 information on the adjustment to the on-site percentage so that it can be included in the
9 Planning Department's and DBI's website notice of the fee adjustments and the Controller's
10 Citywide Development Fee and Development Impact Requirements Report described in
11 Section 409(a).

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

24 * * * *

25

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

11 (12) If the Principal Project has resulted in demolition, conversion, or removal of
12 affordable housing units that are subject to a recorded covenant, ordinance, or law that
13 restricts rents to levels affordable to persons and families of moderate-, low- or very-low-
14 income, or housing that is subject to any form of rent or price control through a public entity's
15 valid exercise of its police power and determined to be affordable housing, the Commission or
16 the Department shall require that the project sponsor replace the number of Affordable Units
17 removed with units of a comparable number of bedrooms and sales prices or rents, in addition
18 to compliance with the requirements set forth in this Section.

19 (13) The applicable amount of the percentage required for the on-site housing
20 units shall be determined based upon the date that the project sponsor has submitted a
21 complete ~~Project Application~~ ~~Environmental Evaluation application~~. Any development project that
22 constructs on-site affordable housing units as set forth in this Section 415.6 shall diligently
23 pursue completion of such units. In the event the project sponsor does not procure a building
24 permit or site permit for construction of the Principal Project within 30 months of the project's
25 approval, the development project shall comply with the inclusionary affordable housing

1 requirements applicable thereafter at the time when the project sponsor procures a building
2 permit. Such deadline shall be extended in the event of any litigation seeking to invalidate the
3 City's approval of such project, for the duration of the litigation.

4 * * * *

5 **SEC. 415.7. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.**

6 If the project sponsor elects pursuant to Section 415.5(g) to provide off-site units to
7 satisfy the requirements of Sections 415.1 et seq., the project sponsor shall notify the
8 Planning Department and MOHCD of its intent prior to approval of the project by the Planning
9 Commission or Department. The Planning Department and MOHCD shall provide an
10 evaluation of the project's compliance with this Section 415.7 prior to approval by the Planning
11 Commission or Planning Department. The development project shall meet the following
12 requirements:

13 (a) **Number of Units:** The number of units constructed off-site shall be as follows:

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

17 (2) For housing development projects consisting of 10 units or more but less
18 than 25 units, the number of Affordable Units constructed off-site shall be 20%, so that a
19 project applicant shall construct .20 times the total number of units produced in the Principal
20 Project. If the total number of units is not a whole number, the project applicant shall round up
21 to the nearest whole number for any portion of .5 or above. In no case shall the total number
22 of Affordable Units required exceed the number required as determined by the application of
23 the applicable off-site requirement rate to the total project units. Owned Units shall be
24 affordable to households earning up to 100% of Area Median Income, with an affordable sales
25 price set at 80% of Area Median Income or less. Rental Units shall be affordable to

1 households earning up to 65% of Area Median Income, with an affordable rent set at 55% of
2 Area Median Income or less.

3 (3) For any Ownership Housing Project consisting of 25 or more units, the
4 number of Affordable Units constructed off-site shall be ~~33%~~27% of all units constructed on the
5 project site, with a minimum of ~~18%~~12% of the units affordable to low-income households,
6 ~~8%~~7.5% of the units affordable to moderate-income households, and ~~7%~~7.5% of the units
7 affordable to middle income households. In no case shall the total number of Affordable Units
8 required exceed the number required as determined by the application of the applicable off-
9 site requirement rate to the total project units. Owned Units for low-income households shall
10 have an affordable purchase price set at 80% of Area Median Income or less, with
11 households earning up to 100% of Area Median Income eligible to apply for low-income units.
12 Owned Units for moderate-income households shall have an affordable purchase price set at
13 105% of Area Median Income or less, with households earning from 95% to 120% of Area
14 Median Income eligible to apply for moderate-income units. Owned Units for middle-income
15 households shall have an affordable purchase price set at 130% of Area Median Income or
16 less, with households earning from 120% to 150% of Area Median Income eligible to apply for
17 middle-income units. For any Affordable Units with purchase prices set at 100% of Area
18 Median Income or above, the units shall have a minimum occupancy of two persons. This unit
19 requirement shall be outlined within the Mayor's Office of Housing Preferences and Lottery
20 Procedures Manual no later than February 26, 2018. MOHCD may reduce Area Median
21 Income pricing and the minimum income required for eligibility in each rental category.

22 (4) For any Rental Housing Project consisting of 25 or more Rental Units, the
23 number of affordable units constructed off-site shall generally be ~~30%~~24.5% of all units
24 constructed on the project site, with a minimum of ~~18%~~12.5% of the units affordable to low-
25 income households, 6% of the units affordable to moderate-income households, and 6% of

1 the units affordable to middle-income households. In no case shall the total number of
2 affordable units required exceed the number required as determined by the application of the
3 applicable off-site requirement rate to the total project units. Rental Units for low-income
4 households shall have an affordable rent set at 55% of Area Median Income or less, with
5 households earning up to 65% of Area Median Income eligible to apply for low-income units.
6 Rental Units for moderate-income households shall have an affordable rent set at 80% of
7 Area Median Income or less, with households earning from 65% to 90% of Area Median
8 Income eligible to apply for moderate-income units. Rental Units for middle-income
9 households shall have an affordable rent set at 110% of Area Median Income or less, with
10 households earning from 90% to 130% of Area Median Income eligible to apply for middle-
11 income units. For any affordable units with rental rates set at 100% of Area Median Income or
12 above, the units shall have a minimum occupancy of two persons. *This unit requirement shall be*
13 *outlined within the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later*
14 *than 6 months following the effective date of the Ordinance contained in Board of Supervisors File No.*
15 *161351.* MOHCD may reduce Area Median Income pricing and the minimum income required
16 for eligibility in each rental category. MOHCD shall set forth in the Procedures Manual the
17 administration of rental units within this range.

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

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

12 * * * *

13

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

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

18 (b) Additional UMU Affordable Housing Requirements to the Section 415 Inclusionary
19 Affordable Housing Program Requirements. The requirements of Section 415 through 415.9
20 shall apply subject to the following exceptions:

21 (1) For all projects sites designated as Tier A, a minimum of ~~14.4 percent~~ 12.3%
22 of the total units constructed shall be affordable to and occupied by qualifying persons and
23 families as defined elsewhere in this Code, so that a project sponsor must construct ~~144~~ 123
24 times the total number of units produced in the principal project beginning with the
25

1 construction of the tenth unit. If the total number of units is not a whole number, the sponsor
2 shall round up to the nearest whole number for any portion of .5 or above.

3 (A) If the project sponsor is eligible for and elects pursuant to Section
4 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall
5 construct ~~23 percent~~ 18.8% so that a sponsor must construct ~~.23~~ .188 times the total number of
6 units produced in the principal project beginning with the construction of the tenth unit. If the
7 total number of units is not a whole number, the sponsor shall round up to the nearest whole
8 number for any portion of .5 or above.

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

16 (2) For all project sites designated Tier B, a minimum of ~~16 percent~~ 13.1% of the
17 total units constructed shall be affordable to and occupied by qualifying persons and families
18 as defined elsewhere in this Code, so that a project sponsor must construct ~~.16~~ .131 times the
19 total number of units produced in the principal project beginning with the construction of the
20 tenth unit. If the total number of units is not a whole number, the sponsor shall round up to the
21 nearest whole number for any portion of .5 or above.

22 (A) If the project sponsor is eligible for and elects pursuant to Section
23 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall
24 construct ~~25 percent~~ 20.5% so that a sponsor must construct ~~.25~~ .205 times the total number of
25 units produced in the principal project beginning with the construction of the tenth unit. If the

1 total number of units is not a whole number, the sponsor shall round up to the nearest whole
2 number for any portion of .5 or above.

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

10 (3) For all project sites designated Tier C, a minimum of ~~17.6 percent~~ 14.4% of
11 the total units constructed shall be affordable to and occupied by qualifying persons and
12 families as defined elsewhere in this Code, so that a project sponsor must construct ~~.176~~ .144
13 times the total number of units produced in the principal project beginning with the
14 construction of the tenth unit. If the total number of units is not a whole number, the sponsor
15 shall round up to the nearest whole number for any portion of .5 or above.

16 (A) If the project sponsor is eligible for and elects pursuant to Section
17 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall
18 construct ~~27 percent~~ 22.1% so that a sponsor must construct ~~.27~~ .221 times the total number of
19 units produced in the principal project beginning with the construction of the tenth unit. If the
20 total number of units is not a whole number, the sponsor shall round up to the nearest whole
21 number for any portion of .5 or above.

22 (B) If the project sponsor elects pursuant to Section 415.5 to pay the fee
23 to satisfy the requirements of this program, the sponsor shall meet the requirements of
24 Section 415 according to the number of units required above if the sponsor were to elect to
25 meet the requirements of this Section by off-site housing development. For the purposes of

1 this Section, the City shall calculate the fee using the direct fractional result of the total
 2 number of units multiplied by the percentage of off-site housing required, rather than rounding
 3 up the resulting figure.

4 (c) Timing of Fee Payments. Any fee required by Section 419.1 et seq. shall be paid to
 5 DBI for deposit into the Citywide Affordable Housing Fund at the time required by Section
 6 402(d).

7

8 **SEC. 419.5. ALTERNATIVES TO THE INCLUSIONARY HOUSING COMPONENT.**

9 * * * *

10

TABLE 419.5

11

HOUSING REQUIREMENTS FOR THE UMU DISTRICT

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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% <u>12.3%</u>	23% <u>18.8%</u>	30% <u>24.5%</u>	35%	30%
B	16% <u>13.1%</u>	25% <u>20.5%</u>	35% <u>28.6%</u>	40%	35%
C	17.6% <u>14.4%</u>	27% <u>22.1%</u>	40% <u>32.7%</u>	45%	40%

1 **SEC. 428. DIVISADERO STREET NCT AFFORDABLE HOUSING FEE AND**
2 **REQUIREMENTS.**

3 Sections 428.1 through 428.5, hereafter referred to as Sections 428.1 *et seq.*, set forth
4 the requirements and procedures for the Divisadero Street Neighborhood Commercial Transit
5 District Affordable Housing Fee.

6 **SEC. 428.3. APPLICATION OF AFFORDABLE HOUSING FEE REQUIREMENT.**

7 (a) For any project for which a complete development application has been submitted
8 before October 1, 2018, the Inclusionary Affordable Housing Program set forth in Planning
9 Code Sections 415.1 *et seq.* shall apply in the Divisadero Street NCT, except the temporary
10 provisions of Planning Code Section 415.3(b) shall not apply and except as set forth in
11 Section 428.3(a). For any development site for which the Planning Department determines
12 that the residential development potential within the Divisadero Street NCT has been
13 increased through the adoption of the NCT rezoning set forth in Ordinance No. 127-15, as
14 detailed in Section 428.1(e) herein, the requirements of Sections 415.1 *et seq.* of the Planning
15 Code shall apply, except as set forth in subsections (a)(1), (a)(2), and (a)(3), below, and the
16 temporary provisions of Planning Code Section 415.3(b) shall not apply.

17 (1) Fee. For a development project of 10 or more dwelling units that is subject
18 to the Inclusionary Affordable Housing Program, the development project shall pay an
19 affordable housing fee equivalent to a requirement to provide ~~33%~~ 27% of the units in the
20 Principal Project as affordable units if those units are Owned Units, or ~~30%~~ 24.5% of the units if
21 the project is a Rental Housing Project, using the method of fee calculation set forth in Section
22 415.5(b).

23 (2) On-site. For a development project of 10 or more units that is subject to the
24 Inclusionary Affordable Housing Program that elects to construct units Affordable to Qualifying
25 Households on-site of the Principal Project as set forth in Planning Code Section 415.5(g), the

1 development project shall comply with all otherwise applicable requirements of Section 415.6,
2 except that for all housing development projects consisting of 10 or more units, the following
3 requirements shall apply.

4 (A) For an Ownership Housing Project, the number of affordable units
5 constructed on site shall be ~~23%~~ 18.8% of all units constructed on the site. A minimum of ~~12%~~
6 10% of the units shall be affordable to low-income households, ~~5.5%~~ 5% of the units shall be
7 affordable to moderate-income households, and ~~5.5%~~ 4.8% of the units shall be affordable to
8 middle-income households. In no case shall the total number of affordable units required
9 exceed the number required as determined by the application of the applicable on-site
10 requirement rate to the total project units. Owned Units for low-income households shall have
11 an affordable purchase price set at 80% of Area Median Income or less, with households
12 earning up to 100% of Area Median Income eligible to apply for low-income units. Owned
13 Units for moderate-income households shall have an affordable purchase price set at 105% of
14 Area Median Income or less, with households earning from 95% to 120% of Area Median
15 Income eligible to apply for moderate-income units. Owned Units for middle-income
16 households shall have an affordable purchase price set at 130% of Area Median Income or
17 less, with households earning from 120% to 150% of Area Median Income eligible to apply for
18 middle-income units.

19 (B) For a Rental Housing Project, the number of affordable units
20 constructed on site shall be ~~20%~~ 16.4% of all units constructed on the site. A minimum of ~~12%~~
21 10% of the units shall be affordable to low-income households, ~~4%~~ 3% of the units shall be
22 affordable to moderate-income households, and ~~4%~~ 3.4% of the units shall be affordable to
23 middle-income households. In no case shall the total number of affordable units required
24 exceed the number required as determined by the application of the applicable on-site
25 requirement rate to the total project units. Rental Units for low-income households shall have

1 an affordable rent set at 55% of Area Median Income or less, with households earning up to
2 65% of Area Median Income eligible to apply for low-income units. Rental Units for moderate-
3 income households shall have an affordable rent set at 80% of Area Median Income or less,
4 with households earning from 65% to 90% of Area Median Income eligible to apply for
5 moderate-income units. Rental Units for middle-income households shall have an affordable
6 rent set at 110% of Area Median Income or less, with households earning from 90% to 130%
7 of Area Median Income eligible to apply for middle-income units.

8 (3) Off-site. If the project sponsor of a housing development project of 10 or
9 more units that is subject to the Inclusionary Affordable Housing Program elects to provide
10 units Affordable to Qualifying Households off-site of the Principal Project as set forth in
11 Section 415.5(g), the project sponsor shall construct or cause to be constructed affordable
12 housing equal to ~~33%~~ 27% of all units constructed on the Principal Project site as affordable
13 housing if the units in the Principal Project are owned units, and ~~30%~~ 24.5% if the project is a
14 Rental Housing Project.

15 (b) For any project for which a complete development application has been submitted
16 on or after October 1, 2018, the Inclusionary Affordable Housing Program set forth in Planning
17 Code Sections 415.1 et seq. shall apply in the Divisadero Street NCT except as set forth in
18 this subsection (b). For any development site for which the Planning Department has
19 determined that the residential development potential has been increased through the
20 adoption of the NCT rezoning set forth in Ordinance No. 127-15, as detailed in Section
21 428.1(e) herein, the requirements of Planning Code Sections 415.1 et seq. shall apply, except
22 that the following affordable housing requirements shall be applied to residential development
23 on such sites:

24 (1) **Fee.** For a development project of 10 or more dwelling units that is subject
25 to the Inclusionary Affordable Housing Program, the development project shall pay an

1 affordable housing fee equivalent to a requirement to provide ~~33%~~ 27% of the units in the
2 Principal Project as Affordable Units if those units are Owned Units, or ~~30%~~ 24.5% of the units
3 if the project is a Rental Housing Project, using the method of fee calculation set forth in
4 Section 415.5(b).

5 (2) **On-site.** If the housing development project of 10 or more dwelling units that
6 is subject to the Inclusionary Affordable Housing Program elects to construct units Affordable
7 to Qualifying Households on-site of the Principal Project as set forth in Planning Code Section
8 415.5(g), the project sponsor shall comply with all otherwise applicable requirements of
9 Section 415.6, except that for all housing development projects consisting of 10 or more units,
10 the number of Affordable Units constructed on-site shall be provided as follows.

11 (A) A project that consists of Owned Units shall provide ~~23%~~ 18.8% of
12 units as Affordable Units at the following levels: 10% shall have an average affordable
13 purchase price set at 80% of Area Median Income; ~~8%~~ 5% shall have an average affordable
14 purchase price set at 105% of Area Median Income; and ~~5%~~ 4.8% shall have an average
15 affordable purchase price set at 130% of Area Median Income.

16 (B) A project that consists of Rental Units shall provide ~~23%~~ 18.8% of
17 units as Affordable Units at the following levels: 10% shall have an average affordable rent set
18 at 55% of Area Median Income; ~~8%~~ 5% shall have an average affordable rent set at 80% of
19 Area Median Income; and ~~5%~~ 4.8% shall have an average affordable rent set at 110% of Area
20 Median Income.

21 (C) Notwithstanding subsections (b)(2)(A) and (b)(2)(B), ~~the percentage~~
22 ~~and affordability levels of Affordable Units constructed on-site as set forth in subsections (b)(2)(A) and~~
23 ~~(b)(2)(B) shall be the same percentage and affordability levels as set forth in Section 206.3(f)(2)(A), as~~
24 ~~it may be amended from time to time, and~~ in no case shall the percentage of Affordable Units
25 constructed on-site pursuant to this subsection (b)(2) be less than the percentage required by

1 Section 415.6 for projects consisting of 25 or more units. If the percentage of Affordable Units
2 constructed on-site pursuant to this subsection (b)(2) would be less than the percentage set
3 forth in Section 415.6 for projects consisting of 25 or more units, the percentage of Affordable
4 Units set forth in Section 415.6 for projects consisting of 25 or more units shall apply.

5 (3) **Off-site.** If the project sponsor of a housing development project of 10 or
6 more units is eligible and elects to provide units Affordable to Qualifying Households off-site of
7 the Principal Project as set forth in Section 415.5(g), the project sponsor shall construct or
8 cause to be constructed affordable housing equal to ~~33%~~ 27% of all units constructed on the
9 Principal Project site as affordable housing if the units in the Principal Project are owned units,
10 and ~~30%~~ 24.5% if the project is a Rental Housing Project.

11
12 Section 8. Effective Date; Operative Dates.

13 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
14 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
15 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
16 Mayor's veto of the ordinance.

17 (b) Sections 1 through 6 of this ordinance, adding Planning Code Sections 415A and
18 415B, amending Planning Code Sections 403 and 415.10, and amending Administrative Code
19 Sections 5.29-1, 5.29-4 and 5.29-6, shall become operative on November 1, 2023.

20 (c) Section 7 of this ordinance, amending Planning Code Section 415.3, 415.5, 415.6,
21 415.7, 419.3, 428 and 428.3, shall become operative on November 21, 2026, unless the City
22 enacts legislation to change such operative date, or to otherwise revise or rescind the
23 amendments set forth in Section 7.

24
25 Section 9.

1 (a) Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends
2 to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
3 punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that
4 are explicitly shown in this ordinance as additions, deletions, Board amendment additions,
5 and Board amendment deletions in accordance with the “Note” that appears under the official
6 title of the ordinance.

7 (b) On July 24, 2023, the Land Use and Transportation Committee of the Board of
8 Supervisors amended the ordinance in Board File No. 230769 to amend section (b) and (f) of
9 the General Findings in Section 2 of the ordinance; correct a reference in new Section 415B.1
10 of the Planning Code; and correct the numbering in amended Section 403. The Committee
11 then duplicated the file, creating Board File No. 230855. The original ordinance, in Board File
12 No. 230769, was then approved by the Board of Supervisors on first reading on July 25, 2023,
13 and approved by the Board on second reading on September 5, 2023. This ordinance, in the
14 duplicate file (Board File No. 230855), includes additional amendments to the ordinance,
15 which were adopted by the Land Use and Transportation Committee on September 11, 2023.
16 The additional amendments reduce the inclusionary requirements for projects, including
17 HOME-SF projects, with 10-24 units that are approved prior to November 1, 2023; and reduce
18 impact fees for Pipeline Projects, as defined. Because the ordinance in Board File No.
19 230769 is not yet effective, both sets of Committee amendments (those adopted by the

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1 Committee on July 24, 2023 in the ordinance in Board File No. 230769, and those adopted by
2 the Committee on September 11, 2023 in the ordinance in Board File No. 230855) are shown
3 in this ordinance in Board amendment font.

4
5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

7 By: /s/ Audrey Pearson
8 AUDREY PEARSON
9 Deputy City Attorney

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