

FILE NO. 080521

ORDINANCE NO. 232-08

1 [Citywide Affordable Housing Preference for Certificate of Preference Holders.]

2 **Ordinance providing that all City affordable housing programs give preference in those**
3 **programs to Certificate of Preference Holders under the San Francisco Redevelopment**
4 **Agency's Property Owner and Occupant Preference Program by adding Administrative**
5 **Code Section 24.8 to provide that all City affordable housing programs administered by**
6 **the Mayor's Office of Housing or other City Department give preference in those**
7 **programs to Certificate of Preference holders; and amending Administrative Code**
8 **Sections 43.3.4 to provide for preference in the affordable housing and home**
9 **ownership bond program; Section 10.100-110 to provide for preference in the**
10 **expenditure of funds from the Mayor's Housing Affordability Fund; 10-100-370 to**
11 **provide for preference in the use of HOPE SF funds; and amending Planning Code**
12 **Sections 313.12, 315.4, 315.5, and 315.6 to provide for preference in the Citywide**
13 **Affordable Housing funds generated by the Jobs-Housing Linkage Program and the**
14 **Residential Inclusionary Affordable Housing program and in the allocation of all on-**
15 **and off-site inclusionary housing units in those programs.**

16
17 Note: Additions are *single-underline italics Times New Roman*;
18 deletions are *strikethrough italics Times New Roman*.
19 Board amendment additions are double underlined.
20 Board amendment deletions are ~~strikethrough-normal~~.

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

22 Section 1. Findings. The Board of Supervisors of the City and County of San Francisco
23 hereby finds and determines that:

24 (a) Under Planning Code Section 302, the Board of Supervisors finds that this
25 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
Planning Commission Resolution No. 4741017652 recommending the approval of this ~~Zoning~~

Mayor Gavin Newsom
Supervisor Mirkarimi, Dufty, Maxwell
BOARD OF SUPERVISORS

1 ~~Map Amendment~~ordinance, and incorporates such reasons by this reference thereto. A copy
2 of said resolution is on file with the Clerk of the Board of Supervisors in File No. _____.

3 (b) Under Planning Code Section 101.1, the Board of Supervisors finds that this
4 ordinance is consistent with the Priority Policies of Planning Code Section 101.1(b) of the
5 Planning Code and with the General Plan ~~as proposed to be amended in companion~~
6 ~~legislation~~ and hereby adopts the findings of the Planning Commission, as set forth in
7 Planning Commission Resolution No. ~~17410~~17652, and incorporates said findings by this
8 reference thereto.

9 (c) In accordance with the actions contemplated herein, this Board adopted ~~s~~ Motion
10 the findings set forth in Planning Commission Resolution No. 1740717652, concerning findings
11 pursuant to that this ordinance is categorically exempt from environmental review under the
12 California Environmental Quality Act (California Public Resources Code sections 21000 et
13 seq.) 15060(c)(2). A copy of said ~~Motion~~ Resolution is on file with the Clerk of the Board of
14 Supervisors in File No. _____ and is incorporated by reference herein.

15 Section 2. The San Francisco Administrative Code is hereby amended by adding
16 Section 24.8 and amending Sections 43.3.1, -10-100-370 as follows:

17 **SEC. 24.8. PREFERENCE IN ALL CITY AFFORDABLE HOUSING PROGRAMS**
18 **FOR CERTIFICATE OF PREFERENCE HOLDERS**

19 *This Section shall apply to all programs related to the provision of affordable housing, unless*
20 *specified otherwise. To the extent permitted by law, the Mayor's Office of Housing or its successor*
21 *shall give or require project sponsors or their successors in interest funded through MOH to give,*
22 *preference in occupying units or receiving assistance under all City affordable housing programs first*
23 *to Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's*
24 *Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and*
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1 effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet
2 all of the qualifications for the unit or assistance.

3 The Mayor's Office of Housing shall develop procedures and amend its regulations within 90
4 days of the effective date of this legislation to implement the requirements of this Section. Said
5 procedures and regulations shall be subject to approval by Resolution of the Board of
6 Supervisors.

7 The Board of Supervisors shall hold a hearing on the status of this legislation within 2
8 years of the effective date of this legislation to assess its impact, or at such time as the
9 Mayor's Office of Housing certifies to the Board of Supervisors that, in any one fiscal year, the
10 percent of Residential Certificate of Preference holders obtaining an affordable housing unit
11 by taking advantage of the preferences in this legislation in all of the City's affordable housing
12 programs combined exceeds 50% of the total number of units made available through the
13 City's affordable housing programs in that year.

14 **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

15 Following payment of costs of issuance, 85 percent of the bond proceeds will be used
16 for the development of affordable rental housing through the development account described
17 in the regulations, and 15 percent of the bond proceeds will be used for downpayment
18 assistance for low and moderate income first-time homebuyers through the downpayment
19 assistance loan account described in the program regulations; including all legally permissible
20 administrative costs related to the program. The Mayor's Office of Housing shall develop
21 procedures and amend its regulations such that, for all projects funded by this affordable housing and
22 home ownership bond program, including multifamily rental projects and downpayment assistance to
23 individual households, it requires the project sponsor or its successor in interest to give preference in
24 occupying units or receiving assistance first to Residential Certificate of Preference Holders under the
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1 San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as
2 reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the
3 Board in File No. 080521, who meet all of the qualifications for the unit or assistance. The Mayor's
4 Office of Housing shall develop procedures and amend its regulations within 90 days of the effective
5 date of this legislation to implement the requirements of this Section.- Said procedures and
6 regulations shall be subject to approval by Resolution of the Board of Supervisors.

7 **SEC. 10.100-110. MAYOR'S HOUSING AFFORDABILITY FUND.**

8 (a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a
9 category two fund to receive any prior legally binding obligations any grants, gifts, bequests
10 from private sources for the purposes sited in section (b), any monies repaid to the City as a
11 result of loans made by City to developers to assist in the development of affordable housing,
12 any repayments of monies to City where the City is beneficiary under a promissory note which
13 was acquired as a result of City's housing affordability assistance, any repayments of loans
14 made from this fund and any monies otherwise appropriated to the fund.

15 (b) Use of Fund. The fund shall be used exclusively for the purpose of providing
16 financial assistance to for-profit and nonprofit housing developers, where the contribution of
17 monies from the fund will allow units in a project to be affordable to persons and families of
18 low and moderate income. City departments may recover any costs of administering any
19 project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of
20 Housing shall develop procedures and amend its regulations such that, for all projects funded by this
21 fund, it requires the project sponsor or its successor in interest to give preference in occupying units or
22 receiving assistance first to Residential Certificate of Preference Holders under the San Francisco
23 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted
24 September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in
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1 File No. 080521, who meet all of the qualifications for the unit or assistance. The Mayor's Office of
2 Housing shall develop procedures and amend its regulations within 90 days of the effective date of this
3 legislation to implement the requirements of this Section. Said procedures and regulations shall
4 be subject to approval by Resolution of the Board of Supervisors.

5 **SEC. 10-100-370. SAN FRANCISCO HOPE SF FUND.**

6 (a) Establishment of Fund. The HOPE SF Fund is hereby established as a category
7 four fund for the purpose of assisting in the replacement and/or rehabilitation of
8 distressed public housing projects in the City and County of San Francisco.

9 (b) Deposits to Fund.

10 1. Base Deposit. The City shall appropriate \$5,000,000.00 from the General
11 Fund into the HOPE SF Fund for fiscal year 2007-2008. In subsequent years, it
12 shall be City policy to appropriate the same base amount to the HOPE SF Fund,
13 as well as the additional deposits described in subsection (b)(2), below.

14 2. Additional Deposits. It shall be City policy to increase the base deposit
15 described in subsection (b)(1), above, each fiscal year in an amount equal to the
16 tax revenues generated during the prior fiscal year through construction and
17 development activities on projects funded in whole or in part by the HOPE SF
18 Fund. The Controller's calculation of the amount of such revenues with
19 reference to any particular project shall include the following:

20 A. The portion of property and possessory interest tax revenues
21 allocated to the City's General Fund under State law;
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1 B. Property transfer tax revenues derived from the City's Real Property
2 Transfer Tax Ordinance (Article 12-C of the City Business and Tax
3 Regulations Code);

4 C. Sales and use tax revenues derived from the Bradley-Burns Uniform
5 Local Sales and Use Tax Law (the one percent levy authorized under
6 California Revenue and Taxation Code Section 7203.1); and

7 D. Payroll tax revenues derived from the City's Payroll Expense Tax
8 Ordinance (Article 12-A of the City Business and Tax Regulations Code);
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10 (c) Use of Fund.

11 1. The fund shall be used exclusively for the purpose of providing financial
12 assistance to the San Francisco Housing Authority and housing developers,
13 where the contribution of monies from the fund to a specific eligible HOPE SF
14 Project described in clause (2) below will be accompanied by an agreement as
15 to the affordability of some or all units in such HOPE SF Project for persons and
16 families of very-low, low and moderate income as defined by the United States
17 Department of Housing and Urban Development. Such affordability shall be
18 maintained for a period of not less than the greater of 50 years or the useful life
19 of the project.

20 2. There are two eligible types of HOPE SF Projects: public housing
21 developments in need of substantial rehabilitation; and public housing
22 developments in need of demolition and new construction of public housing in
23 conjunction with affordable housing and market-rate housing. Funds may be
24 used to pay for the following:
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1 A. Capital expenses typically associated with the development and/or
2 rehabilitation of public housing or affordable housing, including but not
3 limited to infrastructure costs, construction costs, design costs, permit
4 fees, financing fees, capitalized reserves, and developer fees;

5 B. Administrative costs required to oversee the program;

6 C. Payment of debt service on any bond or lease financing issued by the
7 City for HOPE SF Fund-eligible purposes; and
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9 D. Other activities associated with the development of any HOPE SF
10 Project, subject to the adopted rules and regulations described in
11 paragraph (d) below.

12 3. Grants, Bequests, and Other Sources. The Controller shall also cause the
13 following to be deposited in the HOPE SF Fund; any and all grants, gifts, or
14 bequests from private sources for the purposes cited above; any monies repaid
15 to the City as a result of loans made by City to developers from monies in the
16 HOPE SF Fund to assist in the development of replacement public housing
17 and/or affordable housing associated with the replacement of public housing;
18 any repayments of monies to City where the City is beneficiary under a
19 promissory note which was acquired as a result of the City's housing
20 affordability assistance from monies in the HOPE SF Fund; and any monies
21 otherwise allocated to the fund, all to the extent such monies are not required to
22 be deposited in other funds or applied to other purposes.

23 (d) Administration of Fund. The fund shall be administered by the Mayor's
24 Office of Housing. The Director of the Mayor's Office of Housing shall
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1 promulgate such rules and regulations as he or she may deem appropriate to
2 carry out the provisions of the fund. Such rules and regulations shall be
3 developed in consultation with any appropriate agencies or organizations with
4 which the Director, or his or her designee, may choose to consult. The rules and
5 regulations shall be subject to a public hearing and approved by resolution of the
6 Board of Supervisors. The Mayor's Office of Housing shall develop procedures such
7 that, for all projects funded by the HOPE SF Fund, the Mayor's Office of Housing
8 requires the project sponsor or its successor in interest to give preference in occupying
9 units first to any current occupants of a housing development receiving Funds, and
10 second to Residential Certificate of Preference Holders under the San Francisco
11 Redevelopment Agency's Property Owner and Occupant Preference Program, as
12 reprinted September 11, 2008 and effective October 1, 2008 and on file with the
13 Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit.
14 The Mayor's Office of Housing shall develop procedures and amend its regulations
15 within 90 days of the effective date of this legislation to implement the preference
16 described in this Section. Said procedures and regulations shall be subject to
17 approval by Resolution of the Board of Supervisors.

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19 Section 2. The San Francisco Planning Code is hereby amended by amending
20 Sections 313.12, 315.4, 315.5, and 315.6 to read as follows:

21 **SEC. 313.12. CITYWIDE AFFORDABLE HOUSING FUND.**

22 All monies contributed pursuant to Sections 313.6 or 313.7 or assessed pursuant to
23 Section 313.9 shall be deposited in the special fund maintained by the Controller called the
24 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated
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1 in accordance with law to be used solely to increase the supply of housing affordable to
2 qualifying households subject to the conditions of this Section. MOH shall develop procedures
3 such that, for all projects funded by the Citywide Affordable Housing Fund, MOH requires the project
4 sponsor or its successor in interest to give preference in occupying units first to Residential Certificate
5 of Preference Holders under the San Francisco Redevelopment Agency's Property Owner and
6 Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008
7 and on file with the Clerk of the Board in File No. 080521, who meet all of the qualifications for
8 the unit. The Mayor's Office of Housing shall develop procedures and amend its regulations within 90
9 days of the effective date of this legislation to implement the requirements of this Section.- Said
10 procedures and regulations shall be subject to approval by Resolution of the Board of
11 Supervisors.

12 The Fund shall be administered and expended by the Director of the Mayor's Office of
13 Housing, who shall have the authority to pre-scribe rules and regulations governing the Fund
14 which are consistent with this ordinance. No portion of the Fund may be used, by way of loan
15 or otherwise, to pay any administrative, general overhead, or similar expense of any entity,
16 except that \$10,000 from the Fund shall be allocated by the Director within six months
17 following the effective date of this ordinance to pay consultants for conducting research
18 necessary to support the "Jobs Housing Nexus Analysis," prepared by Keyser Marston
19 Associates, Inc., and dated June 1997.

20 **SEC. 315.4. ON-SITE HOUSING REQUIREMENT AND BENEFITS.**

21 Except as provided in Section 315.4(e), all housing projects subject to this Program
22 through the application of Section 315.3 shall be required to construct on-site units subject to
23 the following requirements:

24 (a) Number of Units:

1 (1)

2 (A) For any housing development of any height that is located in an area with a specific
3 inclusionary housing requirement, the more specific inclusionary housing requirement shall
4 apply.

5 (B) Buildings 120 feet in height and under or buildings of over 120 feet in height that do not
6 meet the criteria in subsection (C) below: Except as provided in Subsection (C) below, the
7 Planning Department shall require for housing projects covered by Section 315.3(a)(1), as a
8 condition of Planning Department approval of a project's building permit, and by Section
9 315.3(a)(2), (3) and (4), as a Condition of Approval of a conditional use or planned unit
10 development permit or as a condition of Planning Department approval of a live/work project,
11 that 15 percent of all units constructed on the project site shall be affordable to qualifying
12 households so that a project applicant must construct .15 times the total number of units
13 produced in the principal project beginning with the construction of the fifth unit. If the total
14 number of units is not a whole number, the project applicant shall round up to the nearest
15 whole number for any portion of .5 or above.

16 The Planning Department shall provide written notice by mail to the project applicant of the
17 number of affordable units which shall be required within 30 days of approval by the Planning
18 Department or Planning Commission.

19 (C) Buildings of over 120 feet in height. Except as provided in subsection (A) above, the
20 requirements of this Subsection shall apply to any project that is over 120 feet in height and
21 does not require a Zoning Map amendment or Planning Code text amendment related to its
22 project approvals which (i) results in a net increase in the number of permissible residential
23 units, or (ii) results in a material increase in the net permissible residential square footage as
24 defined in Section 315.3(b)(2) or has not received or will not receive a zoning map
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1 amendment or Planning Code text amendment as part of an Area Plan adopted after January
2 1, 2006 which (i) results in a net increase in the number of permissible residential units, or (ii)
3 results in a material increase in the net permissible residential square footage as defined in
4 Section 315.3(b)(2). The Planning Department shall require for housing projects covered by
5 this Subsection and Section 315.3(a)(1), as a condition of Planning Department approval of a
6 project's building permit, or by this Subsection and by Section 315.3(a)(2), (3) and (4), as a
7 Condition of Approval of a conditional use or planned unit development permit or as a
8 condition of Planning Department approval of a live/work project, that 12 percent of all units
9 constructed on the project site shall be affordable to qualifying households so that a project
10 applicant must construct .12 times the total number of units produced in the principal project
11 beginning with the construction of the fifth unit. If the total number of units is not a whole
12 number, the project applicant shall round up to the nearest whole number for any portion of .5
13 or above. Consistent with the conclusions of the Mayor's Office of Housing study authorized in
14 Section 315.8(e), the Mayor's Office of Housing shall recommend and the Board of
15 Supervisors shall consider whether the requirements of this Subsection for buildings of over
16 120 feet in height shall continue or expire after approximately five years.

17 The Planning Department shall provide written notice by mail to the project applicant of the
18 number of affordable units which shall be required within 30 days of approval by the Planning
19 Department or Planning Commission. This notice shall also be sent to project applicants who
20 elect to pay an in-lieu fee.

21 (2) If the principal project has resulted in demolition, conversion, or removal of affordable
22 housing units renting or selling to households at income levels and/or for a rental rate or sales
23 price below corresponding income thresholds for units affordable to qualifying households, the
24 Planning Commission shall require that the project applicant replace the number of affordable
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1 units removed with units of a comparable number of bedrooms or provide that 15 percent of
2 all units constructed as part of the new project shall be affordable to qualifying households,
3 whichever is greater.

4 (b) Timing of Construction: On-site inclusionary housing required by this Section 315.4 must
5 be constructed, completed, and ready for occupancy no later than the market rate units in the
6 principal project.

7 (c) Type of Housing: The type of affordable housing needed in San Francisco is documented
8 in the City's Consolidated Plan and the Residence Element of the General Plan. In general,
9 affordable units constructed under this Section 315.4 shall be comparable in number of
10 bedrooms, exterior appearance and overall quality of construction to market rate units in the
11 principal project. The Notice of Special Restrictions or Conditions of Approval shall include a
12 specific number of units at specified unit sizes for affordable units. The square footage of
13 affordable units and interior features in affordable units do not need to be same as or
14 equivalent to those in market rate units in the principal project, so long as they are of good
15 quality and are consistent with then-current standards for new housing. Where applicable,
16 parking shall be offered to the affordable units subject to the terms and conditions of the
17 Department's policy on unbundled parking for affordable housing units as specified in the
18 Procedures Manual and amended from time to time. Unless provided otherwise by the
19 Mayor's Office of Housing in writing, if the units in the market rate portion of the development
20 are ownership units, then the affordable units shall be ownership units and if the market rate
21 units are rental units, then the affordable units shall be rental units.

22 (d) Marketing the Units: The Mayor's Office of Housing shall be responsible for overseeing
23 and monitoring the marketing of affordable units under this Section. In general, the marketing
24 requirements and procedures shall be contained in the Procedures Manual as amended from
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1 time to time and shall apply to the affordable units in the project. The Mayor's Office of
2 Housing may develop occupancy standards for units of different bedroom sizes in the
3 Procedures Manual in order to promote an efficient allocation of affordable units. The Mayor's
4 Office of Housing may require in the Procedures Manual that prospective purchasers
5 complete homebuyer education training or fulfill other requirements. The Mayor's Office of
6 Housing shall develop a list of minimum qualifications for marketing firms that market
7 affordable units under this ordinance, referred to the Procedures Manual as Below Market
8 Rate (BMR units). Within 3 months from the effective date of this legislation, the Mayor's
9 Office of Housing shall recommend to the Planning Commission that these minimum
10 qualifications be published in the Procedures Manual such that, upon approval of the
11 qualifications by the Planning Commission, no developer marketing units under the
12 Inclusionary Housing Program shall be able to market BMR units except through a firm
13 meeting all of the minimum qualifications. For purposes of this ordinance, any developer that
14 has not yet submitted a marketing plan to the Mayor's Office of Housing by the date of
15 Planning Commission approval of the qualifications shall be required to comply with this
16 section. The Notice of Special Restrictions or Conditions of Approval shall specify that the
17 marketing requirements and procedures contained in the Procedures Manual as amended
18 from time to time, shall apply to the affordable units in the project.

19 (1) Lottery: At the initial offering of affordable units in a housing project, the Mayor's Office of
20 Housing must require the use of a public lottery approved by the Mayor's Office of Housing to
21 select purchasers or tenants. The Mayor's Office of Housing shall also hold a general public
22 lottery and maintain and utilize a list generated from this lottery or utilize a list generated from
23 a recent lottery at another similar housing project to fill spaces in units that become available
24 for re-sale or occupancy in any housing project subject to this ordinance after the initial
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1 offering. The list shall be updated from time to time but in no event less than annually to
2 ensure that it remains current.

3 (2) Preferences: The Mayor's Office of Housing shall create a lottery system that gives
4 preference first to Residential Certificate of Preference Holders under the San Francisco
5 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted
6 September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in
7 File No. 080521, who meet the qualifications of the Program, and second to people who live or
8 work in San Francisco who meet the qualifications of the Program. MOH shall propose policies
9 and procedures for implementing ~~this preference~~ these preferences to the Planning Commission
10 for inclusion in the Procedures Manual. Otherwise, it is the policy of the Board of Supervisors
11 to treat all households equally in allocating affordable units under this Program.

12 (e) Alternatives: The project sponsor may elect to satisfy the requirements of Section 315.4
13 by one of the alternatives specified in this Section. The project sponsor has the choice
14 between the alternatives and the Planning Commission may not require a specific alternative.
15 The project sponsor must elect an alternative before it receives project approvals from the
16 Planning Commission or Planning Department and that alternative will be a condition of
17 project approval. Notwithstanding the foregoing, if a project sponsor elects an alternative other
18 than the on-site alternative, the project sponsor still has the option to choose the on-site
19 alternative up to the issuance of the first site or building permit. If a project sponsor fails to
20 elect an alternative before project approval by the Planning Commission or Planning
21 Department, the provisions of Section 315.4 shall apply. The alternatives are as follows:

22 (1) Constructing units affordable to qualifying households at an alternative site within the City
23 and County of San Francisco pursuant to the requirements of Section 315.5.

1 (2) Paying an in lieu fee to the Mayor's Office of Housing pursuant to the requirements of
2 Section 315.6.

3 (3) Any combination of construction of on-site units as provided in Section 315.4, off-site
4 units as provided in Section 315.5, or payment of an in lieu fee as provided in Section 315.6,
5 provided that the project applicant constructs or pays the fee at the appropriate percentage or
6 fee level required for that option.

7 (4) Using California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds under the
8 requirements of Section 315.5(g).

9 (f) Benefits: If the project applicant elects to satisfy the inclusionary housing requirements
10 through the production of on-site inclusionary housing in this Section 315.4, the project
11 applicant shall at his or her option, be eligible to receive a refund of the following fees: a
12 conditional use or other fee required by Planning Code Section 352, if applicable; an
13 environmental review fee required by Administrative Code Section 31.46B, if applicable; a
14 building permit fee required by the Building Code and by Planning Code Section 355 for the
15 portion of the housing project that is affordable. The project applicant shall pay the building
16 fee for the portion of the project that is market-rate.

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

22 **SEC. 315.5. COMPLIANCE THROUGH OFF-SITE HOUSING DEVELOPMENT.**
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1 If the project applicant elects, pursuant to Section 315.4(e), that the project applicant
2 will build off-site units to satisfy the requirements of this Program, the project applicant shall
3 meet the following requirements:

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

6 (1)

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8 (A) For any housing development of any height that is located in
9 an area with a specific inclusionary housing requirement, the more
10 specific off-site inclusionary housing requirement shall apply.

11 (B) Buildings of 120 feet and under in height or buildings of over
12 120 feet in height that do not meet the criteria in subsection (C)
13 below: Except as provided in Subsection (A), the for projects
14 described in Section 315.3(a)(1), (2), (3), and (4) 20 percent so
15 that a project applicant must construct .20 times the total number
16 of units produced in the principal project beginning with the
17 construction of the fifth unit. If the total number of units is not a
18 whole number, the project applicant shall round up to the nearest
19 whole number for any portion of .5 or above. The Planning
20 Department shall provide written notice by mail to the project
21 applicant of the number of affordable units which shall be required
22 within 30 days of approval by the Planning Department or Planning
23 Commission. This notice shall also be sent to project applicants
24 who elect to pay an in-lieu fee.
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(C) Buildings of over 120 feet in height. Except as provided in subsection (A) above, the requirements of this Subsection shall apply to any project that is over 120 feet in height and does not require a Zoning Map amendment or Planning Code text amendment related to its project approvals which (i) results in a net increase in the number of permissible residential units, or (ii) results in a material increase in the net permissible residential square footage as defined in Section 315.3(b)(2); or has not received or will not receive a zoning map amendment or Planning Code text amendment as part of an Area Plan adopted after January 1, 2006 which (i) results in a net increase in the number of permissible residential units, or (ii) results in a material increase in the net permissible residential square footage as defined in Section 315.3(b)(2). The Planning Department shall require for housing projects covered by this Subsection and Section 315.3(a)(1), as a condition of Planning Department approval of a project's building permit, or by this Subsection and by Section 315.3(a)(2), (3) and (4), as a Condition of Approval of a conditional use or planned unit development permit or as a condition of Planning Department approval of a live/work project, that 17 percent of all units constructed on the project site shall be affordable to qualifying households so that a project applicant must construct .17 times the total number of units produced in the principal project beginning with the construction of the fifth unit. If

1 the total number of units is not a whole number, the project
2 applicant shall round up to the nearest whole number for any
3 portion of .5 or above. Consistent with the conclusions of the
4 Mayor's Office of Housing study authorized in Section 315.8(e),
5 the Mayor's Office of Housing shall recommend and the Board of
6 Supervisors shall consider whether the requirements of this
7 Subsection for buildings of over 120 feet in height shall continue or
8 expire after approximately five years. The Planning Department
9 shall provide written notice by mail to the project applicant of the
10 number of affordable units which shall be required within 30 days
11 of approval by the Planning Department or Planning Commission.
12 This notice shall also be sent to project applicants who elect to pay
13 an in-lieu fee.

14 (b) Timing of Construction: The project applicant shall insure that the off-site
15 units are constructed, completed, and ready for occupancy no later than the
16 market rate units in the principal project.

17 (c) Location of off-site housing: The project applicant must insure that off-site
18 units are located within one mile of the principal project.

19 (d) Type of Housing: The type of affordable housing needed in San Francisco
20 is documented in the City's Consolidated Plan and the Residence Element of
21 the General Plan. New affordable rental housing and ownership housing
22 affordable to households earning less than the median income is greatly needed
23 in San Francisco. The Planning Department shall develop Quality Standards for
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1 Off-Site Affordable Housing Units and recommend such standards to the
2 Planning Commission for adoption as part of the Procedures Manual. All off-site
3 units constructed under this Section must be provided as rental housing for the
4 life of the project or, if they are ownership units, must be affordable to
5 households earning no more than 80 percent of the median income for the City
6 and County of San Francisco. Nothing in this section shall limit a developer from
7 meeting the requirements of this Section through the construction of units in a
8 limited equity or land trust form of ownership if such units otherwise meet all of
9 the requirements for off-site housing. In general, affordable units constructed
10 under this Section 315.5 shall be comparable in number of bedrooms, exterior
11 appearance and overall quality of construction to market rate units in the
12 principal project. The total square footage of the off-site affordable units
13 constructed under this Section 315.5 shall be no less than the calculation of the
14 total square footage of the on-site market-rate units in the principal project
15 multiplied by the relevant on-site percentage requirement for the project
16 specified in Section 315.4. The Notice of Special Restrictions or Conditions of
17 Approval shall include a specific number of units at specified unit sizes -
18 including number of bedrooms and minimum square footage - for affordable
19 units. The interior features in affordable units need not be the same as or
20 equivalent to those in market rate units in the principal project, so long as they
21 are consistent with the Planning Department's Quality Standards for Off-Site
22 Affordable Housing Units found in the Procedures Manual. Where applicable,
23 parking shall be offered to the affordable units subject to the terms and
24 conditions of the Department's policy on unbundled parking for affordable
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1 housing units as specified in the Procedures Manual and amended from time to
2 time. If the residential units in the principal project are live/work units which do
3 not contain bedrooms or are other types of units which do not contain bedrooms
4 separated from the living space, the off-site units shall be comparable in size
5 according to the following equivalency calculation between live/work and units
6 with bedrooms:

7 TABLE INSET:
8

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

20 (e) Marketing the Units: The Mayor's Office of Housing shall be responsible
21 for overseeing and monitoring the marketing of affordable units under this
22 Section. In general, the marketing requirements and procedures shall be
23 contained in the Procedures Manual as amended from time to time and shall
24 apply to the affordable units in the project. The Mayor's Office of Housing may
25

1 develop occupancy standards for units of different bedroom sizes in the
2 Procedures Manual in order to promote an efficient allocation of affordable units.
3 The Mayor's Office of Housing may require in the Procedures Manual that
4 prospective purchasers complete homebuyer education training or fulfill other
5 requirements. The Mayor's Office of Housing shall develop a list of minimum
6 qualifications for marketing firms that market affordable units under this
7 ordinance, referred to the Procedures Manual as Below Market Rate (BMR
8 units). Within three months from the effective date of this legislation, the Mayor's
9 Office of Housing shall recommend to the Planning Commission that these
10 minimum qualifications be published in the Procedures Manual such that, upon
11 approval of the qualifications by the Planning Commission, no developer
12 marketing units under the Inclusionary Housing Program shall be able to market
13 BMR units except through a firm meeting all of the minimum qualifications. For
14 purposes of this ordinance, any developer that has not yet submitted a
15 marketing plan to the Mayor's Office of Housing by the date of Planning
16 Commission approval of the qualifications shall be required to comply with this
17 section. The Notice of Special Restrictions or Conditions of Approval shall
18 specify that the marketing requirements and procedures contained in the
19 Procedures Manual as amended from time to time, shall apply to the affordable
20 units in the project.

21 (1) Lottery: At the initial offering of affordable units in a housing project,
22 the Mayor's Office of Housing must require the use of a public lottery
23 approved by MOH to select purchasers or tenants. The Mayor's Office of
24 Housing shall also hold a general public lottery and maintain and utilize a
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1 list generated from this lottery or utilize a list generated from a recent
2 lottery at another similar housing project to fill spaces in units that
3 become available for re-sale or occupancy in any housing project subject
4 to this Ordinance after the initial offering. The list shall be updated from
5 time to time but in no event less than annually to insure that it remains
6 current.

7 (2) Preferences: The Mayor's Office of Housing shall create a lottery
8 system that gives preference first to Residential Certificate of Preference
9 Holders under the San Francisco Redevelopment Agency's Property Owner and
10 Occupant Preference Program, as reprinted September 11, 2008 and
11 effective October 1, 2008 and on file with the Clerk of the Board in File
12 No. 080521, who meet the qualifications of the Program, and second to people
13 who live or work in San Francisco who meet the qualifications of the
14 Program. MOH shall propose policies and procedures for implementing
15 this preference these preferences to the Planning Commission for inclusion in
16 the Procedures Manual. Otherwise, it is the policy of the Board of
17 Supervisors to treat all households equally in allocating affordable units
18 under this Program.

19 (f) Affordable units constructed under Section 315.5 shall not have received
20 development subsidies from any Federal, State or local program established for
21 the purpose of providing affordable housing, and shall not be counted to satisfy
22 any affordable housing requirement for the off-site development.
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1 (g) Notwithstanding the provisions of Section 315.5(f) above, a developer may
2 use California Debt Limit Allocation Committee (CDLAC) tax-exempt bonds to
3 help fund its obligations under this ordinance as long as it provides 20 percent of
4 the units as affordable at 50 percent of area median income for on-site housing
5 or 25 percent of the units as affordable at 50 percent of area median income for
6 off-site housing. Except as provided in this subsection, all units provided under
7 this Section must meet all of the requirements of this ordinance and the
8 Procedures Manual for either on- or off-site housing.

9 **SEC. 315.6. COMPLIANCE THROUGH IN-LIEU FEE.**

10 If the project applicant elects, pursuant to Section 315.4(e)(2) that the project applicant
11 will pay an in lieu fee to satisfy the requirements of this Program, the project applicant shall
12 meet the following requirements:
13

14 (a) By paying an in-lieu fee to the Treasurer for use by the Mayor's Office of
15 Housing for the purpose of constructing at an alternate site the type of housing
16 required by Section 315.5 within the City and County of San Francisco.

17 (b) The amount of the fee which may be paid by the project applicant subject to
18 this Ordinance in-lieu of developing and providing housing required by Section
19 315.4 shall be determined by Mayor's Office of Housing ("MOH") utilizing the
20 following factors:

21 (1) The number of units required by Section 315.5 if the project applicant
22 were to elect to meet the requirements of this section by off-site housing
23 development. For the purposes of this section, the City shall calculate the
24 fee using the direct fractional result of the total number of units multiplied
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1 by the percentage of off-site housing required, rather than rounding up
2 the resulting figure as required by Section 315.5(a).

3 (2) The affordability gap using data on the cost of construction of
4 residential housing from the "San Francisco Sensitivity Analysis
5 Summary Report: Inclusionary Housing Program" prepared by Keyser
6 Marston Associates, Inc. in August 2006 for the Maximum Annual Rent or
7 Maximum Purchase Price for the equivalent unit sizes. The Planning
8 Department and MOH shall update the technical report from time to time
9 as they deem appropriate in order to ensure that the affordability gap
10 remains current.

11 (3) No later than July 1 of each year, the Mayor's Office of Housing shall
12 adjust the in lieu fee payment option and provide a report on its
13 adjustment to the Board of Supervisors. MOH shall provide notice of any
14 fee adjustment on its website at least 30 days prior to the adjustment
15 taking effect. The Mayor's Office of Housing is authorized to develop an
16 appropriate methodology for indexing the fee, based on adjustments in
17 the costs of constructing housing and in the price of housing in San
18 Francisco. The method of indexing shall be published in the Procedures
19 Manual.
20

21 (c) Within 30 days of determining the amount of the fee to be paid by the
22 applicant, MOH shall transmit the amount of the fee to the Treasurer. Prior to the
23 issuance by DBI of the first site or building permit for the project applicant, the
24 project applicant must notify the Planning Department and MOH in writing that it
25

1 has paid in full the sum required to the Treasurer. If the project applicant fails by
2 the applicable date to demonstrate to the Planning Department that the project
3 applicant has paid the applicable sum in full to the Treasurer, DBI shall deny any
4 and all site or building permits or certificates of occupancy for the development
5 project until the Planning Department notifies DBI and MOH that such payment
6 has been made.

7 (d) Upon payment of the fee in full to the Treasurer and upon request of the
8 project applicant, the Treasurer shall issue a certification that the fee has been
9 paid. The project applicant shall present such certification to the Planning
10 Department, DBI and MOH prior to the issuance by DBI of the first site or
11 building permit or certificate of occupancy for any development subject to this
12 Section. Any failure of the Treasurer, DBI, or Planning Department to give any
13 notice under this Section shall not relieve a project applicant from compliance
14 with this Section. Where DBI inadvertently issues a site or building permit
15 without payment of the fee, DBI shall not issue any certificate of occupancy for
16 the project without notification from the Treasurer that the fee required by this
17 Section has been paid. The procedure set forth in this subsection is not intended
18 to preclude enforcement of the provisions of this section pursuant to any other
19 section of this Code, or other authority under the laws of the State of California.

20 (e) All monies contributed pursuant to this section shall be deposited in the
21 special fund maintained by the Controller called the Citywide Affordable Housing
22 Fund. The receipts in the Fund are hereby appropriated in accordance with law
23 to be used to (1) increase the supply of housing affordable to qualifying
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1 households subject to the conditions of this Section, and (2) pay the expenses of
2 MOH in connection with monitoring and administering compliance with the
3 requirements of the Program. MOH is authorized to use funds in an amount not
4 to exceed \$200,000 every 5 years to conduct follow-up studies under Section
5 315.8(e) and to update the in lieu fee amounts as described above in Section
6 315.6(b). All other monitoring and administrative expenses shall be appropriated
7 through the annual budget process or supplemental appropriation for MOH. The
8 fund shall be administered and expended by MOH, which shall have the
9 authority to prescribe rules and regulations governing the Fund which are
10 consistent with this Section. Within 90 days of the effective date of this legislation,
11 MOH shall develop procedures such that, for all projects funded by the Citywide
12 Affordable Housing Fund, MOH requires the project sponsor or its successor in interest
13 to give preference in occupying units first to Residential Certificate of Preference
14 Holders under the San Francisco Redevelopment Agency's Property Owner and
15 Occupant Preference Program, as reprinted September 11, 2008 and effective
16 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who
17 otherwise meet all of the requirements for a unit. Said procedures and regulations
18 shall be subject to approval by Resolution of the Board of Supervisors.

19 (f) Lien Proceedings.

20
21 (1) A project applicant's failure to comply with the requirements of this
22 Section shall constitute cause for the City to record a lien against the
23 development project in the sum of the in-lieu fee required under this
24 Ordinance, as adjusted under this Section.
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(2) If, for any reason, the fee imposed pursuant to this Ordinance remains unpaid following issuance of the permit, the Treasurer shall initiate proceedings to impose the lien in accordance with the procedures set forth in Chapter 10, Article XX of the San Francisco Administrative Code to make the entire unpaid balance of the fee, including interest, a lien against all parcels used for the development project. The Treasurer shall send all notices required by that Article to the owner of the property as well as the sponsor. The Treasurer shall also prepare a preliminary report notifying the sponsor of a hearing to confirm such report by the Board of Supervisors at least 10 days before the date of the hearing. The report to the sponsor shall contain the sponsor's name, a description of the sponsor's development project, a description of the parcels of real property to be encumbered as set forth in the Assessor's Map Books for the current year, a description of the alleged violation of this Ordinance, and shall fix a time date and place for hearing. The Treasurer shall cause this report to be mailed to the sponsor and each owner of record of the parcels of real property subject to lien. Except for the release of lien recording fee authorized by Administrative Code Section 10.237, all sums collected by the Tax Collector pursuant to this Ordinance shall be held in trust by the Treasurer and deposited in the Citywide Affordable Housing Fund established in Section 313.12.

(3) Any notice required to be given to a sponsor or owner shall be sufficiently given or served upon the sponsor or owner or all purposes hereunder if personally served upon the sponsor or owner or if deposited,

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postage prepaid, in a post office letterbox addressed in the name of the sponsor or owner at the official address of the sponsor or owner maintained by the Tax Collector for the mailing of tax bills or, if no such address is available, to the sponsor at the address of the development project, and to the applicant for the site or building permit at the address on the permit application.

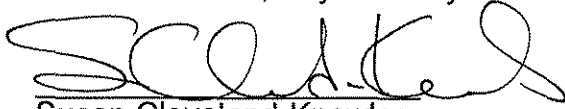
(g) In the event a building permit expires prior to completion of the work on and commencement of occupancy of a housing project so that it will be necessary to obtain a new permit to carry out any development, the obligation to comply with this Program shall be cancelled, and any in-lieu fee previously paid to the Treasurer shall be refunded. If and when the sponsor applies for a new permit, the procedures set forth in this Ordinance regarding construction of housing or payment of the in-lieu fee shall be followed.

(h) In the event that a development project for which an in-lieu fee imposed under this Section has been fully paid is demolished or converted to a use or uses not subject to this ordinance prior to the expiration of its estimated useful life, the City shall refund to the sponsor a portion of the amount of an in-lieu fee paid. The portion of the fee refunded shall be determined on a pro rata basis according to the ratio of the remaining useful life of the project at the time of

1 demolition or conversion in relation to its total useful life. For purposes of this
2 Ordinance, the useful life of a development project shall be 50 years.

3
4 APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

5
6 By:



7 Susan Cleveland-Knowles
8 Deputy City Attorney
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City and County of San Francisco

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

Tails Ordinance

File Number: 080521

Date Passed:

Ordinance providing that all City affordable housing programs give preference in those programs to Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program by adding Administrative Code Section 24.8 to provide that all City affordable housing programs administered by the Mayor's Office of Housing or other City Department give preference in those programs to Certificate of Preference holders; and amending Administrative Code Sections 43.3.4 to provide for preference in the affordable housing and home ownership bond program; Section 10.100-110 to provide for preference in the expenditure of funds from the Mayor's Housing Affordability Fund; 10-100-370 to provide for preference in the use of HOPE SF funds; and amending Planning Code Sections 313.12, 315.4, 315.5, and 315.6 to provide for preference in the Citywide Affordable Housing funds generated by the Jobs-Housing Linkage Program and the Residential Inclusionary Affordable Housing program and in the allocation of all on- and off-site inclusionary housing units in those programs.

September 9, 2008 Board of Supervisors — CONTINUED

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

September 23, 2008 Board of Supervisors — CONTINUED

Ayes: 10 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, Mirkarimi, Peskin, Sandoval
Excused: 1 - McGoldrick

October 7, 2008 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 10 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, Mirkarimi, Peskin, Sandoval
Excused: 1 - McGoldrick

October 7, 2008 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 10 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, Mirkarimi, Peskin, Sandoval
Excused: 1 - McGoldrick

October 21, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 080521

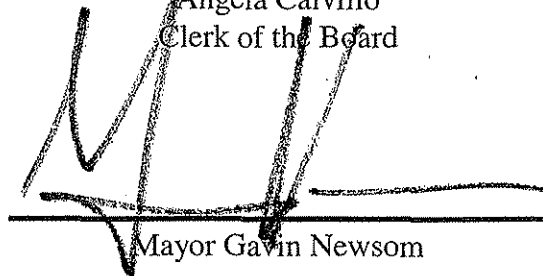
I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on October 21, 2008
by the Board of Supervisors of the City and
County of San Francisco.

10/30/2008

Date Approved



Angela Calvillo
Clerk of the Board



Mayor Gavin Newsom