

1 [Planning Code - Threshold for Application of Inclusionary Affordable Housing Program]

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3 Ordinance amending the San Francisco Planning Code Section 415.3 to: 1) provide  
4 that, as of January 415, 2013, the requirements of the Inclusionary Affordable Housing  
5 Program apply only to housing projects of 10 units or more and will no longer apply to  
6 buildings of 5 to 9 units that have not yet received a first construction document; (2)  
7 make conforming amendments to Planning Code Section 419.3 related to the  
8 Application of the UMU Affordable Housing Requirements to clarify that those  
9 requirements only apply to housing projects of 10 units or more; and 23) condition  
10 operation of the Ordinance on the adoption and implementation of the Housing Trust  
11 Fund Charter amendment at the November 6, 2012 election; setting an operative date;  
12 and making environmental findings and findings of consistency with the General Plan.

13 NOTE: Additions are *single-underline italics Times New Roman*;  
14 deletions are *strike-through italics Times New Roman*.  
15 Board amendment additions are double-underlined;  
16 Board amendment deletions are ~~strikethrough-normal~~.

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

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

20 (a) The Planning Department has determined that the actions contemplated in this  
21 Ordinance are in compliance with the California Environmental Quality Act (California Public  
22 Resources Code sections 21000 et seq.) Said determination is on file with the Clerk of the  
23 Board of Supervisors in File No. 120464 and is incorporated herein by reference.

24 (b) On August 16, 2012, the Planning Commission, in Resolution No. 18692  
25 approved and recommended for adoption by the Board of Supervisors this legislation and

Mayor Lee, Supervisors Chiu, Kim, Wiener, Cohen, Chu  
BOARD OF SUPERVISORS

1 adopted findings that it is consistent, on balance, with the City's General Plan and eight  
2 priority policies of Planning Code Section 101.1. The Board adopts these findings as its own.  
3 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.  
4 120464, and is incorporated by reference herein.

5 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this  
6 legislation will serve the public necessity, convenience, and welfare for the reasons set forth in  
7 Planning Commission Resolution No. 18692, and incorporates such reasons by reference  
8 herein.

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10 Section 2. The San Francisco Planning Code is hereby amended by amending Section  
11 415.1(A)(9) as follows:

12  
13 Section 3. The San Francisco Planning Code is hereby amended by amending  
14 Section 415.3, subsections (a) and (b), to read as follows:

15 **SEC. 415.3. APPLICATION.**

16 (a) Section 415.1 et seq. shall apply to any housing project that consists of ~~five~~ ten or  
17 more units where an individual project or a phased project is to be undertaken and where the  
18 total undertaking comprises a project with ~~five~~ ten or more units, even if the development is on  
19 separate but adjacent lots; and

20 (1) Does not require Commission approval as a Conditional Use Authorization  
21 or Planned Unit Development;

22 (2) Requires Commission approval as a Conditional Use Authorization or  
23 Planned Unit Development;

24 (3) Consists of live/work units as defined by Section 102.13 of this Code; or  
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1 (4) Requires Commission approval of replacement housing destroyed by  
 2 earthquake, fire or natural disaster only where the destroyed housing included units restricted  
 3 under the Inclusionary Affordable Housing Program or the City's predecessor inclusionary  
 4 housing policy, condominium conversion requirements, or other affordable housing program.

5 (b) The effective date of these requirements shall be either April 5, 2002, which is  
 6 the date that the requirements originally became effective, or the date a subsequent  
 7 modification, if any, became operative. The following table is designed to summarize the most  
 8 significant subsequent modifications to this Program and the dates those modifications went  
 9 into effect. The Planning Department and the Mayor's Office of Housing shall maintain a  
 10 record for the public summarizing various amendments to this Program and their effective or  
 11 operative dates. To the extent there is a conflict between the following table or any summary  
 12 produced by the Department or MOH and the provisions of the original implementing  
 13 ordinances, the implementing ordinances shall prevail.

14 Table 415.3

Program Modification	Effective or Operative Date
<p data-bbox="290 1251 857 1478">All projects with 5 or more units must participate in the Inclusionary Housing Program Section 415 (changed from a threshold of 10 units).</p> <p data-bbox="290 1629 857 1795"><u>Threshold changed back to 10 units or more such that the Section 415 et seq. no longer applies to buildings of 5-9 units.</u></p>	<p data-bbox="857 1251 1421 1541">All <u>5-9 unit</u> projects that submitted a first application on or after July 18, 2006 <u>and received a first construction document prior to January 15, 2013.</u></p> <p data-bbox="857 1629 1421 1795"><u>Any 5-9 unit project, regardless of when it submitted a first application, that has not received a first construction</u></p>

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	<u>document as of January 4<sup>15</sup>, 2013.</u>
Affordable Housing Percentages: 20% Fee 15% on-site* 20% off-site* *Of total number of units	All projects that submitted a first application on or after July 18, 2006 (except projects which require a rezoning to increase buildable residential units or square footage)
On-Site units must be priced and sold at 90% of AMI and rented at 55% of AMI	All projects that receive a first site or building permit on or after September 9, 2006
Project sponsor must select Program compliance option upon project approval and cannot alter their compliance option	All projects that received Planning Commission or Planning Department approval on or after September 9, 2006
All off-site units must be located within 1 mile of the principal project and Off-site units must be priced and sold at 70% of AMI	All Projects that receive Planning Commission or Planning Department approval after September 9, 2006
Lottery preference for applicants living or working in San Francisco	All projects that are marketed on or after June 4, 2007
Lottery preference for applicants holding a Certificate of Preference from the Redevelopment Agency	All projects that are marketed on or after December 30, 2008

Lottery required for all new and resale units	All projects that are marketed on or after September 9, 2006
Must provide on-site units as owner-occupied only unless specifically exempted pursuant to Section 415	All projects beginning February 11, 2010
All off-site units must follow standards set out in Procedures Manual	Projects that receive Planning Commission or Planning Department approval on or after June 4, 2007

Section 4. The San Francisco Planning Code is hereby amended by amending Section 419.3, subsections (a) and (b), to read as follows:

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

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

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

(1) For all projects sites designated as Tier A, a minimum of 18 percent of the total units constructed shall be affordable to and occupied by qualifying persons and families

1 as defined elsewhere in this Code, so that a project sponsor must construct .18 times the total  
2 number of units produced in the principal project beginning with the construction of the  
3 fifth~~th~~tenth unit. If the total number of units is not a whole number, the sponsor shall round up to  
4 the nearest whole number for any portion of .5 or above.  
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6 (A) If the project sponsor is eligible for and elects pursuant to Section 415  
7 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall  
8 construct 23 percent so that a sponsor must construct .23 times the total number of units  
9 produced in the principal project beginning with the construction of the fifth~~th~~tenth unit. If the  
10 total number of units is not a whole number, the sponsor shall round up to the nearest whole  
11 number for any portion of .5 or above.  
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14 (B) If the project sponsor elects pursuant to Section 415.5 to pay the fee to  
15 satisfy the requirements of this program, the sponsor shall meet the requirements of Section  
16 415 according to the number of units required above if the project applicant were to elect to  
17 meet the requirements of this Section by off-site housing development. For the purposes of  
18 this Section, the City shall calculate the fee using the direct fractional result of the total  
19 number of units multiplied by the percentage of off-site housing required, rather than rounding  
20 up the resulting figure.  
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1 (2) For all project sites designated Tier B, a minimum of 20 percent of the total  
2 units constructed shall be affordable to and occupied by qualifying persons and families as  
3 defined elsewhere in this Code, so that a project sponsor must construct .20 times the total  
4 number of units produced in the principal project beginning with the construction of the  
5 fifteenth unit. If the total number of units is not a whole number, the sponsor shall round up to  
6 the nearest whole number for any portion of .5 or above.  
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9 (A) If the project sponsor is eligible for and elects pursuant to Section  
10 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall  
11 construct 25 percent so that a sponsor must construct .25 times the total number of units  
12 produced in the principal project beginning with the construction of the fifteenth unit. If the  
13 total number of units is not a whole number, the sponsor shall round up to the nearest whole  
14 number for any portion of .5 or above.  
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17 (B) If the project sponsor elects pursuant to Section 415.5(g) to pay the fee  
18 to satisfy the requirements of this program, the sponsor shall meet the requirements of  
19 Section 415 according to the number of units required above if the sponsor were to elect to  
20 meet the requirements of this Section by off-site housing development. For the purposes of  
21 this Section, the City shall calculate the fee using the direct fractional result of the total  
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1 number of units multiplied by the percentage of off-site housing required, rather than rounding  
2 up the resulting figure.  
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4 (3) For all project sites designated Tier C, a minimum of 22 percent of the total  
5 units constructed shall be affordable to and occupied by qualifying persons and families as  
6 defined elsewhere in this Code, so that a project sponsor must construct .22 times the total  
7 number of units produced in the principal project beginning with the construction of the  
8 fifthtenth unit. If the total number of units is not a whole number, the sponsor shall round up to  
9 the nearest whole number for any portion of .5 or above.  
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12 (A) If the project sponsor is eligible for and elects pursuant to Section  
13 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall  
14 construct 27 percent so that a sponsor must construct .27 times the total number of units  
15 produced in the principal project beginning with the construction of the fifthtenth unit. If the  
16 total number of units is not a whole number, the sponsor shall round up to the nearest whole  
17 number for any portion of .5 or above.  
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20 (B) If the project sponsor elects pursuant to Section 415.5 to pay the fee to  
21 satisfy the requirements of this program, the sponsor shall meet the requirements of Section  
22 415 according to the number of units required above if the sponsor were to elect to meet the  
23 requirements of this Section by off-site housing development. For the purposes of this  
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1 Section, the City shall calculate the fee using the direct fractional result of the total number of  
2 units multiplied by the percentage of off-site housing required, rather than rounding up the  
3 resulting figure.  
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5 (c) **Timing and Payment of Fee.** Any fee required by Section 419.1 et seq. shall  
6 be paid to the Development Fee Collection Unit at DBI prior to issuance of the first  
7 construction document, with an option for the project sponsor to defer payment to prior to  
8 issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in  
9 accordance with Section 107A.13.3 of the San Francisco Building Code.  
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13 Section 5. Effective Date; Operative Date; Adoption and Implementation of Housing  
14 Trust Fund Amendment.

15 (a) This ordinance shall become effective 30 days from the date of passage.

16 (b) This ordinance shall become operative on January 415, 2013, but only if (1) the  
17 voters adopt the Housing Trust Fund and Housing Productions Incentives Charter  
18 amendment, adding Section 16.110 to the Charter, at the November 6, 2012 election, and (2)  
19 the Mayor does not terminate the amendment prior to January 1, 2013 as provided in  
20 subsection (l) of the amendment. If the voters do not adopt the amendment at that election or  
21 if the Mayor terminates the amendment, this ordinance shall become inoperative and shall  
22 have no force and effect and shall be repealed.  
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24 Section 6. Application. This section is uncodified. This ordinance shall apply to any  
25 building of 5 to 9 units that has not received its first construction document as of January 415,

1 2013. The requirements of Planning Code Section 415 et seq. shall continue to apply to any  
2 building of 5 to 9 units that submitted a first application on or after July 18, 2006 and received  
3 a first construction document prior to January 415, 2013.  
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5 Section 7. This section is uncodified. Within three years of the effective date of this  
6 legislation, the Planning Department shall evaluate the effect of the exemption for five- to  
7 nine-unit developments on achieving the City's housing policies and production goals,  
8 balancing the City's desire to create viable economic housing policies for small builders in  
9 context with the city's other housing production goals. Subsequent evaluations shall be done  
10 in conjunction with the five-year evaluation required to be undertaken by the Mayor's Office of  
11 Housing under Planning Code Section 415.9(e) and in conjunction with any evaluation of the  
12 Housing Trust Fund that may be required under the Administrative Code.  
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14 Section 78. This section is uncodified. In enacting this Ordinance, the Board intends  
15 to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,  
16 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are  
17 explicitly shown in this legislation as additions, deletions, Board amendment additions, and  
18 Board amendment deletions in accordance with the "Note" that appears under the official title  
19 of the legislation.  
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APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

By:   
SUSAN CLEVELAND-KNOWLES  
Deputy City Attorney

\*Name of Supervisor/Committee/Department\*  
**BOARD OF SUPERVISORS**



**City and County of San Francisco**  
**Tails**  
**Ordinance**

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

**File Number:** 120464

**Date Passed:** October 16, 2012

Ordinance amending the San Francisco Planning Code Section 415.3 to: 1) provide that, as of January 15, 2013, the requirements of the Inclusionary Affordable Housing Program apply only to housing projects of 10 units or more and will no longer apply to buildings of 5 to 9 units that have not yet received a first construction document; 2) make conforming amendments to Planning Code Section 419.3 related to the Application of the UMU Affordable Housing Requirements to clarify that those requirements only apply to housing projects of 10 units or more; and 3) condition operation of the Ordinance on the adoption and implementation of the Housing Trust Fund Charter Amendment at the November 6, 2012, election; setting an operative date; and making environmental findings and findings of consistency with the General Plan.

September 24, 2012 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

September 24, 2012 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

October 02, 2012 Board of Supervisors - PASSED ON FIRST READING

Ayes: 10 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Kim, Mar, Olague and Wiener

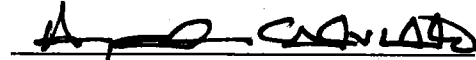
Excused: 1 - Farrell

October 16, 2012 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

File No. 120464

I hereby certify that the foregoing  
Ordinance was FINALLY PASSED on  
10/16/2012 by the Board of Supervisors of  
the City and County of San Francisco.



Angela Calvillo  
Clerk of the Board



Mayor

10/23/12  
Date Approved