

1 [Planning Code – Single, Two and Three-Family Home Bonus Program]

2
3 **Ordinance amending the Planning Code to create a density bonus program in RH-1**
4 **(Residential, House, One-Family), RH-2 (Residential, House, Two-Family), and RH-3**
5 **(Residential, House, Three-Family) zoning districts; affirming the Planning**
6 **Department’s determination under the California Environmental Quality Act; and**
7 **making findings of consistency with the General Plan and the eight priority policies of**
8 **Planning Code, Section 101.1, and findings of public necessity, convenience, and**
9 **welfare under Planning Code, Section 302.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

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

18 Section 1. Environmental and Land Use Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance do not constitute a project for purposes of the California Environmental Quality Act
21 (California Public Resources Code Sections 21000 et seq.), under Government Code section
22 65913.5. The Board affirms this determination.

23 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
24 findings that the The Board of Supervisors finds that the actions contemplated in this
25 ordinance are consistent, on balance, with the City’s General Plan and eight priority policies of
Planning Code Section 101.1 for the following reasons. ~~The Board adopts these findings as~~

1 its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File
2 No. _____, and is incorporated herein by reference. The ordinance is consistent with
3 Housing Element Objective 1, Policy 1.6, Objective 4, Policy 4.6, and Objective 5, Policies 5.2
4 and 5.4, because the ordinance will allow areas of the City that have been restricted to single-
5 family zoning for decades to add modest density to their neighborhoods, thereby providing a
6 larger range of housing choices for current and future residents. The range of housing units in
7 size, type, and affordability will assist current residents with being able to stay within their
8 existing community, even if their housing needs change. This ordinance will also open
9 opportunities for new residents to move into neighborhoods that are currently unavailable to
10 them due to the lack of housing options for those who cannot realistically afford to buy or rent
11 a single-family home in San Francisco. The ordinance is also consistent with Objective 10,
12 Policy 10.2, because it will promote modest density increases across RH districts in the City
13 through the addition of residential units and ADU's. The proposed ordinance additionally
14 ensures that such modest density increases are approved quickly and administratively, which
15 will aid in reaching its housing goals. The Board further finds that the ordinance is consistent
16 with Planning Code section 101.1, in that it would not have a negative effect on neighborhood
17 -serving retail uses and will not have a negative effect on opportunities for resident
18 employment in and ownership of neighborhood serving retail; would not have a negative effect
19 on housing or neighborhood character because any increase in housing would be modest and
20 in keeping with neighborhood character and the majority of the Residential Design Guidelines;
21 would not have an adverse effect on the City's supply of affordable housing, and would
22 increase the supply of affordable housing either through on-site units or by payment of an
23 affordable housing fee; would not result in commuter traffic impeding MUNI transit or result in
24 overburdened streets or neighborhood parking; would not cause displacement of the City's
25 industrial or service sectors as the ordinance would only be applicable in residential zones;

1 would not have an adverse effect on the City’s preparedness against injury and loss of life in
2 an earthquake; would protect landmarks and historic buildings by requiring such buildings to
3 continue to need conditional use authorization to take advantage of the program; and would
4 not impact parks and open space or their access to sunlight and vistas.

5 (c) Pursuant to Planning Code Section 302, the Board of Supervisors find that this
6 ordinance will serve the public necessity, convenience, and welfare for the same reasons as
7 set forth above, and for the reasons set forth in Section 2 of this ordinance. ~~reasons set forth~~
8 ~~in Planning Commission Resolution No. _____, and incorporates such reasons by this~~
9 ~~reference thereto. A copy of said resolution is on file with the Clerk of the Board of~~
10 ~~Supervisors in File No. _____.~~

11
12 Section 2. Additional Findings.

13 (a) San Francisco is experiencing a severe housing shortage. The shortage of
14 affordable housing has forced lower-income and middle-class families out of the City. There is
15 a need to make it easier to build affordable and middle-income housing to keep our city
16 diverse, and provide homes for lower- and middle-income workers, including nurses,
17 firefighters, teachers, small business owners, retail and non-profit workers, and Muni drivers.
18 In the midst of this severe housing shortage and affordability crisis, San Francisco must
19 immediately remove barriers to building housing for low- and middle-income residents and
20 working families.

21 (b) Teachers and other employees of the San Francisco Unified School District as well
22 as employees of the City and County of San Francisco suffer from the City’s severe housing
23 shortage combined with high housing costs and the escalating cost of living. Yet when it
24 comes to providing quality public service for our residents, it is far preferable for employees to
25 live in the City where they work.

1 (c) Many of our service sector employers, including homeless service providers,
2 mental health providers, child care facilities, restaurants, retail stores, and other small
3 business operators cannot hire sufficient employees to keep their businesses fully operational
4 because these employees cannot afford to live in San Francisco. This contributes to
5 storefront vacancies, restaurant closures, and the inability to provide services to the most
6 vulnerable communities in the City.

7 (d) Affordable housing is an especially paramount concern in San Francisco. San
8 Francisco has one of the highest housing costs in the nation, but our economy and culture
9 rely on a diverse workforce at all income levels. It is the policy of the City to enable these
10 workers to afford housing in San Francisco and ensure that they pay a reasonably
11 proportionate share of their incomes to live in adequate housing and to not have to commute
12 ever-increasing distances to their jobs.

13 (e) By creating additional density and allowing additional units by right with an
14 affordable component, this ordinance will result in thousands of additional units for working
15 families who need to be housed. Adding affordability to the increased density preserves San
16 Francisco's rich diversity while helping to solve the City's housing shortage.

17 (f) This Board declares that this ordinance is adopted pursuant to Government Code
18 Section 65913.5, because it zones all RH-1 (D), RH-1, RH-1 (S), RH-2, and RH-3 parcels (as
19 shown on the Zoning Maps ZN 01 through ZN 14) within the City for up to 10 units of
20 residential density at the heights currently specified in the City's Zoning Maps (Height Maps
21 HT 01 through HT 14), and all parcels affected by this ordinance are considered urban infill
22 sites under California Government Code Section 65913.5(e)(3).

23 (g) By creating additional density in high opportunity areas and ensuring that units will
24 be affordable to lower- and middle-class households by requiring on-site affordable units or by
25 payment of an inclusionary fee, this Board finds that this ordinance is consistent with San

1 Francisco’s obligation to affirmatively further fair housing pursuant to California Government
2 Code Section 8899.50.

3
4 Section 3. The Planning Code is hereby amended by adding Sections 206.10 and
5 315.2, to read as follows:

6 **SEC. 206.10. AFFORDABLE HOUSING INCENTIVE PROGRAM.**

7 *(a) Purpose. The propose of the Affordable Housing Incentive Program is to facilitate the*
8 *construction of housing projects with up to four units, or up to six units on Corner Lots, in single,*
9 *two, and three-family home districts if at least one of the units is affordable to moderate-income*
10 *families or by payment of an Inclusionary Housing Fee.*

11 *(b) Definitions. The definitions in Section 102 and the definitions in Section 401 for “Area*
12 *Median Income” or “AMI,” “Housing Project,” and “Life of the Project,” shall generally apply to this*
13 *Section 206.10.*

14 *(c) Applicability. An Affordable Housing Incentive Program project shall be a housing project*
15 *that:*

16 *(1) is located in an RH-1-(D), RH-1, RH-1(S), RH-2, or RH-3 district;*

17 *(2) is located within one mile of a major transit stop, which shall include a BART*
18 *Station, Caltrain Station, or MUNI Rapid Network or Light Rail stop;*

19 *(3) is located on a lot no smaller than 2500 square feet;*

20 *(4) includes at least three dwelling units, including the additional units allowed under*
21 *this Section 206.10;*

22 *(5) is not seeking and receiving a density or development bonus under the provisions of*
23 *California Government Code Sections 65915 et seq. or any other State or local program that allows*
24 *additional density or development bonuses;*

1 (6) if the project requires the demolition, removal, or conversion of residential units,
2 consists of at least as many residential units as will be demolished, removed, or converted, and
3 replaces any demolished, removed, or converted protected units, as required by California Government
4 Code Section 66300(d)(2); and

5 (7) consists of new construction or additions to existing structures; ~~and~~

6 ~~(8) includes only Dwelling Units.~~

7 (d) **Requirements.** An Affordable Housing Incentive Program project shall be a housing
8 project that:

9 (1) includes at least one unit affordable to households with incomes up to 110% of Area
10 Median Income if Rental Units, or 140% of Area Median Income if Owned Units. The restricted
11 affordable unit or units shall be restricted for the Life of the Project and shall comply with all of the
12 requirements of the Procedures Manual authorized in Section 415, except as otherwise provided
13 herein. In the alternative, the Affordable Housing Incentive Program project may pay an
14 Affordable Housing Fee equivalent to the fee per square foot multiplied by the average size of
15 all units in the project, but no greater than 740 square feet. Notwithstanding any other
16 provision of this Code or the Building Code regarding the timing of fee payments, such fee
17 shall be due and payable to the Development Fee Collection Unit and the Department of
18 Building Inspection at the time of, and in no event later than, issuance of a first construction
19 document as defined in Section 410 of this Code and Section 107A 13.1 of the Building Code.

20 (2) includes at least ~~2~~ two units containing at least one bedroom; and

21 (3) includes units that are no smaller than the minimum unit sizes set forth by the
22 California Tax Credit Allocation Committee as of May 16, 2017.

23 (e) **Development Bonuses.** Notwithstanding any other provision of this Code, Affordable
24 Housing Incentive Program projects shall be entitled to the following development bonuses:

1 (1) **Density.** An Affordable Housing Incentive Program project may include up to four
2 units on lots that are Interior Lots, or six units on lots that are Corner Lots. In addition, an
3 Affordable Housing Incentive Program project may include one accessory dwelling unit per
4 development. Except as provided in this subsection (e)(1), no other exceptions to dwelling unit
5 density shall be allowed.

6 (2) **Height.** Notwithstanding any other provision of this Code, including but not limited
7 to Section 261 and 253, the height of an Affordable Housing Incentive Program project shall be the
8 height authorized by the Height Map of the Zoning Map.

9 (3) **Zoning modifications.** Affordable Housing Incentive Program projects shall be
10 entitled to the following zoning modifications:

11 (A) **Rear Yard.** The required rear yard per Section 134 may be reduced to no
12 less than 25% of the lot depth, or 15 feet, whichever is greater. Corner properties may provide 25% of
13 the lot area at the interior corner of the property to meet the minimum rear yard requirement, provided
14 that each horizontal dimension of the open area is a minimum of 15 feet and the open area is wholly or
15 partially contiguous to the existing midblock open space, if any, formed by the rear yards of adjacent
16 properties.

17 (B) **Dwelling Unit Exposure.** The dwelling unit exposure requirements of
18 Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that
19 is no less than 25 feet in every horizontal dimension, and such open area is not required to expand in
20 every horizontal dimension at each subsequent floor.

21 (C) **Open Space.** The Open Space requirements for RM-1 districts set forth in
22 Section 135 shall control.

23 (4) **Priority Processing.** Affordable Housing Incentive Program projects shall be
24 reviewed in coordination with relevant priority processing and shall be approved, denied, or approved
25 subject to conditions by the Planning Director under Section 315.2 within 180 days of submittal of a

1 complete project application, unless the Environmental Review Officer determines that an
2 environmental impact report is required for the project under Administrative Code Section 31.09.

3 (f) **Regulatory Agreements.** Recipients of development bonuses under the Affordable Housing
4 Incentive Program projects that have elected to provide an affordable unit or units on-site under
5 subsection (d)(1) shall enter into a Regulatory Agreement with the City.

6 (1) The terms of the Regulatory Agreement shall include:

7 (A) a statement that the restricted affordable units in an Affordable Housing
8 Incentive Program project are not subject to the Costa-Hawkins Rental Housing Act (California Civil
9 Code Sections 1954.50 et seq.) because, under Section 1954.52(b), the owner has entered into an
10 agreement with the City in consideration for a complete or partial waiver of the density limits and
11 zoning modifications of this Code or other direct financial contribution or other form of assistance
12 specified in California Government Code Sections 65915 et seq. (“Agreement”);

13 (B) a description of the complete or partial waiver of Code requirements
14 granted by this Section 206.10 and/or the Planning Director, or other direct financial contribution or
15 form of assistance provided to the property owner; and

16 (C) a description of the remedies for breach of the Agreement and other
17 provisions to ensure implementation and compliance with the Agreement.

18 (2) The property owner and the Planning Director (or the Director’s designee), on
19 behalf of the City, will execute the Agreement, which shall be reviewed and approved by the City
20 Attorney’s Office. The Agreement shall be executed prior to the City’s issuance of the First
21 Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco Building
22 Code.

23 (3) Following execution of the Agreement by all parties and approval by the City
24 Attorney, the Agreement or a memorandum thereof shall be recorded against the property and shall be
25 binding on all future owners and successors in interest.

1 (g) **Prohibition of Short-Term Rentals.** Units in an Affordable Housing Incentive Program
2 project shall not be used for Short-Term Residential Rentals under Chapter 41A of the Administrative
3 Code, which restriction shall be recorded as a Notice of Special Restriction on the subject lot.

4 (h) **Review and Approval.** Notwithstanding any other provision of this Code, building permit
5 applications to construct an Affordable Housing Incentive Program project pursuant to this Section
6 206.10 shall not be subject to (1) the notification or review requirements of Section 311; or (2) the
7 conditional use requirements of Section 317 unless such project requires the demolition,
8 removal, or conversion of a residential unit in a designated state or national landmark, or
9 designated City landmark, or a contributory building in a designated historic district under
10 Article 10 or this Code, or a Significant Building designated Category I or II as provided in
11 Article 11 of this Code. Projects under this Section 206.10 shall be approved under the provisions set
12 forth in Section 315.2. As long as the Planning Commission has delegated its authority to the Planning
13 Department to review applications for an Affordable Housing Incentive Program project, no requests
14 for discretionary review shall be accepted by the Planning Department or heard by the Planning
15 Commission for Affordable Housing Incentive Program projects.

16
17 **SEC. 315.2. AFFORDABLE HOUSING INCENTIVE PROGRAM REVIEW AND**
18 **AUTHORIZATION.**

19 (a) **Purpose.** The purpose of this Section 315.2 is to ensure that all Affordable Housing
20 Incentive Program projects under Planning Code Section 206.10 are reviewed in coordination with
21 Priority Processing.

22 (b) **Applicability.** This Section 315.2 applies to all Affordable Housing Incentive Program
23 projects that meet the requirements described in Section 206.10.

24 (c) **Design Review.** The Planning Department shall review and evaluate all physical aspects of
25 an Affordable Housing Incentive Program project as follows:

1 (1) Affordable Housing Incentive Program projects shall be consistent with the
2 Residential Design Guidelines, except for the provisions under Section IV. Building Scale and Form
3 that address “Building Scale and Form” and “Building Scale at the Mid-Block Open Space,” and any
4 other applicable design guidelines.

5 (2) As set forth in subsection (d), the Planning Director may also grant minor
6 exceptions to the provisions of this Code, or require minor modifications to a project to reduce the
7 impacts of an Affordable Housing Incentive Program project on surrounding buildings. However, such
8 exceptions or modifications may only be granted to allow building mass to appropriately shift to
9 respond to surrounding context, and only when such modifications do not substantially reduce or
10 increase the overall building envelope permitted by the Program under Section 206.10. All
11 modifications and exceptions shall be consistent with the Residential Design Guidelines as set forth in
12 Section 315.2(c)(1).

13 (3) The Planning Director may require other design-related modifications or conditions
14 in order to achieve the objectives and policies of the Program. This review shall be limited to design
15 issues including the following:

16 (A) whether the bulk and massing of the building is consistent with the
17 Residential Design Guidelines, except for the provisions under Section IV. Building Scale and Form
18 that address “Building Scale and Form” and “Building Scale at the Mid-Block Open Space;” and

19 (B) whether building design elements including, but not limited to, architectural
20 treatments, facade design, and building materials, are consistent with the Residential Design
21 Guidelines, except for the provisions under Section IV. Building Scale and Form that address
22 “Building Scale and Form” and “Building Scale at the Mid-Block Open Space,” and any other
23 applicable design guidelines.

24 (d) **Exceptions.** As a component of the review process under this Section 315.2, the Planning
25 Director may grant minor exceptions (no greater than 15%) to the provisions of this Code as provided

1 below, in addition to the development bonuses granted to the project in Section 206.10(e). Such
2 exceptions, however, may only be granted to allow building mass to appropriately shift to respond to
3 surrounding context, and only when the Planning Director finds that such modifications do not
4 substantially reduce or increase the overall building envelope permitted by the Program under Section
5 206.10, and the project, with the modifications and exceptions, is consistent with the Residential Design
6 Guidelines. These exceptions may include:

7 (1) Exception from residential usable open space requirements of Section 135.

8 (2) Exception for rear yards, pursuant to the requirements of Section 134.

9 (3) Exception from dwelling unit exposure requirements of Section 140.

10 (e) **Decision and Imposition of Conditions.** The Planning Director may authorize, disapprove,
11 or approve subject to conditions, the project and any associated requests for exceptions and shall make
12 appropriate findings. The Director may impose additional conditions, requirements, modifications, and
13 limitations on a proposed project in order to achieve the objectives, policies, and intent of the General
14 Plan or of this Code.

15 (f) **Discretionary Review.** As long as the Planning Commission has delegated its authority to
16 the Planning Department to review applications for an Affordable Housing Incentive Program project,
17 the Planning Commission shall not hold a public hearing for discretionary review of an Affordable
18 Housing Incentive Program project that is subject to this Section 315.2.

19 (g) **Appeals.** The Planning Director's administrative determination regarding an Affordable
20 Housing Incentive Program project pursuant to this Section 315.2 shall be considered part of a related
21 building permit. Any appeal of such determination shall be made through the associated building
22 permit.

23
24 Section 4. The Planning Code is hereby amended by revising Section 209.1 to read as
25 follows:

1
2 **SEC. 209.1. RH (RESIDENTIAL, HOUSE) DISTRICTS.**

3 * * * *

4 **TABLE 209.1**

5 **ZONING CONTROL TABLE FOR RH DISTRICTS**

| Zoning Category | § Reference s | RH-1(D) | RH-1 | RH-1(S) | RH-2 | RH-3 |
|-----------------------------|--|---|------|---|--|------|
| BUILDING STANDARDS | | | | | | |
| Massing and Setbacks | | | | | | |
| Height and Bulk Limits | §§ 102, 105, 106, <u>206.10</u> , 250-252, 253, 260, 261, 261.1, 270, 271, See also Height and Bulk District Maps. | No portion of a Dwelling may be taller than 35 feet, <i>except as allowed by § 206.10</i> . Structures with uses other than Dwellings may be constructed to the prescribed height limit, which is generally 40 feet. Per § 261, the height limit may be decreased or increased based on the slope of the lot. | | No portion of a Dwelling may be taller than 40 feet. Structures with uses other than Dwellings may be constructed to the prescribed height limit. Per § 261 the height limit may be | Varies, but generally 40 feet. Height sculpting on Alleys per § 261.1. | |

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| | | | decreased based on the slope of the lot. | |
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Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

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

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Audrey Pearson
AUDREY PEARSON
Deputy City Attorney

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