

1 [Planning, Administrative Codes - HOME-SF]

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3 **Ordinance amending the Planning Code to allow projects ~~undert~~ to qualify for a density**
4 **bonus under the Housing Opportunities Mean Equity (HOME-SF) Program by agreeing**
5 **to ~~agree to~~ subject new dwelling units to the rent increase limitations of the Rent**
6 **Ordinance; modifying the zoning changes available to HOME-SF projects; making**
7 **conforming amendments in the Administrative Code; affirming the Planning**
8 **Department’s determination under the California Environmental Quality Act; and**
9 **making findings of consistency with the General Plan, and the eight priority policies of**
10 **Planning Code, Section 101.1 and findings of public necessity, convenience, and**
11 **welfare under Planning Code, Section 302.**

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

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

20

21 Section 1. Environmental and Planning Code Findings.

22 (a) The Planning Department has determined that the actions contemplated in this
23 ordinance comply with the California Environmental Quality Act (California Public Resources
24 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
25 Supervisors in File No. 221021 and is incorporated herein by reference. The Board affirms
this determination.

1 (b) On February 16, 2022, the Planning Commission, in Resolution No. 21251,
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
5 the Board of Supervisors in File No. 221021, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
7 amendments will serve the public necessity, convenience, and welfare for the reasons set
8 forth in Planning Commission Resolution No. 21251, and the Board adopts such reasons as
9 its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File
10 No. 221021 and is incorporated herein by reference.

11
12 Section 2. The Planning Code is hereby amended by revising Sections 206.1 and
13 206.3, to read as follows:

14 **SEC. 206.1. PURPOSE AND FINDINGS.**

15 (a) The purpose of the Affordable Housing Bonus Programs is to facilitate the
16 development and construction of affordable housing in San Francisco. Affordable housing is
17 of paramount statewide concern, and the Legislature has declared that local and state
18 governments have a responsibility to use the powers vested in them to facilitate the
19 improvement and development of housing to make adequate provision for the housing needs
20 of all economic segments of the community, especially families. The Legislature has found
21 that local governments must encourage the development of a variety of types of housing for
22 all income levels, including multifamily rental housing and assist in the development of
23 adequate housing to meet the needs of low- and moderate-income households.

24 (b) Affordable housing is an especially paramount concern in San Francisco. San
25 Francisco has one of the highest housing costs in the nation, but San Francisco's economy

1 and culture rely on a diverse workforce at all income levels. It is the policy of the City to
2 enable these workers to afford housing in San Francisco and ensure that they pay a
3 reasonably proportionate share of their incomes to live in adequate housing and to not have to
4 commute ever-increasing distances to their jobs. The Association of Bay Area Governments
5 determined that San Francisco's share of the Regional Housing Need for January 2015 to
6 June 2022 was the provision of 28,870 new housing units, with 6,234 (or 21.6%) as very low,
7 4,639 (or 16.1%) as low, and 5,460 (or 18.9%) as moderate income units.

8 (c) The Board of Supervisors, and the voters in San Francisco, have long recognized
9 the need for the production of affordable housing. The voters, in some cases, and the Board
10 in others, have adopted measures to address this need, such as *the* mandatory Inclusionary
11 Affordable Housing Ordinance in Planning Code Section 415; the San Francisco Housing
12 Trust Fund, adopted in 2012, which established a fund to create, support and rehabilitate
13 affordable housing, and set aside \$20 million in its first year, with increasing allocations to
14 reach \$50 million a year for affordable housing; the adoption of Proposition K in November
15 2014, which established as City policy that the City, by 2020, will help construct or rehabilitate
16 at least 30,000 homes, with more than 50% of the housing affordable for middle-income
17 households, and at least 33% as affordable for low- and moderate income households; and
18 the multiple programs that rely on Federal, State and local funding sources as identified in the
19 Mayor's Office of Housing and Community Development Comprehensive Plan. These
20 programs enable the City to work towards the voter-mandated affordable housing goals.

21 (d) Historically, in the United States and San Francisco, affordable housing requires
22 high levels of public subsidy, including public investment and reliance on public dollars. Costs
23 to subsidize an affordable housing unit vary greatly depending on a number of factors, such
24 as household income of the residents, the type of housing, and the cost ~~to acquire~~ of land
25 acquisition. Currently, MOHCD estimates that the level of subsidy for an affordable housing

1 unit is approximately \$350,000 per unit. Given this high cost per unit, San Francisco can only
2 meet its affordable housing goals through a combination of increased public dollars dedicated
3 to affordable housing and other tools that do not rely on public money.

4 (e) Development incentives are a long standing zoning tool that enable cities to
5 encourage private development projects to provide public benefits including affordable
6 housing. By offering increased development potential, a project sponsor can offset the
7 expenses necessary to provide additional public benefits. In 1979, the State of California
8 adopted the Density Bonus Law, Government Code section 65915 et seq. which requires that
9 density bonuses and other concessions and incentives be offered to projects that provide a
10 minimum amount of on-site affordable housing.

11 (f) In recognition of the City's affordable housing goals, including the need to produce
12 more affordable housing without the need for public subsidies, the Planning Department
13 contracted with David Baker Architects and Seifel Consulting to determine a menu of zoning
14 modifications and development bonuses that could offset a private developer's costs of
15 providing various levels of additional on-site affordable housing. These experts analyzed
16 various parcels in San Francisco, to determine the conditions in which a zoning
17 accommodation would be necessary to achieve additional density. The analysis modeled
18 various zoning districts and lot size configurations, consistent with current market conditions
19 and the City's stated policy goals, including to achieve a mix of unit types, including larger
20 units that can accommodate larger households. These reports are on file in Board of
21 Supervisors File No. 160687.

22 (g) Based on these reports, the Planning Department developed four programs to
23 provide options by which developers can include additional affordable units on-site through
24 increased density and other zoning or design modifications. These programs are the HOME-
25 SF Program, the 100 Percent Affordable Housing Bonus Program, the Analyzed State Density

1 Bonus Program and the Individually Requested Bonus Program. The HOME-SF Program can
2 also be used by developers who agree to subject the units to the San Francisco Rent Stabilization and
3 Arbitration Ordinance (Chapter 37 of the Administrative Code) (“the Rent Ordinance”).

4 (h) The goal of the HOME-SF Program is to increase affordable housing production,
5 especially housing affordable to middle income households. Housing for middle income
6 households in San Francisco is necessary to stabilize San Francisco’s households and
7 families, ensure income and household diversity in the long term population of San Francisco,
8 and reduce transportation impacts of middle income households working in San Francisco.
9 Middle income households do not traditionally benefit from public subsidies. The goal of the
10 HOME-SF Program is also to increase the number of units in San Francisco that will be subject to rent
11 control under San Francisco’s Rent Ordinance. The City adopted its Rent Ordinance in 1979, and the
12 Rent Ordinance has been critical in safeguarding tenants from excessive rent increases and evictions
13 without just cause. Rent control serves as an important policy tool to stabilize communities and
14 prevent displacement.

15 (i) The 100 Percent Affordable Housing Bonus Program provides additional incentives
16 for developers of 100% affordable housing projects, thereby reducing the overall cost of such
17 developments on a per unit basis.

18 (j) The Affordable Housing Bonus Program also establishes a clear local process for
19 all projects seeking the density bonuses guaranteed through the State Density Bonus Law.
20 The State Analyzed Program provides an expedited process for projects that comply with a
21 pre-determined menu of incentives, concessions and waivers of development standards that
22 the Department has determined can appropriately respond to neighborhood context without
23 causing adverse impacts on public health and safety, and provide affordable units through the
24 City’s already-established Inclusionary Housing Program. Projects requesting density or
25

1 concessions, incentives and waivers outside of the City’s preferred menu may seek a density
2 bonus consistent with State law in the Individually Requested Density Bonus Program.

3 (k) San Francisco’s small business community is an integral part of San Francisco’s
4 neighborhood commercial corridors, local economy, and rich culture. San Francisco is
5 committed to maintaining small businesses in its neighborhoods. For this reason, the HOME-
6 SF Program acknowledges the need for general assistance and support for any business that
7 might be impacted. Developments using the Affordable Housing Bonus Program will generally
8 produce additional commercial spaces which may enhance existing commercial corridors. The
9 Office of Economic and Workforce Development (OEWD), in coordination with the Office of
10 Small Business, currently coordinate on referrals to and deployment of a range of services to
11 small businesses including but not limited to: small business consulting, lease negotiation
12 assistance, small business loans, ADA Certified Access Specialists (CASp) inspection
13 services, legacy business registry, façade improvement assistance, commercial corridor
14 management, grants and assessments, relocation and broker services for production,
15 distribution and repair (PDR) businesses, business permit assistance, and coordination with
16 city agencies.

17 ~~(l) In fiscal year 2016 – 2017 the OEWD and the Office of Small Business will initiate~~
18 ~~and coordinate the implementation of a citywide small business retention and relocation~~
19 ~~program. This program will provide additional small business consulting and case~~
20 ~~management, real estate readiness assessment, relocation assistance, broker services, real~~
21 ~~estate acquisition assistance, succession planning, legacy business grants and technical~~
22 ~~assistance, and restaurant sector permit coordination and assistance.~~

23
24 **SEC. 206.3. HOUSING OPPORTUNITIES MEAN EQUITY - SAN FRANCISCO**
25 **PROGRAM.**

1 (a) **Purpose.** This Section 206.3 sets forth the HOME-SF Program. The HOME-SF
2 Program or “HOME-SF” provides benefits to project sponsors of housing projects that *either*
3 *(1)* set aside residential units onsite at below market rate rent or sales price in an amount
4 higher than the amount required by the Inclusionary Housing Ordinance, *or (2) agree to subject*
5 *all units in the project, except for units required by the Inclusionary Housing Ordinance, to the San*
6 *Francisco Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code).* The
7 purpose of HOME-SF is to expand the number of below market rate units produced in San
8 Francisco and provide housing opportunities to a wider range of incomes than traditional
9 affordable housing programs, such as the City’s Inclusionary Affordable Housing Program,
10 Planning Code Sections 415 et seq., which typically provide housing only for very low, low or
11 moderate income households, *and to expand the number of units in San Francisco that are subject*
12 *to rent control. For projects that elect to provide additional on-site below market rate units, ~~The~~*
13 *purpose of* HOME-SF also *is to* provide_s an alternative method of complying with the on-site
14 inclusionary option set forth in Section 415.6. HOME-SF allows market-rate projects to match
15 the City’s ~~shared~~ Proposition K (November 2014) housing goals that 50% of new housing
16 constructed or rehabilitated in the City by 2020 be within the reach of working middle class
17 San Franciscans, and *that* at least 33% *be* affordable for low and moderate income
18 households, *and the Housing Element of the General Plan’s finding that rent control has been critical*
19 *to protecting low- and moderate-income residents from being at risk of eviction and displacement.*

20 (b) **Applicability.** A HOME-SF Project under this Section 206.3 shall be
21 a project that:

22 (1) contains three or more residential units, as defined in Section 102, not
23 including any Group Housing as defined in Section 102, efficiency dwelling units with reduced
24 square footage defined in Section 318, and Density Bonus Units permitted through this
25 Section 206.3, or any other density bonus;

1 (2) is located in any zoning district that: (A) is not designated as an RH-1 or RH-
2 Zoning District; and (B) establishes a maximum dwelling unit density through a ratio of
3 number of units to lot area, including RH-3, RM, RC, C-2, Neighborhood Commercial, Named
4 Neighborhood Commercial, and SoMa Mixed Use Districts; but only if the SoMa Mixed Use
5 District has a density measured by a maximum number of dwelling units per square foot of lot
6 area; (C) is not in the North of Market Residential Special Use District, Planning Code Section
7 249.5, until the Affordable Housing Incentive Study is completed at which time the Board will
8 review whether the North of Market Residential Special Use District should continue to be
9 excluded from this Program. The Study will explore opportunities to support and encourage
10 the provision of housing at the low, moderate, and middle income range in neighborhoods
11 where density controls have been eliminated. The goal of this analysis is to incentivize
12 increased affordable housing production levels at deeper and wider ranges of AMI and larger
13 unit sizes in these areas through 100% affordable housing development as well as below
14 market rate units within market rate developments; (D) is not located within the boundaries of
15 the Northeastern Waterfront Area Plan south of the centerline of Broadway; and (E) is not
16 located on property under the jurisdiction of the Port of San Francisco;

17 (3) is not seeking and receiving a density or development bonus under the
18 provisions of California Government Code Sections 65915 et seq., Planning Code Section
19 207, Section 124(f), Section 202.2(f), 304, or any other State or local program that provides
20 development bonuses;

21 (4) includes at least 135% of the Base Density as calculated under Planning
22 Code Section 206.5;

23 (5) consists of new construction, and excluding any project that includes an
24 addition to an existing structure;

25

1 (6) complies with the on-site Inclusionary Affordable Housing option set forth in
2 Planning Code Section 415.6, ~~provided however, that~~ If the project elects to provide HOME-SF
3 Units as set forth in subsection (c)(1)(A), the project shall comply with the on-site Inclusionary
4 Affordable Housing option set forth in Planning Code Section 415.6, provided however, that the
5 percentage of affordable units and the required affordable sales price or affordable rents set
6 forth in Section 415.6(a) shall be as provided in ~~this~~ Section 206.3(c)(1)(A), or Section 206.3(f),
7 as applicable;

8 (7) if any retail use is demolished or removed, does not include a Formula
9 Retail use, as defined in Section 303.1, unless the retail use demolished or removed was also
10 a Formula Retail Use, or was one of the following uses: Gas Stations, Private or Public
11 Parking Lots, Financial Services, Fringe Financial Services, Self Storage, Motel, Automobile
12 Sales or Rental, Automotive Wash, Mortuaries, Adult Business, Massage Establishment,
13 Medical Cannabis Dispensary, and Tobacco Paraphernalia Establishment, as those uses are
14 defined in Planning Code Section 102;

15 (8) if located north of the centerline of Post Street and east of the centerline of
16 Van Ness Avenue, all otherwise eligible HOME-SF Projects shall only be permitted on:

17 (A) lots containing no existing buildings; or

18 (B) lots equal to or greater than 12,500 square feet where existing
19 buildings are developed to less than 20% of the lot's principally permitted buildable gross floor
20 area as determined by height limits, rear yard requirements, and required setbacks; and

21 (9) if the City enacts an ordinance directing the Planning Department to study
22 the creation of a possible area plan wholly or partially located in Supervisorial District 9,
23 HOME-SF Projects shall not be permitted in any area in Supervisorial District 9 listed in the
24 ordinance until such time as the City enacts the area plan.

1 (c) **HOME-SF Project Eligibility Requirements.** To receive the development bonuses
2 granted under this Section 206.3, a HOME-SF Project must meet all of the following
3 requirements:

4 (1) Agree to either:

5 (A) Except as limited in application by subsection (f), ~~provide~~ 30% of
6 units in the HOME-SF Project as HOME-SF Units, as defined herein. The HOME-SF Units
7 shall be restricted for the Life of the Project and shall comply with all of the requirements of
8 the Procedures Manual authorized in Section 415 except as otherwise provided herein.
9 Twelve percent of HOME-SF Units that are Owned Units shall have an average affordable
10 purchase price set at 80% of Area Median Income; 9% shall have an average affordable
11 purchase price set at 105% of Area Median Income; and 9% shall have an average affordable
12 purchase price set at 130% of Area Median Income. Twelve percent of HOME-SF Units that
13 are rental units shall have an average affordable rent set at 55% of Area Median Income; 9%
14 shall have an average affordable rent set at 80% of Area Median Income; and 9% shall have
15 an average affordable rent set at 110% of Area Median Income. All HOME-SF Units must be
16 marketed at a price that is at least 20% less than the current market rate for that unit size and
17 neighborhood, and MOHCD shall reduce the Area Median Income levels set forth herein in
18 order to maintain such pricing. As provided for in subsection (e), the Planning Department and
19 MOHCD shall amend the Procedures Manual to provide policies and procedures for the
20 implementation, including monitoring and enforcement, of the HOME-SF Units; or,

21 (B) Subject all new Dwelling Units, except for any Affordable Units as defined in
22 Planning Code Section 401, to the San Francisco Residential Rent Stabilization and Arbitration
23 Ordinance (Chapter 37 of the Administrative Code) as may be amended from time to time. The option
24 in this subsection (c)(1)(B) shall also be available for projects not subject to the Inclusionary
25 Affordable Housing Ordinance, Planning Code Sections 415.1 through 415.11.

1 (2) Demonstrate to the satisfaction of the Environmental Review Officer that the
2 HOME-SF Project does not:

3 (A) cause a substantial adverse change in the significance of an historic
4 resource as defined by California Code of Regulations, Title 14, Section 15064.5;

5 (B) create new shadow in a manner that substantially affects outdoor
6 recreation facilities or other public areas; and

7 (C) alter wind in a manner that substantially affects public areas;

8 (3) All HOME-SF units shall be no smaller than the minimum unit sizes set forth
9 by the California Tax Credit Allocation Committee as of May 16, 2017, and no smaller than
10 300 square feet for studios. In addition, notwithstanding any other provision of this Code,
11 HOME-SF projects shall provide a minimum dwelling unit mix of (A) at least 40% two and
12 three bedroom units, including at least 10% three bedroom units, or (B) any unit mix which
13 includes some three bedroom or larger units such that 50% of all bedrooms within the HOME-
14 SF Project are provided in units with more than one bedroom. Larger units should be
15 distributed on all floors, and prioritized in spaces adjacent to open spaces or play yards. Units
16 with two or three bedrooms are encouraged to incorporate family friendly amenities. Family
17 friendly amenities shall include, but are not limited to, bathtubs, dedicated cargo bicycle
18 parking, dedicated stroller storage, open space and yards designed for use by children.
19 HOME-SF Projects are not eligible to modify this requirement under Planning Code Section
20 328 or any other provision of this Code;

21 (4) Does not demolish, remove or convert any residential units; and

22 (5) Includes at the ground floor level active uses, as defined in Section 145.1, at
23 the same square footages as any neighborhood commercial uses demolished or removed,
24 unless the Planning Commission has granted an exception under Section 328.

25 * * * *

1 (d) **Development Bonuses.** Any HOME-SF Project shall, at the project sponsor's
2 request, receive any or all of the following:

3 (1) **Form based density.** Except as limited in application by subsection (f):
4 Notwithstanding any zoning designation to the contrary, density of a HOME-SF Project shall
5 not be limited by lot area but rather by the applicable requirements and limitations set forth
6 elsewhere in this Code. Such requirements and limitations include, but are not limited to,
7 height, including any additional height allowed by subsection (d)(2), Bulk, Setbacks, Required
8 Open Space, Exposure and unit mix as well as applicable design guidelines, elements, and
9 area plans of the General Plan and design review, including consistency with the Affordable
10 Housing Bonus Program Design Guidelines, referenced in Section 328, as determined by the
11 Planning Department.

12 (2) **Height.** Except as limited in application by subsection (f): Up to 20 additional
13 feet above the height authorized for the HOME-SF Project under the Height Map of the
14 Zoning Map. This additional height may only be used to provide up to two additional 10-foot
15 stories to the project, or one additional story of no more than 10 feet in height. Building
16 features exempted from height controls under Planning Code Section 260(b) shall be
17 measured from the roof level of the highest story provided under this subsection (d)(2).

18 (3) **Ground Floor Ceiling Height.** Except as limited in application by
19 subsection (f): In addition to the permitted height allowed under subsection (d)(2), HOME-SF
20 Projects with active uses on the ground floor as defined in Section 145.1(b)(2) shall receive up
21 to a maximum of five additional feet in height above the height limit, in addition to the
22 additional 20 feet granted in subsection (d)(2). However, the additional five feet may only be
23 applied at the ground floor to provide a 14-foot (floor to ceiling) ceiling height for
24 nonresidential uses, and to allow walk-up dwelling units to be consistent with the Ground
25

1 Floor Residential Design Guidelines. This additional five feet shall not be granted to projects
2 that already receive such a height increase under Planning Code Section 263.20.

3 (4) **Zoning Modifications.** HOME-SF Projects may receive the following zoning
4 modifications:

5 (A) **Rear yard:** The required rear yard per Section 134 or any applicable
6 special use district may be reduced to no less than 20% of the lot depth, or 15 feet, whichever
7 is greater. Corner properties may provide 20% of the lot area at the interior corner of the
8 property to meet the minimum rear yard requirement, provided that each horizontal dimension
9 of the open area is a minimum of 15 feet; and that the open area is wholly or partially
10 contiguous to the existing midblock open space, if any, formed by the rear yards of adjacent
11 properties.

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

16 (C) **Off-Street Loading:** Off-street loading spaces per Section 152 shall
17 not be required.

18 ~~(D) **Automobile Parking:** Up to a 75% reduction in the residential and
19 commercial parking requirements in Section 151 or any applicable special use district.~~

20 ~~(E) **Open Space:** Up to a 10% 5%-reduction in common open space if
21 provided under Section 135 or any applicable special use district.~~

22 ~~(F) **Additional Open Space:** Up to an additional 5% reduction in
23 common open space if provided under Section 135 or any applicable special use district,
24 beyond the 5% provided in subsection (d)(4)(E).~~

1 (E) Private Open Space: A reduction in private open space required
2 under Section 135. However, in no case shall such private open space be less than 36 square
3 feet or measure less than six feet in each direction.

4 (G) **Inner Courts as Open Space:** For an inner court to qualify as
5 usable common open space, Section 135(g)(2) requires it to be at least 20 feet in every
6 horizontal dimension, and for the height of the walls and projections above the court on at
7 least three sides (or 75% of the perimeter, whichever is greater) to be no higher than one foot
8 for each foot that such point is horizontally distant from the opposite side of the clear space in
9 the court. HOME-SF Projects may instead provide an inner court that is at least 25 feet in
10 every horizontal dimension, with no restriction on the heights of adjacent walls. All area within
11 such an inner court shall qualify as common open space under Section 135.

12 **(5) Priority Processing and Planning Commission approval.** HOME-SF
13 Projects shall be reviewed in coordination with relevant priority processing and shall be
14 approved, denied, or approved subject to conditions by the Planning Commission under
15 Section 328, within 180 days of submittal of a complete project application, unless the
16 Environmental Review Officer determines that an environmental impact report is required for
17 the project under Administrative Code section 31.09.

18 **(e) Implementation.**

19 **(1) Application.** An application to participate in the HOME-SF Program shall be
20 submitted with the first application for approval of a Housing Project and processed
21 concurrently with all other applications required for the Housing Project. The application shall
22 be submitted on a form prescribed by the City and shall include at least the following
23 information:
24
25

1 (A) A full plan set, including a site plan, elevations, sections, and floor
2 plans, showing total number of units, number of and location of HOME-SF Units, *if any*; and a
3 draft Regulatory Agreement;

4 (B) The requested development bonuses and/or zoning modifications
5 from those listed in subsection (d).

6 (C) A list of all on-site family friendly amenities. Family friendly amenities
7 shall include, but are not limited to, dedicated cargo bicycle parking, dedicated stroller
8 storage, open space and yards designed for use by children.

9 (D) Documentation that the applicant has provided written notification to
10 all existing commercial or residential tenants that the applicant intends to develop the property
11 pursuant to this section 206.3 and has provided any existing commercial tenants with a copy
12 of the Office of Economic and Workforce Development's Guide to Small Business Retention
13 and Relocation Support. Any affected commercial tenants shall be given priority processing
14 similar to the Department's Community Business Priority Processing Program, as adopted by
15 the Planning Commission on February 12, 2015, under Resolution Number 19323, to support
16 relocation of such business in concert with access to relevant local business support
17 programs.

18 * * * *

19 (5) **Regulatory Agreements.** Recipients of development bonuses under this
20 Section 206.3 shall enter into a Regulatory Agreement with the City, as follows.

21 (A) The terms of the agreement shall be acceptable in form and content
22 to the Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director
23 shall have the authority to execute such agreements.

1 (B) Following execution of the agreement by all parties, the completed
2 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed
3 and recorded on the Housing Project.

4 (C) The approval and recordation of the Regulatory Agreement shall take
5 place prior to the issuance of the First Construction Document. The Regulatory Agreement
6 shall be binding to all future owners and successors in interest.

7 (D) The Regulatory Agreement shall be consistent with the guidelines of
8 the City's Inclusionary Housing Program and shall include at a minimum the following:

9 (i) The total number of dwelling units approved for the Housing
10 Project, including the number of HOME-SF Units, *if any*, or other restricted units;

11 (ii) A description of the household income group to be
12 accommodated by the HOME-SF Units, *if any*, and the standards for determining the
13 corresponding Affordable Rent or Affordable Sales Price. If required by the Procedures
14 Manual, the project sponsor must commit to completing a market survey of the area before
15 marketing HOME-SF Units;

16 (iii) The location, dwelling unit sizes (in square feet), and number
17 of bedrooms of the HOME-SF Units, *if any*;

18 (iv) Term of use restrictions for the life of the project;

19 (v) A schedule for completion and occupancy of HOME-SF Units,
20 *if any*;

21 (vi) A description of any Concession, Incentive, waiver, or
22 modification, *if any*, being provided by the City;

23 (vii) A description of remedies for breach of the agreement (the
24 City may identify tenants or qualified purchasers as third party beneficiaries under the
25 agreement); *and*

1 (viii) Other provisions to ensure implementation and compliance
2 with this Section; ~~and~~

3 (ix) ~~for~~ For projects that elect to proceed under Section
4 206.3(c)(1)(B), a statement that the units included in such project, except for any Affordable Units as
5 defined in Planning Code Section 401, are not subject to the Costa-Hawkins Rental Housing Act
6 (California Civil Code Sections 1954.50 et seq.) because under Section 1954.52(b), the property owner
7 has entered into and agreed to the terms of the agreement with the City in consideration for additional
8 density and modifications to the Planning Code, or other direct financial contribution or forms of
9 assistance specified in California Government Code Sections 65915 et seq.; and

10 (x) For projects that elect to proceed under Section 206.3(c)(1)(B),
11 an agreement that any lease, sublease, or other agreement regarding tenancy of units not
12 subject to the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50 et
13 seq.) shall include the following text: "This unit is a rental unit subject to the San
14 Francisco Residential Rent Stabilization and Arbitration Ordinance."

15 (f) **Temporary provisions.** To facilitate the construction of HOME-SF projects *that*
16 *elect to include HOME SF Units under subsection (c)(1)(A)*, and based on information from the
17 inclusionary housing study prepared for the Divisadero and Fillmore Neighborhood
18 Commercial Transit District, in Board of Supervisors File No. 151258, and the Office of the
19 Controller's Inclusionary Housing Working Group final report (February 2016), the HOME-SF
20 program shall include development incentives as specified in this subsection (f) based on the
21 amount and level of affordability provided in this subsection (f). For any development project
22 that has submitted a complete Development Application prior to January 1, 2020, subsections
23 (c)(1)(A) and (d)(1), (d)(2), and (d)(3) shall not apply, and the provisions in this subsection (f)
24 shall apply. For any development project that submits a complete Development Application on
25 or after January 1, 2020, this subsection (f) shall apply until such time as it may be amended

1 based on the Triennial Economic Feasibility Analysis established in Section 415.10. This
2 subsection (f) shall not apply to HOME-SF projects that elect to proceed under subsection (c)(1)(B).

3 (1) **HOME-SF Project Eligibility Requirements.** To receive the
4 development bonuses granted under this Section 206.3, a HOME-SF Project must provide a
5 percentage of units, in the amounts set forth in section 206.3(f)(2)(A), (B), or (C), as HOME-
6 SF Units, as defined in Section 206.2. The HOME-SF Units shall be restricted for the Life of
7 the Project and shall comply with all of the requirements of the Procedures Manual authorized
8 in Section 415 except as otherwise provided in this Section 206.3. All HOME-SF Units must
9 be marketed at a price that is at least 20% less than the current market rate for that unit size
10 and neighborhood, and MOHCD shall reduce the Area Median Income levels set forth in this
11 Section 206.3 in order to maintain such pricing. As provided for in subsection (e), the Planning
12 Department and MOHCD shall amend the Procedures Manual to provide policies and
13 procedures for the implementation, including monitoring and enforcement, of the HOME-SF
14 Units;

15 * * * *

16
17 Section 3. Chapter 37 of the Administrative Code is hereby amended by revising
18 Sections 37.2 and 37.3, to read as follows:

19
20 **SEC. 37.2. DEFINITIONS.**

21 * * * *

22 (r) **Rental Units.** All residential dwelling units in the City *and County of San Francisco*
23 together with the land and appurtenant buildings thereto, and all housing services, privileges,
24 furnishings, and facilities supplied in connection with the use or occupancy thereof, including
25 garage and parking facilities.

1 * * * *

2 The term "rental units" shall not include:

3 * * * *

4 (4) Except as provided in subsections (A)-(~~DE~~), dwelling units whose rents are
5 controlled or regulated by any government unit, agency, or authority, excepting those
6 unsubsidized and/or unassisted units which are insured by the United States Department of
7 Housing and Urban Development; provided, however, that units in unreinforced masonry
8 buildings which have undergone seismic strengthening in accordance with Building Code
9 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
10 ordinance is not in conflict with the seismic strengthening bond program or with the program's
11 loan agreements or with any regulations promulgated thereunder;

12 * * * *

13 (E) The term "rental units" shall include any new dwelling units created pursuant to
14 the HOME-SF Program set forth in Section 206.3(c)(1)(B) of the Planning Code.

15
16 **SEC. 37.3. RENT LIMITATIONS.**

17 (a) Rent Increase Limitations for Tenants in Occupancy. Landlords may impose rent
18 increases upon tenants in occupancy only as provided below and as provided by subsections
19 37.3(d) and 37.3(g):

20 * * * *

21 (d) **Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.).**

22 Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
23 and regardless of whether otherwise provided under Chapter 37:

24 (1) **Property Owner Rights to Establish Initial and All Subsequent Rental**
25 **Rates for Separately Alienable Parcels.**

1 (A) An owner ~~of~~ residential real property may establish the initial and
2 all subsequent rental rates for a dwelling or a unit which is alienable separate from the title to
3 any other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision
4 (b), (d), or (f) of Section 11004.5 of the California Business and Professions Code. The
5 owner's right to establish subsequent rental rates under this paragraph shall not apply to a
6 dwelling or unit where the preceding tenancy has been terminated by the owner by notice
7 pursuant to California Civil Code Section 1946 or has been terminated upon a change in the
8 terms of the tenancy noticed pursuant to California Civil Code Section 827; in such instances,
9 the rent increase limitation provisions of Chapter 37 shall continue to apply for the duration of
10 the new tenancy in that dwelling or unit.

11 * * * *

12 (D) An owner's right to establish subsequent rental rates under subsection
13 37.3(d)(1) shall not apply to a dwelling unit that is created pursuant to the HOME-SF Program set
14 forth in Section 206.3(c)(1)(B) of the Planning Code.

15 * * * *

16 (g) **New Construction and Substantial Rehabilitation.**

17 (1) An owner of a residential dwelling or unit which is newly constructed and
18 first received a certificate of occupancy after the effective date of Ordinance No. 276-79 (June
19 13, 1979), or which the Rent Board has certified has undergone a substantial rehabilitation,
20 may establish the initial and all subsequent rental rates for that dwelling or unit, except:

21 (A) where rent restrictions apply to the dwelling or unit under
22 Sections 37.3(d) or 37.3(f);

23 (B) where the dwelling or unit is a replacement unit under
24 Section 37.9A(b);

25 (C) as provided for certain categories of Accessory Dwelling Units under

1 Section 37.2(r)(4)(D); ~~and~~

2 (D) as provided in a development agreement entered into by the City
3 under Administrative Code Chapter 56.; and

4 (E) as provided for certain categories of new dwelling units under Section
5 37.2(r)(4)(E).

6
7 Section 4. Effective Date. This ordinance shall become effective 30 days after
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
10 of Supervisors overrides the Mayor's veto of the ordinance.

11
12 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
16 additions, and Board amendment deletions in accordance with the "Note" that appears under
17 the official title of the ordinance.

18
19 APPROVED AS TO FORM:
20 DAVID CHIU, City Attorney

21 By: /s/AUDREY WILLIAMS PEARSON
22 AUDREY WILLIAMS PEARSON
23 Deputy City Attorney

24
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