

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

## MEMORANDUM

### LAND USE AND TRANSPORTATION COMMITTEE

### SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: July 25, 2023

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, July 25, 2023

The following file was forwarded as a **COMMITTEE REPORT** to the Board meeting, Tuesday, July 25, 2023. This item was acted upon at the Committee Meeting on Monday, July 24, 2023, at 1:30 p.m., by the votes indicated below.

**Item No. 67**                      **File No. 230769**

**Ordinance amending the Planning Code to: 1) reduce Inclusionary Housing Program requirements of the Planning Code, for projects exceeding a stated unit size that have been approved prior to November 1, 2023 and that receive a first construction document within a specified period; 2) adopt a process for those projects to request a modification to conditions of approval related to development impact fees, subject to delegation by the Planning Commission; 3) reduce Article 4 development impact fees, including Inclusionary Affordable Housing fees, for projects approved before November 1, 2026 that receive a first construction document within 30 months of entitlement; and, 4) modify the Inclusionary Housing Program Ordinance effective November 1, 2026 to reduce applicable fees, and on-site or off-site unit requirements, for projects that exceed a stated unit size; amending the Administrative Code to update the Inclusionary Housing Technical Advisory Committee member requirements; affirming the Planning Department's determination under the California Environmental Quality Act; making public necessity, convenience, and welfare findings under Planning Code, Section 302; and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.**

#### **AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE**

Vote:

Supervisor Myrna Melgar - Aye  
Supervisor Dean Preston - Aye  
Supervisor Aaron Peskin - Aye

**DUPLICATED AS AMENDED**

**RECOMMENDED AS AMENDED AS A COMMITTEE REPORT**

Vote:

Supervisor Myrna Melgar - Aye  
Supervisor Dean Preston - Aye  
Supervisor Aaron Peskin - Aye

cc: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Alisa Somera, Legislative Deputy  
Anne Pearson, Deputy City Attorney

File No. 230769 Committee Item No. 6  
Board Item No. 67

**COMMITTEE/BOARD OF SUPERVISORS**  
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Board of Supervisors Meeting Date July 25, 2023  
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Completed by: Erica Major Date July 20, 2023  
Completed by: Erica Major Date July 25, 2023

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

2

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

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

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

25

1 Section 1.

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

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

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

17

18 Section 2. General Findings.

19 (a) San Francisco's Inclusionary Affordable Housing Program is intended to help  
20 address the demonstrated need for affordable housing in San Francisco. As rents and sales  
21 prices for housing outpace what is affordable to the typical San Francisco family, the City  
22 faces a continuing shortage of affordable housing for all but households with the highest  
23 incomes. The California Association of Realtor's "California Housing Affordability Update," for  
24 the first quarter of 2023, reported that the median home price in San Francisco was  
25 \$1,550,000, requiring a minimum qualifying income of \$384,000 to purchase such a home.

1 San Francisco’s median home prices are over twice the State of California’s median of  
2 \$619,900, and over four times the national median home price of \$371,200. The majority of  
3 market-rate homes for sale in San Francisco are priced out of the reach of low- and moderate-  
4 income households.

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

15 (c) From October 2022 through April 2023, consistent with Planning Code Section  
16 415.10, the Controller and the Affordable Housing Technical Advisory Committee (TAC) met  
17 to conduct and review the feasibility of the City’s inclusionary affordable housing obligations.  
18 The Controller and the TAC studied five condominium prototypes and five rental apartment  
19 prototypes, and considered key economic parameters, such as: interest rates, capitalization  
20 rates, land prices, construction costs, use of the State Density Bonus law, rents and sale  
21 prices.

22 (d) The Controller and TAC found that none of the development prototypes studied  
23 were financially feasible at the current inclusionary housing rates in the Planning Code. Most  
24 prototypes studied had significant negative land value, indicating that the prototype would not  
25 be financially feasible, even setting aside the cost of land. The prototypes, which were studied

1 because they represent the types of residential development that are common in San  
2 Francisco, account for a majority of the housing production in San Francisco. The finding that  
3 these two prototypes are not feasible suggests that residential development is, broadly  
4 speaking, not financially feasible under current economic conditions at current inclusionary  
5 housing rates.

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

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

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

22 (h) In addition to reducing the inclusionary obligations for new projects seeking  
23 entitlement from the City, the TAC discussed and recommended reducing inclusionary  
24 obligations for projects that already have been approved, but have not been constructed.  
25 These "pipeline projects" represent tens of thousands of units that could quickly move into the

1 construction phase of development should the project’s economics improve. The sponsors of  
2 these pipeline projects have likely spent considerable money securing land, pursuing  
3 entitlements, and advancing design, but have also been subject to significant construction  
4 cost escalation and rising interest rates during the time between project conception and today.  
5 By reducing their inclusionary obligation below that of new projects seeking entitlement over  
6 the next three years, the City will incentivize these projects to advance into the construction  
7 phase, and swiftly provide much needed market rate and inclusionary units.

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

19  
20 Section 3. Article 4 of the Planning Code is hereby amended by adding new Section  
21 415A, to read as follows:

22  
23 **SECTION 415A. TEMPORARY REDUCTION OF INCLUSIONARY REQUIREMENTS FOR**  
24 **RESIDENTIAL AND LIVE/WORK DEVELOPMENT PROJECTS APPROVED PRIOR TO**  
25 **NOVEMBER 1, 2023.**



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**SEC. 415A.1. PURPOSE.**

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

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

*The following terms shall have the following definitions:*

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

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

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

*This Section 415A shall apply to Pipeline Projects. This Section 415A shall not apply to (1) any mixed-use project that has entered into a development agreement executed pursuant to Chapter 56 of the Administrative Code or other similar binding agreement with the City on or before November 1,*

1 2023, or (2) projects that have chosen to comply with affordable housing requirements by dedicating  
2 land, including but not limited to projects meeting the requirements set forth in Sections 419.5(a)(2) or  
3 249.33(b)(16), or (3) projects that have paid development impact fees, including inclusionary impact  
4 fees, on or before November 1, 2023.

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

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

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

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

23 (2) For any Pipeline Project consisting of 25 units or more located in an area  
24 with a specific affordable housing requirement set forth in a Special Use District, Area Plan, or in any  
25 other section of the Code, including 415.3(d), 419, or 428, the applicable percentage shall be 54.5% of

1 the rate for Rental Housing Projects in the specific area, rounded to the nearest tenth of one percent.  
2 This reduction shall not apply to fees subject to the Temporary Fee Reduction Program set forth in  
3 Section 403.

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

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

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

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

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

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

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

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

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

12                    **(d) Site Permit and First Construction Document Timing Requirements; Conditions of**  
13 **Approval.**

14                    (1) Notwithstanding any contrary provision in this Code, project sponsors of  
15 Pipeline Projects shall be entitled to a modification under Section 415A.5 of any conditions of approval  
16 or conditions on a project permit, requiring procurement of a site permit within a specified time, but in  
17 no event may such a deadline be extended past May 1, 2029.

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

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

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

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

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

9  
10            **SEC. 415A.5. PROCESS FOR MODIFICATION OF INCLUSIONARY AFFORDABLE**  
11 **HOUSING PROGRAM REQUIREMENTS.**

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

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

1                                    (1) a change in the number of Residential or Group Housing units by more than  
2 20%, or a change of more than 10% in Gross Floor Area; or,

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

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

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

13                                    (2) the applicable percentage of off-site units required consistent with Section  
14 415A.4(b).

15                                    (3) the applicable percentage of on-site units required, consistent with Section  
16 415A.4(c).

17                                    (4) for projects that elected to develop using the State Density Bonus Law,  
18 Government Code section 65915 or State Density Bonus Program: Individually Requested, under  
19 Planning Code section 206.6, the number of on-site Affordable Units, and the affordability levels of  
20 those units if such levels require modification for the project to continue to qualify for the same amount  
21 of density bonus previously approved, and findings required by Section 206.6(e) related to eligibility  
22 for a density bonus, concessions and incentives and/or waivers of development standards, consistent  
23 with Section 415A.4(e). Notwithstanding the previous sentence, modifications to a density bonus project  
24 that are significant as set forth in subsection (a), shall be reviewed by the Planning Commission.

1                                    (5) performance standards consistent with Section 415A.4(d), including the time  
2 of validity, expiration and renewal.

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

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

10                                   This section 415A shall expire by operation of law on May 1, 2029, unless extended by an  
11 ordinance effective on or before that date. Upon expiration of this Section 415A, the City Attorney shall  
12 cause the section to be removed from the Planning Code.

13  
14                                   Section 4. Article 4 of the Planning Code is hereby amended by adding new Section  
15 415B, to read as follows:

16  
17                                   **SEC. 415B. TEMPORARY REDUCTION IN REQUIREMENTS FOR NEW**  
18 **RESIDENTIAL AND LIVE/WORK DEVELOPMENT PROJECTS.**

19                                   In order to encourage construction of residential and live/work development projects subject to  
20 the Inclusionary Affordable Housing Program, Planning Code Sections 415.1 et seq, this Section 415B  
21 shall apply to housing and live/work development projects that are Finally Approved, as defined in  
22 Planning Code Section 415A.2, between November 1, 2023 and November 1, 2026, provided that such  
23 projects receive a First Construction Document within 30 months from Final Approval. Such deadline  
24 shall be extended in the event of any litigation seeking to invalidate the City's approval of such project,  
25 for the duration of the litigation. Housing development projects that fail to obtain a First Construction

1 Document within 30 months of Final Approval shall be subject to the requirements of Section 415.1 et  
2 seq. in effect on the date a First Construction Document is finally obtained. Except as specifically set  
3 forth herein, all other Inclusionary Affordable Housing requirements in Sections 415.1 et seq shall  
4 continue to apply.

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

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

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

15 **SEC. 415B.2. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.** If a project sponsor  
16 elects to provide on-site Affordable Units pursuant to Section 415.5(g), the housing development shall  
17 be subject to the following required percentages rather than the percentage of units set forth in Section  
18 415.6(a):

19 (a) For any housing development consisting of 25 or more units, the number of  
20 Affordable Units constructed on-site shall be 15% of all units constructed on the project site. Project  
21 sponsors shall ensure that a minimum of 10% of the Affordable Units shall be affordable to low-income  
22 households, 2.5% of the Affordable Units shall be affordable to moderate-income households, and  
23 2.5% of the Affordable Units shall be affordable to middle-income households.

24 (b) For any housing development located in an area with a specific affordable housing  
25 requirement set forth in a Special Use District, Area Plan, or in any other section of the Code such as



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

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

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

7 (a) For any housing development consisting of 25 units or more, the applicable  
8 percentage shall be 20.5%. Project sponsors shall ensure that a minimum of 11.5% of the Affordable  
9 Units shall be affordable to low-income households, 5% of the Affordable Units shall be affordable to  
10 moderate-income households, and 4% of the Affordable Units shall be affordable to middle-income  
11 households.

12 (b) For any housing development that is located in an area with a specific off-site  
13 affordable housing requirement set forth in a Special Use District, Area Plan, or in any other section of  
14 the Code including Section 415.3(d), 419, or 428, the percentage shall be ~~the~~ 68% of the applicable  
15 rate for Rental Housing Projects in the area, rounded to the nearest tenth of one percent.

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

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

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

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

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

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

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

~~(a) Condition of Approval.~~ In addition to any other condition of approval that may otherwise be applicable, the Department or Commission shall require as a condition of approval of a development project subject to a development fee or development impact requirement under this Article that such development fee or fees be paid prior to the issuance of the first construction document for any building or buildings within the development project, in proportion to the amount required for each building if there are multiple buildings, with an option for the project sponsor to defer payment of 85 percent of the fees, or 80 percent of the fees if the project is subject to a neighborhood infrastructure impact development fee, to prior to issuance of the first certificate of occupancy upon agreeing to pay a Development Fee Deferral Surcharge on the amount owed, as provided by Section 107A.13.3 of the San Francisco Building Code ("Fee Deferral Program"). The Department or Commission shall also require as a condition of approval that any development impact requirement imposed on a development project under this Article shall be satisfied prior to issuance of the first certificate of occupancy for any building or buildings within the development project, in proportion to the amount required for each building if there are multiple buildings.

*Temporary Fee Reduction Program. The following development fees assessed on or before November 1, 2026 shall be reduced by 33% for (1) projects that receive a First Construction*

1 Document, as defined in Building Code Section 107A.13.1, within 30 months of Final Approval, as  
2 defined in Section 415A.2; and (2) for Pipeline Projects modified under Section 415A.5, if such  
3 Pipeline Projects receive a First Construction Document on or before May 1, 2029. Projects approved  
4 pursuant to a development agreement under Chapter 56 of the Administrative Code shall not be eligible  
5 for a fee reduction under this Section 403. Upon receipt of a First Construction Document, the  
6 Planning Department shall determine whether the project is eligible for the Temporary Fee Reduction  
7 Program, and update the fees assessment as applicable. If the project is found eligible, the following  
8 fees shall be reduced:

- 9 (1) The Transportation Sustainability Fee (Section 411A);
- 10 (2) The Downtown Park Fee (Section 412);
- 11 (3) The Jobs Housing Linkage Program (Section 413);
- 12 (4) The Childcare Requirement for Office and Hotel Development Projects (Section  
13 414);
- 14 (5) The Childcare Requirements for Residential Projects (Section 414A);
- 15 (6) Market and Octavia Area Plan and Upper Market Neighborhood Commercial  
16 District Affordable Housing Fee (Section 416);
- 17 (7) Eastern Neighborhoods Area Plan Affordable Housing Requirement (Section  
18 417);
- 19 (8) Rincon Hill Community Improvements Fund and SOMA Community Stabilization  
20 Fund (Section 418);
- 21 (9) Visitation Valley Community Facilities and Infrastructure Fee and Fund (Section  
22 420);
- 23 (~~8~~10) The Market and Octavia Community Improvements Fund (Section 421);
- 24 (~~10~~11) Balboa Park Community Improvements Fund (Section 422);
- 25 (~~4~~12) Eastern Neighborhood Impact Fees and Public Benefits Fund (Section 423);

1           ~~(4213)~~ Van Ness & Market Affordable Housing and Neighborhood Infrastructure Fee  
2 and Program (Section 424);

3           ~~(4314)~~ Transit Center District Open Space Impact Fee and Fund (Section 424.6) and  
4 Transportation and Street Improvement Impact Fee (Section 424.7);

5           ~~(4415)~~ Van Ness and Market Community Facilities Fee and Fund (Section 425);

6           ~~(4516)~~ Open Space requirements (Sections 426 and 427);

7           ~~(4617)~~ Public Art Fee (Section 429);

8           ~~(4718)~~ Bicycle Parking fee (Section 430);

9           ~~(4819)~~ Central SOMA Community Services Facilities Fees and Fund (Section 432);

10          ~~(4920)~~ Central SOMA Infrastructure Fee and Fund (Section 433);

11          ~~(2021)~~ Union Square Park, Recreation, and Open Space Fee (Section 435);

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

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

23  
24           **SEC. 415.10. REPORTING TO BOARD OF SUPERVISORS.**

25           (a) Findings.

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

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

22 *In 2011, Governor Jerry Brown dissolved the State Redevelopment Agency, which was the*  
23 *City's primary permanent funding stream for affordable housing. In 2012, in response to this loss, the*  
24 *voters amended the San Francisco Charter to create the Affordable Housing Trust Fund, which*  
25 *included a provision to lower the on-site inclusionary requirement to 12%. In November 2014, in*

1 ~~response to an escalating affordable housing crisis, the voters passed Proposition K, which set forth a~~  
2 ~~policy directive to the City to ensure that additional affordable housing is a minimum of 33% of its~~  
3 ~~overall housing production to low- and moderate/middle-income households up to 120% of the Area~~  
4 ~~Median Income and at least another 17% affordable to households from 120% to 150% of the Area~~  
5 ~~Median Income.~~

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

10 ~~On March 1, 2016, the Board of Supervisors unanimously adopted Resolution No. 79-16~~  
11 ~~declaring that (1) it shall be City policy to maximize the economically feasible percentage of affordable~~  
12 ~~inclusionary housing in market rate housing development to create housing for lower and~~  
13 ~~moderate/middle-income households; (2) if the voters adopt the proposed Charter amendment on June~~  
14 ~~7, the Board intends to adopt a future ordinance requiring the Controller and other City departments to~~  
15 ~~conduct a periodic economic study to maximize affordability in the City's inclusionary housing~~  
16 ~~requirements; and (3) the future ordinance would create an advisory committee to ensure that the~~  
17 ~~economic study is the result of a transparent and inclusive public process.~~

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

23 \* \* \* \*

24  
25

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

3 **ARTICLE XXIX:**

4 **INCLUSIONARY HOUSING TECHNICAL ADVISORY COMMITTEE**

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

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

8 \* \* \* \*

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

10 (a) Each member shall serve at the pleasure of the member's appointing authority, and  
11 may be removed by their appointing officer at any time for any reason. Each member appointed to  
12 the Advisory Committee shall serve for an unlimited term. ~~in 2016 shall serve until three months~~  
13 ~~after the date the Controller produces the first economic feasibility analysis required by Planning Code~~  
14 ~~Section 415.10, at which point the member's term shall expire. The Board of Supervisors and the Mayor~~  
15 ~~shall appoint members to the Advisory Committee in anticipation of each subsequent economic~~  
16 ~~feasibility analysis by the Controller, and those members' terms shall similarly expire three months~~  
17 ~~after the date the Controller produces the economic feasibility analysis required by Planning Code~~  
18 ~~Section 415.10. Members shall not may hold over after the expiration of their terms.~~

19 \* \* \* \*

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

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

25 \* \* \* \*

1  
2 Section 7. Article 4 of the Planning Code is hereby amended to revise Sections 415.3,  
3 415.5, 415.6, 415.7, 419.3, 419.5, 428, and 428.3, to read as follows:

4  
5 **SECTION 415.3 APPLICATION.**

6 \* \* \* \*

7 (b) Except as provided in subsection (3) below, any development project that has  
8 submitted a complete Environmental Evaluation application prior to January 12, 2016 shall  
9 comply with the Affordable Housing Fee requirements, the on-site affordable housing  
10 requirements or the off-site affordable housing requirements, and all other provisions of  
11 Section 415.1 et seq., as applicable, in effect on January 12, 2016. For development projects  
12 that have submitted a complete Environmental Evaluation application on or after January 1,  
13 2013, the requirements set forth in Planning Code Sections 415.5, 415.6, and 415.7 shall  
14 apply to certain development projects consisting of 25 dwelling units or more during a limited  
15 period of time as follows.

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

19 \* \* \* \*

20 ~~(F) Any development project that has submitted a complete Environmental~~  
21 ~~Evaluation application on or before January 12, 2016 and seeks to utilize a density bonus under State~~  
22 ~~Law shall use its best efforts to provide on-site affordable units in the amount of 25% of the number of~~  
23 ~~units constructed on-site and shall consult with the Planning Department about how to achieve this~~  
24 ~~amount of inclusionary affordable housing. An applicant seeking a density bonus under the provisions~~



1 ~~of State Law shall provide reasonable documentation to establish eligibility for a requested density~~  
2 ~~bonus, incentives or concessions, and waivers or reductions of development standards.~~

3 (2) If a development project pays the Affordable Housing Fee or elects to provide  
4 off-site affordable housing, and such requirements have not been amended on or before November 1,  
5 2026, the development project shall provide the following fee amount or amounts of off-site  
6 affordable housing during the limited periods of time set forth below.

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

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

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

16 (D) Any development project that submits an Environmental Evaluation  
17 application after January 12, 2016 shall comply with the requirements set forth in Sections  
18 415.5, 415.6, and 415.7, as applicable.

19 (E) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and  
20 (C) of this Section 415.3, for development projects proposing buildings over 120 feet in height,  
21 as measured under the requirements set forth in the Planning Code, except for buildings up to  
22 130 feet in height located both within a special use district and within a height and bulk district  
23 that allows a maximum building height of 130 feet, such development projects shall pay a fee  
24 or provide off-site housing in an amount equivalent to ~~30%~~ 24.5% of the number of units  
25 constructed on-site. Any buildings up to 130 feet in height located both within a special use

1 district and within a height and bulk district that allows a maximum building height of 130 feet  
2 shall comply with the provisions of subsections (b)(2)(A), (B) and (C) of this Section 415.3  
3 during the limited periods of time set forth therein.

4 (F) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and  
5 (C) of this Section 415.3, if a development project is located in a UMU Zoning District or in the  
6 South of Market Youth and Family Zoning District, and pays the Affordable Housing Fee or  
7 elects to provide off-site affordable housing pursuant to Section 415.5(g), or elects to comply  
8 with a Land Dedication Alternative, such development project shall comply with the fee, off-  
9 site or land dedication requirements applicable within such Zoning Districts, as they existed on  
10 January 12, 2016, plus the following additional amounts for the Affordable Housing Fee or for  
11 land dedication or off-site affordable units: (i) if the development project has submitted a  
12 complete Environmental Evaluation application prior to January 1, 2014, the Project Sponsor  
13 shall pay an additional fee, or provide additional land dedication or off-site affordable units, in  
14 an amount equivalent to 5% of the number of units constructed on-site; (ii) if the development  
15 project has submitted a complete Environmental Evaluation application prior to January 1,  
16 2015, the Project Sponsor shall pay an additional fee, or provide additional land dedication or  
17 off-site affordable units, in an amount equivalent to 7.5% of the number of units constructed  
18 on-site; or (iii) if the development project has submitted a complete Environmental Evaluation  
19 application on or prior to January 12, 2016, the Project Sponsor shall pay an additional fee, or  
20 provide additional land dedication or off-site affordable units, in an amount equivalent to 10%  
21 of the number of units constructed on-site. Notwithstanding the foregoing, a development  
22 project shall not pay a fee or provide off-site units in a total amount greater than the equivalent  
23 of ~~30%~~ 24.5% of the number of units constructed on-site.

24 \* \* \* \*

25

1 (d) Notwithstanding the provisions set forth in Section 415.3(b), or the inclusionary  
2 affordable housing requirements contained in Sections 415.5, 415.6, and 415.7, such  
3 requirements shall not apply to any project, consisting of 25 dwelling units or more, that has  
4 not submitted a complete Environmental Evaluation Application on or before January 12,  
5 2016, if the project is located within the Eastern Neighborhoods Mission Planning Area, the  
6 North of Market Residential Special Use District Subarea 1 or Subarea 2, or the SOMA  
7 Neighborhood Commercial Transit District, because inclusionary affordable housing levels for  
8 those areas will be addressed in forthcoming area plan processes or an equivalent community  
9 planning process. Until such planning processes are complete and new inclusionary housing  
10 requirements for projects in those areas are adopted, projects consisting of 25 units or more  
11 shall (1) pay a fee or provide off-site housing in an amount equivalent to ~~30%~~ 24.5% if the  
12 Principal Project is a Rental Housing Project, or ~~33%~~ 27% if the Proposed Project is an  
13 Ownership Housing Project, or (2) provide Affordable Units in the amount of ~~25%~~ 20.5% of the  
14 number of units constructed on-site in a Rental Housing Project, or ~~27%~~ 22.1% of the number  
15 of units constructed on-site in an Ownership Housing Project. For Rental Housing Projects,  
16 15.5% of the on-site Affordable Units shall be affordable to low-income households, ~~5%~~ 2.5%  
17 shall be affordable to moderate-income households and ~~5%~~ 2.5% shall be affordable to  
18 middle-income households. For Ownership Housing Projects, ~~15%~~ 16.1% of the on-site  
19 Affordable Units shall be affordable to low-income households, ~~6%~~ 3% shall be affordable to  
20 moderate-income households and ~~6%~~ 3% shall be affordable to middle-income households.

21 \* \* \* \*

22

23 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

24 *The fees set forth in this Section 415.5 will be reviewed when the City completes an Economic*  
25 *Feasibility Study.* Except as provided in Section 415.5(g), all development projects subject to

1 this Program shall be required to pay an Affordable Housing Fee subject to the following  
2 requirements:

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

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

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

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

11 (B) For development projects consisting of 25 units or more, the  
12 applicable percentage shall be ~~27%~~<sup>33%</sup> if such units are Owned Units.

13 (C) For development projects consisting of 25 units or more, the  
14 applicable percentage shall be ~~24.5%~~<sup>30%</sup> if the development project is a Rental Housing  
15 Project. In the event a Rental Housing Project becomes an Ownership Housing Project, the  
16 Project Sponsor shall either (A) reimburse the City the proportional amount of the Inclusionary  
17 Affordable Housing Fee, which would be equivalent to the current Inclusionary Affordable  
18 Housing Fee requirement for Ownership Housing Projects, or (B) provide additional on-site or  
19 off-site Affordable Units equivalent to the current inclusionary requirements for Ownership  
20 Housing Units, apportioned among the required number of units at various income levels in  
21 compliance with the requirements in effect at the time of conversion. Any additional Affordable  
22 Units provided on-site or off-site shall comply with Section 415 and the Procedures Manual.

23 (2) The affordability gap, using data on MOHCD's cost of construction of  
24 affordable residential housing. ~~No later than January 31, 2018, the Controller, with the support of~~  
25 ~~consultants as necessary, and in consultation with the Inclusionary Housing Technical Advisory~~

1 ~~Committee (TAC) established in Planning Code Section 415.10, shall conduct a study to develop an~~  
2 ~~appropriate methodology for calculating, indexing, and applying the appropriate amount of the~~  
3 ~~Inclusionary Affordable Housing Fee. To support the Controller's study, and annually thereafter,~~  
4 ~~MOHCD shall provide the following documentation: (1) schedules of sources and uses of funds and~~  
5 ~~independent auditor's reports ("Cost Certifications") for all MOHCD-funded developments completed~~  
6 ~~within three years of the date of reporting to the Controller; and, (2) for any MOHCD-funded~~  
7 ~~development that commenced construction within three years of the reporting date to the Controller but~~  
8 ~~for which no Cost Certification is yet complete, the sources and uses of funds approved by MOHCD~~  
9 ~~and the construction lender as of the date of the development's construction loan closing. Cost~~  
10 ~~Certifications completed in years prior to the year of reporting to the Controller may be increased or~~  
11 ~~decreased by the applicable annual Construction Cost Index percentage(s) for residential construction~~  
12 ~~for San Francisco reported in the Engineering News Record. MOHCD, together with the Controller~~  
13 ~~and TAC, shall evaluate the cost to construct data, including actual and appraised land costs, state~~  
14 ~~and/or federal public subsidies available to MOHCD-funded projects, and determine MOHCD's~~  
15 ~~average costs. Following completion of this study, the Board of Supervisors, in its sole and absolute~~  
16 ~~discretion, and within the legal allowances of the Residential Nexus Analysis, will review the analyses,~~  
17 ~~methodology, fee application, and the proposed fee schedule; and may consider adopting legislation to~~  
18 ~~revise the Inclusionary Affordable Housing fees. The method of calculating, indexing, and applying the~~  
19 ~~fee shall be published in the Procedures Manual. The Department and MOHCD shall update the fee~~  
20 ~~methodology and technical report every three years, with analysis from the Technical Advisory~~  
21 ~~Committee, in order to ensure that the affordability gap remains current, consistent with the~~  
22 ~~requirements set forth below in Section 415.5(b)(3) and Section 415.10.~~

23 \* \* \* \*

24 (5) The applicable amount of the inclusionary housing fee shall be determined  
25 based upon the date that the project sponsor has submitted a complete Project Application

1 ~~Environmental Evaluation application.~~ In the event the project sponsor does not procure a  
2 building permit or site permit for construction of the principal project within 30 months of the  
3 project's approval, the development project shall comply with the inclusionary affordable  
4 housing requirements applicable thereafter at the time when the project sponsor does  
5 proceed with pursuing a building permit. Such time period shall be extended in the event of  
6 any litigation seeking to invalidate the City's approval of such project, for the duration of the  
7 litigation.

8

9 \* \* \* \*

10

11 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

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

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

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

22 ~~(2) For any Ownership Housing Project consisting of 25 or more units, the number of~~  
23 ~~Affordable Units constructed on-site shall generally be 20% of all units constructed on the project site.~~  
24 ~~A minimum of 10% of the units shall be affordable to low-income households, 5% of the units shall be~~  
25 ~~affordable to moderate-income households, and 5% of the units shall be affordable to middle-income~~

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

15 ~~(3) For any Rental Housing Project consisting of 25 or more units, the number of~~  
16 ~~Affordable Units constructed on-site shall generally be 18% of all units constructed on the project site,~~  
17 ~~with a minimum of 10% of the units affordable to low-income households, 4% of the units affordable to~~  
18 ~~moderate-income households, and 4% of the units affordable to middle-income households. In no case~~  
19 ~~shall the total number of Affordable Units required exceed the number required as determined by the~~  
20 ~~application of the applicable on-site requirement rate to the total project units. Rental Units for low-~~  
21 ~~income households shall have an affordable rent set at 55% of Area Median Income or less, with~~  
22 ~~households earning up to 65% of Area Median Income eligible to apply for low-income units. Rental~~  
23 ~~Units for moderate-income households shall have an affordable rent set at 80% of Area Median Income~~  
24 ~~or less, with households earning from 65% to 90% of Area Median Income eligible to apply for~~  
25 ~~moderate-income units. Rental Units for middle-income households shall have an affordable rent set at~~

1 ~~110% of Area Median Income or less, with households earning from 90% to 130% of Area Median~~  
2 ~~Income eligible to apply for middle income units. For any Affordable Units with rental rates set at~~  
3 ~~110% of Area Median Income, the units shall have a minimum occupancy of two persons. This unit~~  
4 ~~requirement shall be outlined within the Mayor's Office of Housing Preferences and Lottery~~  
5 ~~Procedures Manual no later than February 26, 2018. MOHCD may reduce Area Median Income~~  
6 ~~pricing and the minimum income required for eligibility in each rental category.~~

7 (1) For housing development projects consisting of 10 dwelling units or more, but less  
8 than 25 dwelling units, the number of affordable units constructed on-site shall generally be 15% of all  
9 units constructed on the project site. The affordable units shall all be affordable to low-income  
10 households. Owned Units shall be affordable to households earning up to 100% of Area Median  
11 Income, with an affordable sales price set at 80% of Area Median Income or less. Rental Units shall be  
12 affordable to households earning up to 65% of Area Median Income, with an affordable rent set at 55%  
13 of Area Median Income or less.

14 (2) For any Ownership Housing Project consisting of 25 or more units, the number of  
15 Affordable Units constructed on-site shall generally be 20% of all units constructed on the project site.  
16 A minimum of 10% of the units shall be affordable to low-income households, 5% of the units shall be  
17 affordable to moderate-income households, and 5% of the units shall be affordable to middle-income  
18 households. In no case shall the total number of Affordable Units required exceed the number required  
19 as determined by the application of the applicable on-site requirement rate to the total project units.  
20 Owned Units for low-income households shall have an affordable purchase price set at 80% of Area  
21 Median Income or less, with households earning up to 100% of Area Median Income eligible to apply  
22 for low-income units. Owned Units for moderate-income households shall have an affordable purchase  
23 price set at 105% of Area Median Income or less, with households earning from 95% to 120% of Area  
24 Median Income eligible to apply for moderate-income units. Owned Units for middle-income  
25 households shall have an affordable purchase price set at 130% of Area Median Income or less, with



1 households earning from 120% to 150% of Area Median Income eligible to apply for middle-income  
2 units. For any Affordable Units with purchase prices set at 130% of Area Median Income, the units  
3 shall have a minimum occupancy of two persons. This unit requirement shall be outlined within the  
4 Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than February 26,  
5 2018. MOHCD may reduce Area Median Income pricing and the minimum income required for  
6 eligibility in each ownership category.

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

23 (4) Notwithstanding the foregoing Area Median Income limits for Rental Units  
24 and Owned Units, the maximum affordable rents or sales price shall be no higher than 20%  
25 below market rents or sales prices for the neighborhood within which the project is located,

1 which shall be defined in accordance with the American Community Survey Neighborhood  
2 Profile Boundaries Map. MOHCD shall adjust the allowable rents and sales prices, and the  
3 eligible households for such units, accordingly, and such potential readjustment shall be a  
4 condition of approval upon project entitlement. The City shall review the updated data on  
5 neighborhood rents and sales prices on an annual basis.

6 (5) Starting on January 1, ~~2018~~2028, and no later than January 1 of each year  
7 thereafter, MOHCD shall increase the percentage of units required on-site for projects  
8 ~~consisting of 10–24 units, as set forth in Section 415.6(a)(1), by increments of 0.5% each year, until~~  
9 ~~such requirement is 15%. For all development projects with 25 or more units, the required on-site~~  
10 ~~affordable ownership housing to satisfy this Section 415.6 shall increase by .5%~~1% annually for two  
11 consecutive years starting January 1, ~~2018~~2028. The increase shall be apportioned to units  
12 affordable to low-income households, as defined above in subsection 415.6(a)(3). Starting  
13 January 1, ~~2020~~2030, the increase to on-site housing developments with 25 or more units shall  
14 increase by 0.5% annually, with such increases allocated equally to moderate- and middle-  
15 income households, as defined above in subsection 415.6(a)(3). The total on-site inclusionary  
16 affordable housing requirement shall not exceed 26% for Ownership Housing Projects or 24%  
17 for Rental Housing Projects, and the increases shall cease at such time as these limits are  
18 reached. MOHCD shall provide the Planning Department, DBI, and the Controller with  
19 information on the adjustment to the on-site percentage so that it can be included in the  
20 Planning Department’s and DBI’s website notice of the fee adjustments and the Controller’s  
21 Citywide Development Fee and Development Impact Requirements Report described in  
22 Section 409(a).

23 (6) The Department shall require as a condition of Department approval of a  
24 project’s building permit, or as a condition of approval of a Conditional Use Authorization or  
25 Planned Unit Development or as a condition of Department approval of a live/work project,

1 that ~~12%~~15%, 18%, or 20%, as applicable, or such percentage that has been adjusted  
2 annually by MOHCD, of all units constructed on the project site shall be Affordable to  
3 Qualifying Households so that a project sponsor must construct ~~.12, .15~~, .18, or .20 times, or  
4 such current number as adjusted annually by MOHCD, as applicable, the total number of units  
5 produced in the Principal Project. If the total number of units is not a whole number, the  
6 project sponsor shall round up to the nearest whole number for any portion of .5 or above. In  
7 no case shall the total number of Affordable Units required exceed the number required as  
8 determined by the application of the applicable on-site requirement rate to the total project  
9 units.

10 \* \* \* \*

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

21 (12) If the Principal Project has resulted in demolition, conversion, or removal of  
22 affordable housing units that are subject to a recorded covenant, ordinance, or law that  
23 restricts rents to levels affordable to persons and families of moderate-, low- or very-low-  
24 income, or housing that is subject to any form of rent or price control through a public entity's  
25 valid exercise of its police power and determined to be affordable housing, the Commission or

1 the Department shall require that the project sponsor replace the number of Affordable Units  
2 removed with units of a comparable number of bedrooms and sales prices or rents, in addition  
3 to compliance with the requirements set forth in this Section.

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

14 \* \* \* \*

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

16 If the project sponsor elects pursuant to Section 415.5(g) to provide off-site units to  
17 satisfy the requirements of Sections 415.1 et seq., the project sponsor shall notify the  
18 Planning Department and MOHCD of its intent prior to approval of the project by the Planning  
19 Commission or Department. The Planning Department and MOHCD shall provide an  
20 evaluation of the project's compliance with this Section 415.7 prior to approval by the Planning  
21 Commission or Planning Department. The development project shall meet the following  
22 requirements:

23 (a) **Number of Units:** The number of units constructed off-site shall be as follows:  
24  
25

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

4 (2) For housing development projects consisting of 10 units or more but less  
5 than 25 units, the number of Affordable Units constructed off-site shall be 20%, so that a  
6 project applicant shall construct .20 times the total number of units produced in the Principal  
7 Project. If the total number of units is not a whole number, the project applicant shall round up  
8 to the nearest whole number for any portion of .5 or above. In no case shall the total number  
9 of Affordable Units required exceed the number required as determined by the application of  
10 the applicable off-site requirement rate to the total project units. Owned Units shall be  
11 affordable to households earning up to 100% of Area Median Income, with an affordable sales  
12 price set at 80% of Area Median Income or less. Rental Units shall be affordable to  
13 households earning up to 65% of Area Median Income, with an affordable rent set at 55% of  
14 Area Median Income or less.

15 (3) For any Ownership Housing Project consisting of 25 or more units, the  
16 number of Affordable Units constructed off-site shall be ~~33%~~27% of all units constructed on the  
17 project site, with a minimum of ~~18%~~12% of the units affordable to low-income households,  
18 ~~8%~~7.5% of the units affordable to moderate-income households, and ~~7%~~7.5% of the units  
19 affordable to middle income households. In no case shall the total number of Affordable Units  
20 required exceed the number required as determined by the application of the applicable off-  
21 site requirement rate to the total project units. Owned Units for low-income households shall  
22 have an affordable purchase price set at 80% of Area Median Income or less, with  
23 households earning up to 100% of Area Median Income eligible to apply for low-income units.  
24 Owned Units for moderate-income households shall have an affordable purchase price set at  
25 105% of Area Median Income or less, with households earning from 95% to 120% of Area

1 Median Income eligible to apply for moderate-income units. Owned Units for middle-income  
2 households shall have an affordable purchase price set at 130% of Area Median Income or  
3 less, with households earning from 120% to 150% of Area Median Income eligible to apply for  
4 middle-income units. For any Affordable Units with purchase prices set at 100% of Area  
5 Median Income or above, the units shall have a minimum occupancy of two persons. This unit  
6 requirement shall be outlined within the Mayor's Office of Housing Preferences and Lottery  
7 Procedures Manual no later than February 26, 2018. MOHCD may reduce Area Median  
8 Income pricing and the minimum income required for eligibility in each rental category.

9 (4) For any Rental Housing Project consisting of 25 or more Rental Units, the  
10 number of affordable units constructed off-site shall generally be ~~30%~~24.5% of all units  
11 constructed on the project site, with a minimum of ~~18%~~12.5% of the units affordable to low-  
12 income households, 6% of the units affordable to moderate-income households, and 6% of  
13 the units affordable to middle-income households. In no case shall the total number of  
14 affordable units required exceed the number required as determined by the application of the  
15 applicable off-site requirement rate to the total project units. Rental Units for low-income  
16 households shall have an affordable rent set at 55% of Area Median Income or less, with  
17 households earning up to 65% of Area Median Income eligible to apply for low-income units.  
18 Rental Units for moderate-income households shall have an affordable rent set at 80% of  
19 Area Median Income or less, with households earning from 65% to 90% of Area Median  
20 Income eligible to apply for moderate-income units. Rental Units for middle-income  
21 households shall have an affordable rent set at 110% of Area Median Income or less, with  
22 households earning from 90% to 130% of Area Median Income eligible to apply for middle-  
23 income units. For any affordable units with rental rates set at 100% of Area Median Income or  
24 above, the units shall have a minimum occupancy of two persons. ~~This unit requirement shall be~~  
25 ~~outlined within the Mayor's Office of Housing Preferences and Lottery Procedures Manual no later~~

1 ~~than 6 months following the effective date of the Ordinance contained in Board of Supervisors File No.~~  
2 ~~161351.~~ MOHCD may reduce Area Median Income pricing and the minimum income required  
3 for eligibility in each rental category. MOHCD shall set forth in the Procedures Manual the  
4 administration of rental units within this range.

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

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

24 \* \* \* \*

25

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

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

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

8                   (1) For all projects sites designated as Tier A, a minimum of ~~14.4 percent~~ 12.3%  
9 of the total units constructed shall be affordable to and occupied by qualifying persons and  
10 families as defined elsewhere in this Code, so that a project sponsor must construct ~~.144~~ .123  
11 times the total number of units produced in the principal project beginning with the  
12 construction of the tenth unit. If the total number of units is not a whole number, the sponsor  
13 shall round up to the nearest whole number for any portion of .5 or above.

14                   (A) If the project sponsor is eligible for and elects pursuant to Section  
15 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall  
16 construct ~~23 percent~~ 18.8% so that a sponsor must construct ~~.23~~ .188 times the total number of  
17 units produced in the principal project beginning with the construction of the tenth unit. If the  
18 total number of units is not a whole number, the sponsor shall round up to the nearest whole  
19 number for any portion of .5 or above.

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



1 total number of units multiplied by the percentage of off-site housing required, rather than  
2 rounding up the resulting figure.

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

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~~ 20.5% so that a sponsor must construct ~~.25~~ .205 times the total number of  
12 units produced in the principal project beginning with the construction of the tenth 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.

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

22 (3) For all project sites designated Tier C, a minimum of ~~17.6 percent~~ 14.4% of  
23 the total units constructed shall be affordable to and occupied by qualifying persons and  
24 families as defined elsewhere in this Code, so that a project sponsor must construct ~~.176~~ .144  
25 times the total number of units produced in the principal project beginning with the

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

3 (A) If the project sponsor is eligible for and elects pursuant to Section  
4 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall  
5 construct ~~27 percent~~ 22.1% so that a sponsor must construct ~~.27~~ .221 times the total number of  
6 units produced in the principal project beginning with the construction of the tenth unit. If the  
7 total number of units is not a whole number, the sponsor shall round up to the nearest whole  
8 number for any portion of .5 or above.

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

16 (c) Timing of Fee Payments. Any fee required by Section 419.1 et seq. shall be paid to  
17 DBI for deposit into the Citywide Affordable Housing Fund at the time required by Section  
18 402(d).

19  
20 **SEC. 419.5. ALTERNATIVES TO THE INCLUSIONARY HOUSING COMPONENT.**

21 \* \* \* \*

22 **TABLE 419.5**  
23 **HOUSING REQUIREMENTS FOR THE UMU DISTRICT**

24  
25

Tier	On-Site Housing Requirement	Off-Site/In-Lieu Requirement	Middle Income Alternative*	Land Dedication Alternative for sites that have less than 30,000 square feet of developable area	Land Dedication Alternative for sites that have at least 30,000 square feet of developable area
A	<del>14.4%</del> <u>12.3%</u>	<del>23%</del> <u>18.8%</u>	<del>30%</del> <u>24.5%</u>	35%	30%
B	<del>16%</del> <u>13.1%</u>	<del>25%</del> <u>20.5%</u>	<del>35%</del> <u>28.6%</u>	40%	35%
C	<del>17.6%</del> <u>14.4%</u>	<del>27%</del> <u>22.1%</u>	<del>40%</del> <u>32.7%</u>	45%	40%

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

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

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

(a) For any project for which a complete development application has been submitted before October 1, 2018, the Inclusionary Affordable Housing Program set forth in Planning Code Sections 415.1 *et seq.* shall apply in the Divisadero Street NCT, except the temporary provisions of Planning Code Section 415.3(b) shall not apply and except as set forth in Section 428.3(a). For any development site for which the Planning Department determines that the residential development potential within the Divisadero Street NCT has been

1 increased through the adoption of the NCT rezoning set forth in Ordinance No. 127-15, as  
2 detailed in Section 428.1(e) herein, the requirements of Sections 415.1 et seq of the Planning  
3 Code shall apply, except as set forth in subsections (a)(1), (a)(2), and (a)(3), below, and the  
4 temporary provisions of Planning Code Section 415.3(b) shall not apply.

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

11 (2) On-site. For a development project of 10 or more units that is subject to the  
12 Inclusionary Affordable Housing Program that elects to construct units Affordable to Qualifying  
13 Households on-site of the Principal Project as set forth in Planning Code Section 415.5(g), the  
14 development project shall comply with all otherwise applicable requirements of Section 415.6,  
15 except that for all housing development projects consisting of 10 or more units, the following  
16 requirements shall apply.

17 (A) For an Ownership Housing Project, the number of affordable units  
18 constructed on site shall be ~~23%~~ 18.8% of all units constructed on the site. A minimum of ~~12%~~  
19 10% of the units shall be affordable to low-income households, ~~5.5%~~ 5% of the units shall be  
20 affordable to moderate-income households, and ~~5.5%~~ 4.8% of the units shall be affordable to  
21 middle-income households. In no case shall the total number of affordable units required  
22 exceed the number required as determined by the application of the applicable on-site  
23 requirement rate to the total project units. Owned Units for low-income households shall have  
24 an affordable purchase price set at 80% of Area Median Income or less, with households  
25 earning up to 100% of Area Median Income eligible to apply for low-income units. Owned

1 Units for moderate-income households shall have an affordable purchase price set at 105% of  
2 Area Median Income or less, with households earning from 95% to 120% of Area Median  
3 Income eligible to apply for moderate-income units. Owned Units for middle-income  
4 households shall have an affordable purchase price set at 130% of Area Median Income or  
5 less, with households earning from 120% to 150% of Area Median Income eligible to apply for  
6 middle-income units.

7 (B) For a Rental Housing Project, the number of affordable units  
8 constructed on site shall be ~~20%~~ 16.4% of all units constructed on the site. A minimum of ~~12%~~  
9 10% of the units shall be affordable to low-income households, ~~4%~~ 3% of the units shall be  
10 affordable to moderate-income households, and ~~4%~~ 3.4% of the units shall be affordable to  
11 middle-income households. In no case shall the total number of affordable units required  
12 exceed the number required as determined by the application of the applicable on-site  
13 requirement rate to the total project units. Rental Units for low-income households shall have  
14 an affordable rent set at 55% of Area Median Income or less, with households earning up to  
15 65% of Area Median Income eligible to apply for low-income units. Rental Units for moderate-  
16 income households shall have an affordable rent set at 80% of Area Median Income or less,  
17 with households earning from 65% to 90% of Area Median Income eligible to apply for  
18 moderate-income units. Rental Units for middle-income households shall have an affordable  
19 rent set at 110% of Area Median Income or less, with households earning from 90% to 130%  
20 of Area Median Income eligible to apply for middle-income units.

21 (3) Off-site. If the project sponsor of a housing development project of 10 or  
22 more units that is subject to the Inclusionary Affordable Housing Program elects to provide  
23 units Affordable to Qualifying Households off-site of the Principal Project as set forth in  
24 Section 415.5(g), the project sponsor shall construct or cause to be constructed affordable  
25 housing equal to ~~33%~~ 27% of all units constructed on the Principal Project site as affordable

1 housing if the units in the Principal Project are owned units, and ~~30%~~ 24.5% if the project is a  
2 Rental Housing Project.

3 (b) For any project for which a complete development application has been submitted  
4 on or after October 1, 2018, the Inclusionary Affordable Housing Program set forth in Planning  
5 Code Sections 415.1 et seq. shall apply in the Divisadero Street NCT except as set forth in  
6 this subsection (b). For any development site for which the Planning Department has  
7 determined that the residential development potential has been increased through the  
8 adoption of the NCT rezoning set forth in Ordinance No. 127-15, as detailed in Section  
9 428.1(e) herein, the requirements of Planning Code Sections 415.1 et seq. shall apply, except  
10 that the following affordable housing requirements shall be applied to residential development  
11 on such sites:

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

18 (2) **On-site.** If the housing development project of 10 or more dwelling units that  
19 is subject to the Inclusionary Affordable Housing Program elects to construct units Affordable  
20 to Qualifying Households on-site of the Principal Project as set forth in Planning Code Section  
21 415.5(g), the project sponsor shall comply with all otherwise applicable requirements of  
22 Section 415.6, except that for all housing development projects consisting of 10 or more units,  
23 the number of Affordable Units constructed on-site shall be provided as follows.

24 (A) A project that consists of Owned Units shall provide ~~23%~~ 18.8% of  
25 units as Affordable Units at the following levels: 10% shall have an average affordable

1 purchase price set at 80% of Area Median Income; ~~8%~~ 5% shall have an average affordable  
2 purchase price set at 105% of Area Median Income; and ~~5%~~ 4.8% shall have an average  
3 affordable purchase price set at 130% of Area Median Income.

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

9 (C) Notwithstanding subsections (b)(2)(A) and (b)(2)(B), ~~the percentage~~  
10 ~~and affordability levels of Affordable Units constructed on-site as set forth in subsections (b)(2)(A) and~~  
11 ~~(b)(2)(B) shall be the same percentage and affordability levels as set forth in Section 206.3(f)(2)(A), as~~  
12 ~~it may be amended from time to time, and~~ in no case shall the percentage of Affordable Units  
13 constructed on-site pursuant to this subsection (b)(2) be less than the percentage required by  
14 Section 415.6 for projects consisting of 25 or more units. If the percentage of Affordable Units  
15 constructed on-site pursuant to this subsection (b)(2) would be less than the percentage set  
16 forth in Section 415.6 for projects consisting of 25 or more units, the percentage of Affordable  
17 Units set forth in Section 415.6 for projects consisting of 25 or more units shall apply.

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

24

25 Section 8. Effective Date; Operative Dates.

1 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs  
2 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not  
3 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the  
4 Mayor’s veto of the ordinance.

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

8 (c) Section 7 of this ordinance, amending Planning Code Section 415.3, 415.5, 415.6,  
9 415.7, 419.3, 428 and 428.3, shall become operative on November 21, 2026, unless the City  
10 enacts legislation to change such operative date, or to otherwise revise or rescind the  
11 amendments set forth in Section 7.

12  
13 Section 9. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
17 additions, and Board amendment deletions in accordance with the “Note” that appears under  
18 the official title of the ordinance.

19

20 APPROVED AS TO FORM:  
21 DAVID CHIU, City Attorney

22 By: /s/ Audrey Pearson  
23 AUDREY PEARSON  
24 Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee, 7/24/2023)

[Planning, Administrative Codes - Development Impact Fee Reductions]

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

Existing Law

**Inclusionary Affordable Housing Program**

The Inclusionary Affordable Housing Ordinance, Planning Code section 415 *et seq.*, applies to new market-rate housing developments of 10 units or more. There are several ways a developer can comply with the ordinance: a developer can pay a fee to the City, which the City uses to construct affordable housing, or a developer can choose to comply with the ordinance by providing affordable units within the new development (on-site units) or on in a separate building (off-site units). The number of on-site or off-site units required by the ordinance depends on a variety of factors: the size of the project; whether the project is a rental project or an ownership project; where the project is located; when the project’s environmental application was submitted; and in some cases, the height of the project. On-site requirements range from 12% to 25% of the total number of units in the project; the off-site requirement ranges from 20% to 33% of the total number of units in the project. When a developer pays the fee, the City calculates the fee by multiplying the off-site inclusionary obligation (number of units) by the “affordability gap” – the amount of subsidy the Mayor’s Office of Housing and Community Development needs to finance the construction of a unit of affordable housing.

The current Citywide inclusionary requirements were originally established in 2017, and include a legislatively set increase each year (currently .5% per year). Similarly, the amount of the fee per square foot is set each year based on the cost of constructing affordable housing.

### **Current Inclusionary Requirements**

The current Citywide requirements for new projects are as follows:

- For projects of 10-24 units, the on-site requirement is 15% and the off-site and fee requirement is 20% for both rental and ownership projects. Units must have a sales price or rental rate affordable to households earning 80% AMI for ownership projects and 55% AMI for rental projects.
- The on-site requirement for projects of 25 or more units is 22% of units for a rental project, and 24% of units for an ownership project.
- The off-site and fee requirement for projects of 25 units or more is 30% for rental projects and 33% for ownership projects.
- Projects of 25 units or more must provide on-site and off-site affordable units at three income tiers: low, moderate and middle income, or 55% of Area Median Income (AMI), 80% AMI and 110% AMI for rental projects; and 80% AMI, 105% AMI, and 130% AMI for ownership projects.

Requirements in specific geographic areas can vary, but generally are slightly higher than Citywide rates.

### **Approval Process**

Inclusionary housing requirements become conditions on a project approval. If the Planning Commission approved a development, the Planning Commission must modify the conditions of approvals, although the Zoning Administrator has authority to allow changes to project plans or minor modifications to conditions. Most projects are required to obtain a building or site permit within 36 months from project approval; projects that fail to meet this deadline must request an extension from the Planning Commission. Projects that have not obtained a building or site permit within 30 months of project approval are subject to the inclusionary rates at the time a building permit is procured.

The State Density Bonus law, implemented in Planning Code section 206.6, allows projects that provide specified amounts of on-site affordable units to receive an increase in the number of total dwellings units, and “concessions and incentives” and waivers of development standards. On-site units provided under the Inclusionary Housing Ordinance can be used to qualify for a density bonus under state law. Under State Density Bonus law, projects can receive up to a 50% increase in density and between one and four concessions and incentives depending on the amount of affordable housing provided and the level of affordability. The City must waive any development standard that would preclude the construction of the project at the density allowed and with the concessions and incentives requested. The Planning Commission must adopt findings that a project is eligible for the requested density bonus, concessions and incentives, and waivers. Projects may request, as an incentive, that units at lower income tiers (e.g. 50% AMI) count towards the Inclusionary

Program's requirement to provide units at higher tiers (e.g. 80% AMI). Conditions of approval for a density bonus project will include findings related to the amount of density bonus, eligibility for concessions, incentives and waivers, and the income tiers of the inclusionary units.

**Development Impact Fees**

San Francisco assesses development impact fees on residential and non-residential projects for various public purposes, including fees for transit, parks, public infrastructure, and art. Development impact fees are set forth in Article 4 of the Planning Code.

**Inclusionary Housing Technical Advisory Committee**

Planning Code section 415.10 requires the Controller, in consultation with the Inclusionary Housing Technical Advisory Committee (TAC), to conduct a feasibility study of San Francisco's inclusionary housing requirements every three years. The TAC, established in Administrative Code Section 5.29, is a policy body created to advise the Controller and the Board about the Inclusionary Ordinance. Members of the TAC are appointed by the Board or the Mayor, and serve for a limited term; members are appointed in anticipation of the three-year economic feasibility analysis, and their term ends three months after the study is finalized.

Amendments to Current Law

This ordinance would allow for a reduction in San Francisco's inclusionary requirements and other development impact fees as follows:

**Reduction in Inclusionary Requirements for Previously Approved Projects**

Projects finally approved before November 1, 2023 with 25 units or more would be allowed to modify their conditions of approval to reduce the required inclusionary rate: the on-site rate for both rental and ownership projects would be 12%; the rate for projects that elected to pay the fee or provide off-site units would be 16.4%. The rate for projects in areas with special inclusionary requirements would be 54.5% of the applicable rental rate, but in no case would be less than 16.4%.

The ordinance would create an administrative process for certain previously approved projects to request the reduced inclusionary rates, if the Planning Commission delegates their authority to modify conditions of approval. The Director of Planning would also be authorized to modify conditions of approval to allow projects to extend the time to get a site permit, and to allow projects to request a modification to the findings required by the City's density bonus requirements. However, projects that request significant modifications, including changing from dwelling units to group housing, increasing or decreasing the number of units by more than 20%, or modifying the gross floor area by more than 10% would require Planning Commission approval. Previously approved projects would have until November 1, 2026 to request a modification, and then until May 1, 2029 to obtain a first construction document. Modified projects that fail to obtain a first construction document by May 1, 2029 would be

subject to the inclusionary requirements in effect on the date a first construction document was issued. Projects approved under a development agreement would be ineligible to seek a modification under the administrative process.

**Temporary Reduction in Inclusionary Requirements for New Projects**

Projects approved between November 1, 2023 and November 1, 2026 would be subject to reduced inclusionary rates as follows: rental and ownership projects of 25 or more units would be required to provide 15% of units on-site, or pay a fee or provide off-site units equivalent to 20.5% of the total units. Affordable units would have to be provided at the three income tiers. Projects of 25 units or more in areas with special rates would be required to pay 68% of the otherwise required rental housing rate. If a project does not receive a first construction document within 30 months of project approval, the inclusionary requirement will be the inclusionary requirement at the time the first construction document is issued.

**Reduction in Other Development Impact Fees for Previously Approved and New Projects**

Other development impact fees, such as the Transit Sustainability Fee, the Jobs Housing Linkage Fee, various park and open space fees, and other area plan infrastructure fees, would be discounted by 33%, provided that the project receives a first construction document before May 1, 2029 for previously approved projects, or within 30 months of project approval for projects approved between November 1, 2023 and November 1, 2026. Projects approved under a development agreement would be ineligible for reduced impact fees.

**No Annual Increase to Inclusionary Rate (other than indexing)**

Between November 1, 2023 and November 1, 2026, the inclusionary rates would not automatically increase pursuant to the set schedule, and any increase in the inclusionary housing fee based on affordability gap would be capped at 2%.

**Future Inclusionary Housing Rates**

This ordinance would also amend the Inclusionary Housing Ordinance effective November 1, 2026, unless the Board of Supervisors amended the program before that date. The amendment would require rental housing projects of 25 units or more to provide 18% on-site affordable units or 24.5% if paying the fee or providing off-site units. Ownership housing projects of 25 units or more would be required to provide 20% on-site, or 27% if paying the fee or providing off-site units. Requirements in areas with specific affordable housing obligations would be decreased proportionally (according to the formula  $X/22*18$ , where X equals the current required percentage). Rental and ownership housing projects of 10-24 units would be required to provide 15% of units as affordable if included on-site, or 20% if off-site or paying the fee, consistent with current requirements.

**Inclusionary Housing Technical Advisory Committee**

The ordinance would also update the findings in Planning Code Section 415.10 related to the Controller's report to the Board of Supervisors on the Inclusionary program's requirements, and amend the Administrative Code creating the Inclusionary Housing Technical Advisory

Committee, to allow members of the committee, which serve at the pleasure of the appointing member, to serve for an unlimited term. The ordinance would require the TAC to convene again, no later than January 1, 2026.

### Background Information

Consistent with Planning Code section 415.10, from October 2022 through April 2023, the Controller and the Inclusionary Housing Technical Advisory Committee (TAC) met to review the impact of the City's inclusionary housing obligations on the feasibility of residential development. The Controller and the TAC studied key economic parameters including interest rates, capitalization rate, land prices, construction costs, use of the state density bonus, and rents and sales prices for both rental and condominium projects, finding that the current rates directly contributed to the economic infeasibility of residential development in San Francisco. The Controller will issue a Technical Advisory Committee Report on June 30, 2023, recommending that the inclusionary requirements be set between 12% and 16%.

San Francisco's share of the regional housing need is over 82,000 units in the next 8 years, over 32,000 of which must be affordable for extremely low, very-low and low income households. Reduced inclusionary rates and development fees are intended to incentivize construction of housing to meet this housing need. Previously approved projects are farther along in the development process, and thus inclusionary rates are further reduced to incentivize construction of those projects.

Amendments to the Technical Advisory Committee requirement are intended to make it easier for the TAC to convene as needed in response to changing economic conditions.

Version 2 of the ordinance corrected Section 403 to add language inadvertently omitted from Section 403(a), and to correct the applicable font in amended Section 403(1)-(20).

Version 3 of the ordinance, adopted at the Land Use and Transportation Committee meeting on July 24, 2023 made non-substantive amendments to section (b) and (f) of the General Findings; corrected a reference in new Section 415B.1; and corrected the numbering in amended Section 403.

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July 14, 2023

Ms. Angela Calvillo, Clerk  
Honorable President Peskin  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2023-005422PCA:  
Inclusionary Housing  
Board File No. 230769

Planning Commission Recommendation: **Approval with Modification**

Dear Ms. Calvillo and President Peskin,

On July 13, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by President Peskin that would amend the Inclusionary Housing requirements in the Planning Code in addition to other related amendments. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. Apply the reductions of Section 415A and 415B to inclusionary projects of all sizes, not only to projects with 25 units or more.
2. Authorize temporary rate reductions for pipeline projects that have used the HOME-SF Program.
3. Standardize deadlines within the various rate reduction programs and between the Inclusionary Affordable Housing Program and other standard timelines:
  - A) Establish the same deadline (May 1, 2029) to obtain a First Construction Document for all projects seeking temporary reductions in the inclusionary rates pursuant to Sections 415A and 415B.
  - B) Establish the same deadline (May 1, 2029) to obtain First Construction Document for all projects seeking temporary reductions in development impact fees.
  - C) Remove the requirement for all projects to obtain a site permit within 30 months of approval



# PLANNING COMMISSION RESOLUTION NO. 21353

**HEARING DATE: JULY 13, 2023**

**AMENDED DATE: JULY 14, 2023**

**Project Name:** Development Impact Fee Reductions  
**Case Number:** 2023-005422PCA / Board File No. 230769  
**Initiated by:** Supervisor Peskin / Introduced June 27, 2023  
**Staff Contact:** Carly Grob, Senior Planner, Current Planning  
carly.grob@sfgov.org, 628-652-7532  
**Reviewed by:** Kate Conner, Manager of Housing Implementation  
kate.conner@sfgov.org, 628-652-7535

**RESOLUTION APPROVING A PROPOSED ORDINANCE AMENDING THE PLANNING CODE TO: 1) REDUCE INCLUSIONARY HOUSING PROGRAM REQUIREMENTS OF THE PLANNING CODE, FOR PROJECTS EXCEEDING A STATED UNIT SIZE THAT HAVE BEEN APPROVED PRIOR TO NOVEMBER 1, 2023, AND THAT RECEIVE A FIRST CONSTRUCTION DOCUMENT WITHIN A SPECIFIED PERIOD; 2) ADOPT A PROCESS FOR THOSE PROJECTS TO REQUEST A MODIFICATION TO CONDITIONS OF APPROVAL RELATED TO DEVELOPMENT IMPACT FEES, SUBJECT TO DELEGATION BY THE PLANNING COMMISSION; 3) REDUCE ARTICLE 4 DEVELOPMENT IMPACT FEES, INCLUDING INCLUSIONARY AFFORDABLE HOUSING FEES, FOR PROJECTS APPROVED BEFORE NOVEMBER 1, 2026 THAT RECEIVE A FIRST CONSTRUCTION DOCUMENT WITHIN 30 MONTHS OF ENTITLEMENT; AND 4) MODIFY THE INCLUSIONARY HOUSING PROGRAM ORDINANCE EFFECTIVE NOVEMBER 1, 2026 TO REDUCE APPLICABLE FEES, AND ON-SITE OR OFF-SITE UNIT REQUIREMENTS, FOR PROJECTS THAT EXCEED A STATED UNIT SIZE; AMENDING THE ADMINISTRATIVE CODE TO UPDATE THE INCLUSIONARY HOUSING TECHNICAL ADVISORY COMMITTEE MEMBER REQUIREMENTS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING PUBLIC NECESSITY, CONVENIENCE, AND WELFARE FINDINGS UNDER PLANNING CODE SECTION 302; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.**

WHEREAS, on June 27, 2023 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 230769, which would amend the Planning Code to: 1) reduce Inclusionary Housing Program requirements of the Planning Code, for projects exceeding a stated unit size that have been approved prior to November 1, 2023 and that receive a first construction document within a specified period; 2) adopt a process for those projects to request a modification to conditions of approval related to development impact fees, subject to delegation by the Planning Commission; 3) reduce Article 4 development impact fees for projects approved before November 1, 2026 that receive a first construction document within 30 months of entitlement, and projects that are approved before November 1, 2023 that receive a first

construction document by May 1, 2029; and, 4) modify the Inclusionary Housing Program Ordinance effective November 1, 2026 to reduce applicable fees, and on-site or off-site unit requirements, for projects that exceed a stated unit size; and which would amend the Administrative Code to update the Inclusionary Housing Technical Advisory Committee member requirements.

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 13, 2023; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

Therefore, be it MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission’s proposed recommendations are as follows:

1. Apply the reductions of Section 415A and 415B to inclusionary projects of all sizes, not only to projects with 25 units or more.
2. Authorize temporary rate reductions for pipeline projects that have used the HOME-SF Program.
3. Standardize deadlines within the various rate reduction programs and between the Inclusionary Affordable Housing Program and other standard timelines:
  - A. Establish the same deadline (May 1, 2029) to obtain a First Construction Document for all projects seeking temporary reductions in the inclusionary rates pursuant to Sections 415A and 415B.
  - B. Establish the same deadline (May 1, 2029) to obtain First Construction Document for all projects seeking temporary reductions in development impact fees.
  - C. Remove the requirement for all projects to obtain a site permit within 30 months of approval to vest their Inclusionary rate (Planning Code Section 415.6(a)(13)).
4. Remove the requirement for two or more people to occupy middle-income units (110% AMI for



- rental and 130% AMI for ownership) from Planning Code Section 415.6(a)(2) and 415.6(a)(3).
5. Remove the on-site, off-site, and fee rates set forth in Planning Code Section 419 for the Urban Mixed-Use District for all projects (Pipeline Projects under 415A, interim rate projects under 415B and any projects with Final Approval after November 1, 2026 that are subject to Section 415).
  6. Simplify the requirements set forth in the Divisadero NCT (Planning Code Section 428) by removing the distinction for projects that were upzoned through the creation of the Divisadero NCT.
  7. Modify Section 415.3, 415.5, 415.6, and 415.7 to maintain the same on-site, off-site and fee rates for both Rental Housing Projects and Ownership Housing Projects beginning November 1, 2026.
  8. Modify Section 415.6(a)(5) to remove the annual increases from the Inclusionary Affordable Housing Program which are set to begin on January 1, 2028.
  9. Correct the proposed Citywide Fee/Off-site rate for Interim Rate Projects to 20.4%, instead of 20.5%, and adjust the low-income tier to 11.4% instead of 11.5%.

## **Findings**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

San Francisco's Inclusionary Affordable Housing Program is intended to help address the demonstrated need for affordable housing in San Francisco. As rents and sales prices for housing outpace what is affordable to the typical San Francisco family, the City faces a continuing shortage of affordable housing for all but households with the highest incomes.

San Francisco is facing a shortage of all types of housing. To meet San Francisco's share of the regional need for housing between 2023-2031, the City must accommodate over 82,000 units, including 32,881 units for extremely low, very-low and low- income households, and 49,188 units for moderate and above-moderate income households. The Inclusionary Housing Program is an important part of the City's overall strategy for providing affordable housing to very-low, low- moderate-, and middle-income households, and has created more than 3,300 units since its inception. But the success of the Inclusionary Housing Program is contingent on the overall feasibility of residential development. For that reason, Planning Code Section 415.10 requires periodic review of the program's requirements.

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

The Controller and TAC found that none of the development prototypes studied were financially feasible at the current inclusionary housing rates in the Planning Code. Most prototypes studied had significant negative land

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

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

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

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

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

The recommended modifications from the Planning Commission are intended to continue to improve the feasibility of residential projects and would further streamline implementation of the inclusionary program.

## **General Plan Compliance**

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

### **HOUSING ELEMENT**

#### **POLICY 5**

**IMPROVE ACCESS TO THE AVAILABLE AFFORDABLE RENTAL AND HOMEOWNERSHIP UNITS ESPECIALLY FOR DISPROPORTIONATELY UNDERSERVED RACIAL AND SOCIAL GROUPS.**

## POLICY 24

ENABLE MIXED-INCOME DEVELOPMENT PROJECTS TO MAXIMIZE THE NUMBER OF PERMANENTLY AFFORDABLE HOUSING UNITS CONSTRUCTED, IN BALANCE WITH DELIVERING OTHER PERMANENT COMMUNITY BENEFITS THAT ADVANCE RACIAL AND SOCIAL EQUITY.

### Implementing Action Section 1.3 – Inclusionary Housing

Action 1.3.2: Through the Controller’s Office triennial study of financial feasibility of the Inclusionary housing Program including feedback from the Technical Advisory Committee, assess by 2024 whether affordability levels of rental and ownership units created through the program could be made accessible to lower income groups in balance with ensuring financial feasibility as referenced in Action 1.3.1.

Action 1.3.3: Assess inclusionary tiers to address constraints on housing development including financial feasibility, to increase certainty for housing projects, to ensure that inclusionary requirements do not impede or undermine use of State Density Bonus Law, and to reduce staff time and need for specific expertise. Changes to inclusionary tiers should improve or maintain average affordability of inclusionary housing units. Changes to inclusionary tiers and their requirements should retain or expand the percentage of units required, including with consideration to rents, purchase prices, and HOA fees.

Action 1.3.6: Prioritize achieving the maximum number of permanently affordable housing units at lower- and moderate-incomes that are financially feasible, as an essential benefit of new mixed-use development agreements alongside other benefits such as community facilities and transit investments

Action 1.3.9: Ensure that implementation of the City’s inclusionary ordinance for State Density Bonus projects does not undermine the feasibility of projects that already provide affordable units and are consistent with State Density Bonus Law.

- For projects already providing affordable housing through State Density Bonus Law, consider applying the inclusionary tier and requirement to the base project to increase the financial feasibility of smaller density bonus projects.
- Allow greater flexibility for projects that invoke State Density Bonus Law by allowing more deeply affordable units to be counted toward the affordability tiers required under the inclusionary ordinance.
- Study the applicability of the Affordable Housing Fee to bonus projects, evaluating its impacts on project feasibility and affordable housing production. Based on the findings of this study, take action to mitigate impacts of the Affordable Housing Fee program.

### Implementing Action Section 8.9 – Post-Entitlement Permitting and Pipeline Support

*The inclusionary affordable housing program is an important policy to facilitate the construction of housing that is affordable low- and moderate-income households without public subsidy; however, the production of affordable units can only occur if market-rate projects can move forward. As described in the Background Section, the Controller and TAC have found that residential development with the current inclusionary rates is infeasible under current economic conditions. The Ordinance aims to improve the feasibility of residential development by temporarily reducing inclusionary rates and other development impact fees. The proposed reductions are consistent with Policy 24 of the Housing Element, to enable mixed-income projects to maximize affordability in*

*balance with delivering other community benefits that advance racial and social equity, and with Policy 5, to improve access to available affordable units for disproportionately underserved racial and social groups.*

*The Housing Element of the General Plan includes set of Implementing Programs that San Francisco may undertake to implement the policies set forth in the Housing Element and to achieve its goals and objectives. Section 1.3 of the Implementing Programs sets forth policy recommendations related to the Inclusionary Housing Program. This Ordinance would implement Action No. 1.3.2, which instructs the City to consider feedback from the Controller's triennial feasibility study, with input from the TAC, to assess whether the inclusionary affordable housing program can provide access to affordable housing in balance with ensuring financial feasibility. The Ordinance would also implement Action No. 1.3.6 to prioritize achieving the maximum number of affordable units alongside other community benefits, and Action Nos. 1.3.3 and 1.3.9, which ensures that the inclusionary ordinance, along with any modification of the affordability tiers, does not undermine the feasibility of projects that are consistent with the State Density Bonus Law. The proposal to provide an administrative process for Pipeline Projects to modify their affordability and impact fees is also consistent with the general goals of Implementing Program No. 8.9 to provide support to pipeline projects and improve post-entitlement processes.*

#### **POLICY 26**

**STREAMLINE AND SIMPLIFY PERMIT PROCESSES TO PROVIDE MORE EQUITABLE ACCESS TO THE APPLICATION PROCESS, IMPROVE CERTAINTY OF OUTCOMES, AND ENSURE MEETING STATE- AND LOCAL-REQUIRED TIMELINES, ESPECIALLY FOR 100% AFFORDABLE HOUSING AND SHELTER PROJECTS.**

#### **Implementing Action Section 8.4 – Process and Permit Procedures**

**Action No. 8.4.19:** Whenever Planning Code amendments or revisions are proposed, advocate for ensure and promote simpler or an overall reduction of rules that affect housing approvals to reduce the specific or institutional knowledge needed by City staff, applicants, and members of the public to increase accessibility.

Housing Element Policy No. 26 directs the City to Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State- and local-required timelines, especially for 100% affordable housing and shelter projects. This policy is reiterated in Implementation Action No. 8.4.19, directs the Department to advocate for simpler rules and/or an overall reduction in regulations that affect housing approvals, which in turn would reduce the specific or institutional knowledge required by City staff, applicants, and members of the public to engage with the information. The Ordinance proposes to simplify the program in some respects, however, the recommendations adopted by the Planning Commission suggest additional actions which would support this action of the Housing Element.

#### **Planning Code Section 101 Findings**

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities

for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on existing housing or neighborhood character. Projects that would benefit from development impact fee reductions may become feasible, and may further activate soft sites or vacant sites. Aside from stabilization efforts, the Inclusionary Program is an important tool to maintain economic diversity in our neighborhoods. Not only does the proposed Ordinance preserve cultural and economic diversity by ensuring a mix of income levels in new construction, but it also furthers this goal by further diversifying Well-resources neighborhoods with mixed-income housing.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance proposes temporary streamlining and impact fee rate reductions to improve the feasibility of residential development, which enhances the affordability of housing by adding to the housing stock. Reductions in the inclusionary requirements balance the need for feasible residential development while also providing affordable housing without City subsidy, either through the construction of affordable units or payment of fees to construct affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

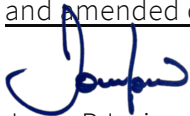
**Planning Code Section 302 Findings.**

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby DELEGATES its authority to modify the conditions of approval, conditions on a project permit, or notice of special restrictions of a Pipeline Project, as that term is defined in Planning Code section 415A.2, to the Planning Department, pursuant to the administrative modification procedures and requirements in Planning Code section 415A.5(b), provided such procedures and requirements are duly enacted by law. The Department is authorized to include any then-current standard conditions of approval in any modified approval for such Pipeline Projects; and

BE IT FURTHER RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 13, 2023 and amended on July 14, 2023.



Jonas P. Ionin  
Commission Secretary

AYES: Braun, Ruiz, Diamond, Koppel, Tanner

NOES: Imperial

ABSENT: Moore

ADOPTED: July 13, 2023

AMENDED: July 14, 2023

to vest their Inclusionary rate (Planning Code Section 415.6(a)(13)).

4. Remove the requirement for two or more people to occupy middle-income units (110% AMI for rental and 130% AMI for ownership) from Planning Code Section 415.6(a)(2) and 415.6(a)(3).
5. Remove the on-site, off-site, and fee rates set forth in Planning Code Section 419 for the Urban Mixed-Use District for all projects (Pipeline Projects under 415A, interim rate projects under 415B and any projects with Final Approval after November 1, 2026, that are subject to Section 415).
6. Simplify the requirements set forth in the Divisadero NCT (Planning Code Section 428) by removing the distinction for projects that were upzoned through the creation of the Divisadero NCT.
7. Modify Section 415.3, 415.5, 415.6, and 415.7 to maintain the same on-site, off-site and fee rates for both Rental Housing Projects and Ownership Housing Projects beginning November 1, 2026.
8. Modify Section 415.6(a)(5) to remove the annual increases from the Inclusionary Affordable Housing Program which are set to begin on January 1, 2028.
9. Correct the proposed Citywide Fee/Off-site rate for Interim Rate Projects to 20.4%, instead of 20.5%, and adjust the low-income tier to 11.4% instead of 11.5%.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

President Peskin, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,



Aaron D. Starr  
*Manager of Legislative Affairs*

cc: Audrey Pearson, Deputy City Attorney  
Sunny Angulo, Aide to Supervisor Peskin  
Erica Major, Office of the Clerk of the Board

**Attachments :**

Planning Commission Resolution  
Planning Department Executive Summary



# EXECUTIVE SUMMARY

## PLANNING CODE TEXT AMENDMENT

**HEARING DATE: JULY 13, 2023**

**90-Day Deadline:** September 25, 2023

**Project Name:** Development Impact Fee Reductions  
**Case Number:** 2023-005422PCA, Board File No. 230769  
**Initiated by:** Supervisors Peskin; Safai / Introduced June 27, 2023  
**Staff Contact:** Carly Grob, Senior Planner, Current Planning  
carly.grob@sfgov.org, 628-652-7532  
**Reviewed by:** Kate Conner, Manager of Housing Implementation  
kate.conner@sfgov.org, 628-652-7535

**Recommendation:** Approval with Modifications

### Planning Code Amendment

The proposed Ordinance would amend the Planning Code to 1) reduce Inclusionary Housing Program requirements of the Planning Code, for projects exceeding a stated unit size that have been approved prior to November 1, 2023 and that receive a construction document within a specified period, 2) adopt a process for those projects to request a modification of conditions of approval related to development impact fees, subject to delegation by the Planning Commission, 3) reduce Article 4 development impact fees, including the Affordable Housing fees, for projects approved before November 1, 2026 that receive a construction document within 30 months of entitlement, and 4) modify the Inclusionary Housing Program Ordinance effective November 1, 2026 to reduce applicable fee and on-site or off-site unit requirements for projects that exceed a stated unit size. The proposed Ordinance would also amend Article XXIX of the Administrative Code to update the Inclusionary Housing Technical Advisory Committee member requirements.

#### The Way It Is Now:

##### Inclusionary Affordable Housing Program

The Inclusionary Affordable Housing Ordinance, Planning Code section 415 et seq., applies to new market-rate housing developments of 10 units or more. There are several ways a developer can comply with the ordinance: a



developer can pay a fee to the City, which the City uses to construct affordable housing, or a developer can choose to comply with the ordinance by providing affordable units within the new development (on-site units) or on in a separate building (off-site units). The inclusionary requirement for a project is determined by four factors: 1) the tenure of the project, 2) the date that the Project Application (PRJ) is deemed complete, 3) the location of the project (zoning district), and 4) the project size, including both the number of units and the project height. On-site requirements range from 12% to 27% of the total number of units in the project; the off-site requirement ranges from 20% to 33% of the total number of units in the project. When a developer pays the fee, the City calculates the fee by multiplying the off-site inclusionary obligation (number of units) by the “affordability gap” – the amount of subsidy the Mayor’s Office of Housing and Community Development needs to finance the construction of a unit of affordable housing.

The current citywide inclusionary requirements are as follows:

	Small projects (10-24 units) rental and ownership	Rental projects with 25+ units	Ownership projects with 25+ units
On-Site Rate	15%	22%	24%
Low Income Tier	15%	12% at 55% AMI	12% at 80% AMI
Moderate Income Tier	0%	5% at 80% AMI	6% at 105% AMI
Middle Income Tier	0%	5% at 110% AMI	6% at 130% AMI
Fee/Off-Site Rate	20%	30%	33%

The current Citywide inclusionary requirements were originally established in 2017 and include a legislatively set increase each year (currently .5% per year). Similarly, the amount of the fee per square foot is set each year based on the cost of constructing affordable housing. Requirements in specific geographic areas can vary, but generally are slightly higher than Citywide rates.<sup>1</sup> The higher of the citywide rate or the geographically specific inclusionary rate applies.

### Approval Process

Inclusionary housing requirements become conditions on a project approval. If the Planning Commission approved a development, the Planning Commission must modify the conditions of approvals, although the Zoning Administrator has authority to allow changes to project plans or minor modifications to conditions. Most projects are required to obtain a building or site permit within 36 months from project approval; projects that fail to meet this deadline must request an extension from the Planning Commission. Projects that have not obtained a building or site permit within 30 months of project approval are subject to the inclusionary rates at the time a building permit is procured.

The State Density Bonus law, implemented in Planning Code section 206.6, allows projects that provide specified amounts of on-site affordable units to receive an increase in the number of total dwellings units, and

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<sup>1</sup> Zoning Districts/Geographic Areas with unique inclusionary rates that would be reduced by this Ordinance include the North of Market Residential SUD, Mission Area Plan, SoMa NCT District, Divisadero NCT, and Urban Mixed-Use District. This Ordinance does not modify development agreement projects, which are usually subject to negotiated affordable housing requirements.

concessions and incentives, and waivers of development standards. On-site units provided under the Inclusionary Housing Ordinance can be used to qualify for a density bonus under State Law. Under State Density Bonus law, projects can receive up to a 50% increase in density and between one and four concessions and incentives depending on the amount of affordable housing provided and the level of affordability. The City must waive any development standard that would preclude the construction of the project at the density allowed and with the concessions and incentives requested. The Planning Commission must adopt findings that a project is eligible for the requested density bonus, concessions and incentives, and waivers. Projects may request, as an incentive, that units at lower income tiers (e.g. 50% AMI) count towards the Inclusionary Program's requirement to provide units at higher tiers (e.g. 80% AMI). Conditions of approval for a density bonus project will include findings related to the amount of density bonus, eligibility for concessions, incentives and waivers, and the income tiers of the inclusionary units.

### **Development Impact Fees**

San Francisco assesses development impact fees on residential and non-residential projects for various public purposes, including fees for transit, parks, public infrastructure, and art. Development impact fees are set forth in Article 4 of the Planning Code.

### **Inclusionary Housing Technical Advisory Committee**

Planning Code section 415.10 requires the Controller, in consultation with the Inclusionary Housing Technical Advisory Committee (TAC), to conduct a feasibility study of San Francisco's inclusionary housing requirements every three years. The TAC, established in Administrative Code Section 5.29, is a policy body created to advise the Controller and the Board about the Inclusionary Ordinance. Members of the TAC are appointed by the Board or the Mayor, and serve for a limited term; members are appointed in anticipation of the three-year economic feasibility analysis, and their term ends three months after the study is finalized.

## The Way It Would Be:

The Ordinance results in the following changes to the Planning Code and Administrative Code:

**Reduction in Inclusionary Requirements for Previously Approved Projects (Pipeline Projects).** The Ordinance creates Planning Code Section 415A which establishes a temporary reduction of the Inclusionary Affordable Housing Program requirements for Pipeline Projects with 25 units or more.

1. Pipeline Projects are those that are subject to the Inclusionary Affordable Housing Ordinance, Planning Code Section 415.1 et seq., and Finally Approved prior to November 1, 2023, but have not been issued a First Construction Document. Final Approval is defined as 1) the date that a project's first Development Application is approved; or 2) if a project only requires a building permit, the date the first site or building permit is issued; or 3) if the first Development Application or first site or building permit is appealed, then the date the appeal of that approval or issuance is finally decided by the relevant City Board or Commission. "Finally Approved" or "Final Approval" does not include any modification of the approval under Section 415A.5.
2. Affordable Housing Fee and Off-Site Alternative rates for Pipeline Projects that are subject to the Citywide rates are reduced to 16.4%, or to 54.5% of the applicable fee rate for Rental Housing Projects set forth in a Special Use District, Area Plan, or other section of the Code, whichever is higher. Off-site units would be required at three tiers: 9.4% at low income, 4% at moderate income, and 3% at middle income.
3. On-Site Alternative rates for Pipeline Projects are reduced to 12% or to 54.5% of the applicable fee rate for Rental Housing Projects set forth in a Special Use District, Area Plan, or other section of the Code, whichever is higher. On-site units subject to the Citywide rate would be required at three tiers: 8% at low income, 2% at moderate income, and 2% at middle income.
4. The Planning Commission may delegate their authority to the Planning Department to administratively modify certain conditions of approval and to extend the deadlines included in the validity, expiration and renewal, and diligent pursuit conditions ("performance period") for Pipeline Projects. If the Commission delegates authority to the Department, the Department could modify the on-site, off-site, or fee rate, could extend the performance period, and to make any findings related to eligibility for State Density Bonus incentives and concessions or waivers. A Planning Commission hearing and approval would be required for significant modifications, which include 1) changes to the number of units by 20% or more, 2) changes to the Gross Floor Area of the project by 10% or more, or 3) changes from dwelling units to group housing rooms.
5. Pipeline Projects must seek a modification to their inclusionary requirements prior to November 1, 2026. Projects with modified affordable housing requirements under Section 415A must obtain a First Construction Document no later than May 1, 2029, or will be subject to the applicable rate in effect at that time.

**Temporary Reduction in Inclusionary Requirements for New Projects ("Interim Rate Projects").** The Ordinance creates Planning Code Section 415B, which establishes reduced Inclusionary Affordable Housing Program requirements for projects with 25 units or more which are finally approved after November 1, 2023,

and prior to November 1, 2026 (“interim rate projects”).

1. Affordable Housing Fee and Off-Site Alternative rates for interim rate projects that are subject to Citywide rates are reduced to 20.5%, or to 68% of the applicable fee rate for Rental Housing Projects set forth in a Special Use District, Area Plan, or other section of the Code, whichever is higher. Off-site units provided at Citywide rates would be required at three tiers: 11.5% at low income, 5% at moderate income, and 4% at middle income.
2. On-Site Alternative rates for interim rate projects subject to the Citywide rates are reduced to 15%, or at 68% of the applicable fee rate for Rental Housing Projects set forth in a Special Use District, Area Plan, or other section of the Code, whichever is higher. On-site units provided at Citywide rates would be required at three tiers: 10% at low income, 2.5% at moderate income, and 2.5% at middle income.
3. Interim rate projects must obtain their First Construction Document within 30 months of Final Approval, or would be subject to the inclusionary rate in effect at the time the First Construction Document is issued.

**No Annual Increase to Inclusionary Rate (other than indexing).** Between November 1, 2023, and November 1, 2026, the inclusionary per-square-foot fees would not automatically increase pursuant to the set schedule, and any increase in the inclusionary housing fee based on affordability gap would be capped at 2%.

**Reduction in Other Development Impact Fees for Previously Approved and New Projects.** The Ordinance amends Planning Code Section 403 to reduce development impact fees for any project that was approved on or before November 1, 2026. Except for Inclusionary Affordable Housing Program obligations set forth in Planning Code Sections 415, 419, or 428, all development impact fees in Article 4 would be discounted by 33%. To remain eligible for the discount, projects must obtain their First Construction Document within 30 months of final approval, except that Pipeline Projects must obtain the First Construction Document by May 1, 2029. If a project does not meet the deadline to obtain a First Construction Document, then the project will be required to pay 100% of the required fees without a discount.

**Inclusionary Housing Technical Advisory Committee.** The ordinance would also update the findings in Planning Code Section 415.10 related to the Controller’s report to the Board of Supervisors on the Inclusionary program’s requirements, and amend the Administrative Code creating the Inclusionary Housing Technical Advisory Committee, to allow members of the committee, which serve at the pleasure of the appointing member, to serve for an unlimited term. The ordinance would require the TAC to convene again, no later than January 1, 2026.

**Future Inclusionary Housing Rates.** The Ordinance makes amendments to Planning Code Section 415 which would become effective on November 2, 2026, unless further amendments are adopted prior to that date:

1. Sets Citywide Affordable Housing Fee at 24.5% for Rental Housing Projects with 25 units or more, and at 27% for Ownership Housing Projects with 25 units or more. The affordable housing fee for projects with 10-24 units would remain unchanged at 20%.
2. Sets the Citywide on-site rate at 18% (10% at low income, 4% at moderate income, and 4% at middle income) for Rental Housing Projects with 25 units or more, and at 20% (10% at low income, 5% at moderate

income, and 5% at middle income) for Ownership Housing Projects with 25 units or more. The on-site rate for projects with 10-24 units would remain unchanged at 15% with all units at low income.

- a. On-site rates for projects with more than 25 units will increase by 0.5% annually beginning on January 1, 2028. The first two years of increases will be allocated to the lowest income tier. Annual increases on or after January 1, 2030 will be split between the moderate and middle income tiers.
3. Sets the Citywide off-site rate at 24.5% (12.5% at low income, 6% at moderate income, and 6% at middle income) for Rental Housing Projects with 25 units or more, and at 27% (12% at low income, 7.5% at moderate income, and 7.5% at middle income) for Ownership Housing Projects with 25 units or more. The off-site rate would remain unchanged at 20% for project with 10-24 units with all units at low income.
4. Lowers rates for grandfathered projects, carve-out areas, UMU (Section 419) and Divisadero NCT (Section 428) at a discount ranging approximately 15-18%.<sup>2</sup> Specific rates for these projects are identified in the chart included as Exhibit D.
5. Outdated references are removed, including those that reference the most recent TAC process, and that urge project sponsors to provide 25% on-site affordable units if using the State Density Bonus Law.

## Background

From October 2022 through April 2023, per the requirements in Planning Code Section 415.10, the Controller and the Affordable Housing Technical Advisory Committee (TAC) met four times to conduct and review a feasibility study of the City's inclusionary affordable housing obligations. This feasibility study studied five condominium prototypes and five apartment prototypes and considered key economic parameters, such as: interest rates, capitalization rates, land prices, construction costs, rents, and sale prices. The prototypes were selected because they represent the types of residential development that are common in San Francisco and that account for most of the housing production in the city.

The Controller and the TAC presented their findings at the second meeting on January 6, 2023. They found that none of the development prototypes studied were financially feasible at the current inclusionary housing rates required by the Planning Code. Each prototype studied had significant negative land value, indicating that the prototype would not be financeable, even setting aside the cost of land. The finding that these prototypes are not feasible indicates that residential development is, broadly speaking, not financially feasible under current economic conditions.

At the third meeting on March 10, 2023, in response to the finding that none of the prototypes were financially feasible under the current inclusionary rates. The TAC found that certain mid- and low-rise condominium projects were feasible at reduced levels, but the high-rise condominium projects and all rental projects remained infeasible. The TAC adopted a recommendation to reduce the on-site inclusionary requirement to 12%- 16% and to reduce the affordable housing fee rate to 22%-29%. Setting rates at the lower ends of these ranges would improve the feasibility of mid-rise projects. The TAC also recommended that policymakers consider lowering rates for both approved projects and new projects. The Controller submitted a Technical Advisory Committee

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<sup>2</sup> Calculated as  $X/22 \times 18$  where X is the current rate.

Report to the Board of Supervisors summarizing the feasibility analysis and recommendations on June 30, 2023, which is included as Exhibit E.

## Issues and Considerations

The proposed Ordinance complements another piece of proposed legislation (2023-005461PCA / BF 230764, also before the Commission on July 13) that would make changes to the way that the City sets, imposes, and collects impact fees. Importantly, it creates predictability and stability by setting a flat rate at which impact fees increase over time, assigns and stabilizes fees upon project approval, and reinstates a fee deferral program to allow projects to pay their fees immediately prior to the project being ready for occupancy. The legislation also waives fees for certain commercial developments as part of the City's economic recovery efforts.

### Housing Affordability

One of the primary goals of the proposed ordinance is to improve the feasibility of residential development in San Francisco, which is consistent with the policies in the City's Housing Element and contributes to the City's state-mandated housing production targets. Improving the feasibility of residential development increases market-rate and affordable housing stock, both directly through the provision of affordable units in mixed-income housing, and indirectly by using the Affordable Housing Fee to fund development of more deeply affordable housing projects.

### General Plan Compliance

The inclusionary affordable housing program is an important policy to facilitate the construction of housing that is affordable low- and moderate-income households without public subsidy; however, the production of affordable units can only occur if market-rate projects can move forward. As described in the Background Section, the Controller and TAC have found that residential development with the current inclusionary rates is infeasible under current economic conditions. The Ordinance aims to improve the feasibility of residential development by temporarily reducing inclusionary rates and other development impact fees. The proposed reductions are consistent with Policy 24 of the Housing Element, to enable mixed-income projects to maximize affordability in balance with delivering other community benefits that advance racial and social equity, and with Policy 5, to improve access to available affordable units for disproportionately underserved racial and social groups.

The Housing Element of the General Plan includes a set of Implementing Programs that San Francisco may undertake to implement the policies set forth in the Housing Element and to achieve its goals and objectives. Section 1.3 of the Implementing Programs sets forth policy recommendations related to the Inclusionary Affordable Housing Program. This Ordinance would implement Action No. 1.3.2, which instructs the City to consider feedback from the Controller's triennial feasibility study, with input from the TAC, to assess whether the inclusionary affordable housing program can provide access to affordable housing in balance with ensuring financial feasibility. The Ordinance would also implement Action No. 1.3.6 to prioritize achieving the maximum number of affordable units alongside other community benefits, and Action Nos. 1.3.3 and 1.3.9, which ensures that the inclusionary ordinance, along with any modification of the affordability tiers, does not undermine the feasibility of projects that are consistent with the State Density Bonus Law. The proposal to provide an administrative process for Pipeline Projects to modify their affordability and impact fees is also consistent with the general goals of Implementing Program No. 8.9 to provide support to pipeline projects and improve post-entitlement processes.

Housing Element Policy No. 26 directs the City to Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State- and local-required timelines, especially for 100% affordable housing and shelter projects. This policy is reiterated in Implementation Action No. 8.4.19, directs the Department to advocate for simpler rules and/or an overall reduction in regulations that affect housing approvals, which in turn would reduce the specific or institutional knowledge required by City staff, applicants, and members of the public to engage with the information. The Ordinance proposes to simplify the program in some respects; however, the recommendations below suggest additional actions which would support this action of the Housing Element.

### **Racial and Social Equity Analysis**

The Planning Code amendments in the proposed Ordinance to facilitate mid- to large-scale residential development that maximizes affordable housing while also balancing feasibility and the provision of other community benefits. The Inclusionary Affordable Housing Program is one of the tools the City has to improve racial and social equity. Improving the feasibility of residential developments that are subject to the inclusionary program results in more affordable units that are available to disproportionately underserved racial and social groups. These affordable units may be constructed within market rate residential projects, and when taken in conjunction with other policies, facilitates integrated, mixed income communities, especially when inclusionary projects are constructed in well-resourced neighborhoods. Affordable Housing Fees are used to facilitate the development of more deeply affordable housing, available to individuals and households that are most vulnerable to eviction, displacement, and homelessness. Simplification of the inclusionary program also reduces the specific knowledge that a person needs to engage with the information, making the program more accessible to a broader range of people.

### **Implementation**

Department staff will undertake the following actions to implement this Ordinance:

- Modify and improve existing procedures to specifically track projects that receive temporary reductions under Sections 415A, 415B and 403.
- Increased coordination with DBI Fee Collection Unit, which includes establishing a process to flag projects in the DBI fee tracking system. The goal is to copy the Planning Department in the issuance of the impact fee invoice so staff can confirm that the project has not passed the deadline to obtain a First Construction Document.
- Prepare internal and external resources, such as revised affidavit of compliance, and conditions of approval.
- In the forthcoming release of the estimated construction timeline survey, the Department will provide notice to projects that may be eligible for temporary reductions.
- Most projects currently require a Planning Commission hearing to modify the inclusionary conditions of approval. Sponsors must either submit an entitlement application to amend their conditions (CUA, ENX,

DNX), with a current application fee of \$1,456, or if a project did not require an entitlement, like in CRV cases, it must submit a Mandatory Discretionary Review Application, with a current application fee of \$4,807. If a Pipeline Project is seeking to modify the conditions of approval administratively, the Department will apply the application fee for an amendment to conditions of approval (currently \$1,458) regardless of whether the project was originally approved through an entitlement or CRV.

- In instances where a geographically specific on-site or off-site rate is equal to the Citywide on-site or off-site rate, or where the Citywide rate has exceeded the geographically specific rate, the Department will apply the tier requirements of the Citywide rate to the project. If the geographically specific rate is higher than the Citywide rate, then the Department will apply the applicable reduction to each of the tiers, unless otherwise specified by the Planning Code.
- The Ordinance defines a significant modification to a Pipeline Project which would require a Commission hearing and could not be delegated to the Planning Department. This Ordinance does not remove or change Zoning Administrator has powers to determine if a project constitutes a significant change. Additional discussion of implementation is included in the Basis for Recommendations section below.

## Recommendation

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

### Increase the number of projects eligible for Inclusionary Rate Reductions

1. Apply the reductions of Section 415A and 415B to inclusionary projects of all sizes, not only to projects with 25 units or more.
2. Authorize temporary rate reductions for pipeline projects that have used the HOME-SF Program.

### Standardize Deadlines

3. Standardize deadlines within the various rate reduction programs and between the Inclusionary Affordable Housing Program and other standard timelines:
  - A) Establish the same deadline (May 1, 2029) to obtain a First Construction Document for all projects seeking temporary reductions in the inclusionary rates pursuant to Sections 415A and 415B;
  - B) Establish the same deadline (May 1, 2029) to obtain First Construction Document for all projects seeking temporary reductions in development impact fees.
  - C) Remove the requirement for all projects to obtain a site permit within 30 months of approval to vest



their Inclusionary rate (Planning Code Section 415.6(a)(13)).

### Simplify the Inclusionary Program

4. Remove the requirement for two or more people to occupy middle-income units (110% AMI for rental and 130% AMI for ownership) from Planning Code Section 415.6(a)(2) and 415.6(a)(3).
5. Remove the on-site, off-site, and fee rates set forth in Planning Code Section 419 for the Urban Mixed-Use District for all projects (Pipeline Projects under 415A, interim rate projects under 415B and any projects with Final Approval after November 1, 2026 that are subject to Section 415).
6. Simplify the requirements set forth in the Divisadero NCT (Planning Code Section 428) by removing the distinction for projects that were upzoned through the creation of the Divisadero NCT.
7. Modify Section 415.3, 415.5, 415.6, and 415.7 to maintain the same on-site, off-site and fee rates for both Rental Housing Projects and Ownership Housing Projects beginning November 1, 2026.
8. Modify Section 415.6(a)(5) to remove the annual increases from the Inclusionary Affordable Housing Program which are set to begin on January 1, 2028.

### Corrections and Clean-up

9. Correct the proposed Citywide Fee/Off-site rate for Interim Rate Projects to 20.4%, instead of 20.5%, and adjust the low-income tier to 11.4% instead of 11.5%.

### Basis for Recommendation

The Department generally supports the Ordinance as it improves the feasibility of development, contributes to the City's economic recovery and ability to meet our housing production goals. The recommended modifications are intended to continue to improve the feasibility of residential projects and would further streamline implementation of the inclusionary program.

### Increase the number of projects eligible for Inclusionary Rate Reductions

Make temporary rate reductions available to the broadest set of projects possible.

1. **Expand the Ordinance to include temporary reductions in the inclusionary rate for projects that include 10-24 units ("small projects").** Proposed Planning Code Sections 415A and 415B only apply to projects that include 25 units or more ("large projects"), but the Inclusionary Affordable Housing Program applies to projects with 10 units or more. The Department recommends that the Ordinance apply the interim rates set forth in 415A and 415B, including the three required tiers, to inclusionary projects of all sizes for the following reasons:
  - The current on-site rate for small projects is 15% and the current fee/off-site rate is 20%. Section 415A sets on-site rates for Pipeline Projects at 12% on-site and 16.4% fee/off-site, which means that the inclusionary rates for small Pipeline Projects would be *greater* than the inclusionary rates for

large Pipeline Projects.

- Large projects are required to provide affordable units at three tiers, ranging from 55% AMI to 110% AMI for Rental Housing Projects, and from 80% AMI to 130% AMI for Ownership Housing Projects. The requirement to provide a range of affordability levels is also included in Sections 415A and Section 415B in the Ordinance. Currently, small projects are only required to provide affordable units at one income level: 55% AMI if rental, or 80% AMI if ownership. Even if the inclusionary rates are the same for small and large projects, small projects would be required to provide more deeply affordable units, and could not capture the increased revenue from the moderate- and middle-income units with higher rents or sales prices, reducing the feasibility of small projects.
  - Affordable units make up a larger proportion of the overall number of units in a small project. Minor rate reductions and/or the introduction of tiers may have the greatest positive impact on the feasibility of small projects.
  - Lower rates for small projects may encourage development of small and mid-rise multifamily residential projects in Well-Resourced Neighborhoods and close to transit, which would be consistent with Policy 20 of the Housing Element.
  - It is common to see projects that have only 24 units on sites that may be able to accommodate more density, as developers do not want to trigger the higher on-site requirement for projects of 25 or more units. For projects seeking approval under 415B, having the same applicable rate to small and large projects facilitate denser projects in small and mid-rise multifamily projects.
2. **Expand the Ordinance to include temporary reductions for projects using HOME-SF.** The Ordinance establishes Planning Code Section 415A, which provides a 45.5% reduction in the inclusionary rates for Pipeline Projects, and Planning Code Section 415B, which provides a 32% reduction in the inclusionary rates for new projects. HOME-SF is the City's local density bonus program, which was established as the preferred alternative to the State Density Bonus Law, and requires projects to provide increased on-site affordable housing in exchange for decontrolled density and other development incentives. HOME-SF projects must provide between 20-30% of units on-site. When adopted, these requirements were slightly higher than the Citywide rates. With the reductions in 415A and 415B, the difference between the Citywide rate and the HOME-SF rate doubles, making the HOME-SF program unattractive in comparison.

The Department recommends extending the temporary reductions of Sections 415A and 415B to the HOME-SF program. A temporary reduction in the HOME-SF rates would increase the viability of projects seeking to use the program, which would not only improve feasibility of development, but also continue to encourage the use of HOME-SF instead of the State Density Bonus Law.

### Standardize Deadlines

Consistency across various deadlines allows projects to better respond to changes in economic conditions and improves implementation of the Inclusionary Affordable Housing Program by reducing administrative and tracking burden.

3. **Establish the same deadline (May 1, 2029) to obtain a First Construction Document for all projects seeking temporary reductions in the inclusionary rates and impact fees.** The most common permitting

path for a development project following entitlement is to first seek a Site Permit, which includes a multi-agency approval at a schematic level. The Site Permit approval is followed by a series of more detailed addenda, which only require review by certain agencies depending on the scope of the addendum. For this common permitting process, the First Construction Document is usually the first addendum issued for the construction of the project after grading and site preparation. The Planning Department does not typically review the First Construction Document, as it often includes technical details outside of the expertise of Planning staff such as foundation or superstructure. First Construction Document. To implement this Ordinance, the Department will need to create a step for Planning Department review.

The Ordinance requires projects seeking reduced inclusionary rates under Section 415B to obtain a First Construction Document within 30 months of final approval, or the project will be subject to the inclusionary rate in effect at the time the project obtains the First Construction Document. The Ordinance includes the same expiration timeline for development impact fee reductions: any project seeking a 33% reduction in impact fees must also obtain First Construction Document within 30 months of final approval, or must pay impact fees in full. The department recommends that ordinance instead establish the same deadline (May 1, 2029) for both Pipeline projects and new projects for 4 reasons.

First, requiring a project to obtain the First Construction Document within 30 months of approval is an extremely aggressive timeline and significantly compresses the permitting timeline for a development project. Almost all entitlements require that a project obtain a site permit within three years of approval. This Ordinance would not only require the project obtain a site permit, but also the First Construction Document six months earlier than the standard performance period.

Second, during the period between site permit issuance and the First Construction Document, project sponsors are working with architects to prepare more detailed structural drawings and are usually seeking construction financing. Especially considering other economic challenges, such as high interest rates, reduced returns, and staff turnover, the city should be providing more time for project sponsors to coordinate the construction of their projects, not less. This timeline also does not account for potential regulatory delays in permit review. If a project is unable to obtain the First Construction Document in 30 months, there could be significant impacts to the economics of the project and add millions of dollars cost to the project late in the development process. Ultimately, this requirement may result in a low number of projects that are able to take advantage of reduced inclusionary rates and impact fee discounts, which undermines the intent of the effort to make development more feasible.

Third, it is counterintuitive to allow Pipeline Projects more time than new projects to get a First Construction Document. Pipeline Projects - those seeking to modify their previous approvals under 415A are not required to obtain their First Construction Document until May 1, 2029. Pipeline Projects are likely to already be working through the Site Permit process and may not need as much time as a project that has not yet been approved to obtain a First Construction Document.

Finally, adopting this recommendation would improve implementation. If Pipeline Projects and interim rate projects, have the same deadline to obtain a construction document, Projects with shorter deadlines than others, or those with rolling deadlines, take more time, as they require increased staff monitoring and revisions to administrative documentation (like NSRs and Regulatory Agreements).

Establishing the same deadline for both types of projects also allow the Department to be proactive in determining which projects may not meet the deadline, allowing staff to work with sponsors to transition back to a non-discounted project well before the issuance of First Construction Document.

The Department recommends the same deadline to obtain the First Construction Document, May 1, 2029, for a project that has a reduced inclusionary requirement under 415B, as well as for projects that are seeking reductions in the development impact fees under Section 403.

**Remove the requirement for all inclusionary projects to obtain a site permit within 30 months of approval to vest their inclusionary rate.** Most Commission entitlements require a project sponsor to obtain a site permit for a development project within three years (36 months) of final approval. Issuance of a site permit is not considered a First Construction Document. Planning Code Section 415.6(a)(13) states that a project's inclusionary rate would expire after 30 months of approval, and the project would be subject to the rate in effect at the time of site permit issuance. Not only is this requirement incongruous with the standard entitlement performance period, this provision of the Code is also challenging to implement, as Planning is often the first to approve a project but is not alerted when a project has been issued a site permit. Strict implementation of this provision usually adds an administrative burden, as planning staff must complete new administrative records for the updated rate prior to site permit issuance. The Department recommends that the 30-month requirement be removed from Section 415.6(a)(13), and the expiration of the inclusionary Rate be included in the standard 36 month performance period for entitlements.

#### **Simplify the Inclusionary Program.**

Simplification of the Planning Code is recommended by the Housing Element, as it not only benefits staff, but also reduces the specific knowledge needed by applicants and members of the public to access information.

4. **Remove the requirement for two or more people to occupy middle-income units (110% AMI for rental and 130% AMI for ownership) from Planning Code Section 415.6(a)(2) and 415.6(a)(3).** The Planning Code currently requires middle-income below market rate units, including studio and one-bedroom units, to be occupied by at least two people. MOHCD has provided data to show that about half of the 56 total rental inclusionary units at and above 110% AMI are occupied by one person. Recent data from MOHCD's market-rate homeownership programs, specifically the down payment assistance loan program, shows that out of the 41 one-bedroom units occupied by the households earning between 120% AMI and 150% AMI, 36 units (88%) were sold to one-person households.<sup>3</sup> This data, although limited, suggests that the current requirement for two-person occupancy does not align with the actual occupancy patterns observed in middle-income units. MOHCD is currently reviewing applications for the first Ownership Housing Project that was constructed under the requirement to provide units at the three income tiers. MOHCD has reviewed about half of the 80 applications for this project and has found no applications for the units priced at the upper tier (130% AMI) that meet the two-person requirement. For developers, this means more staff time is required on the marketing side to locate higher AMI households who may be eligible for middle-income units. If there are no applicants at the price stipulated in the Planning Code, then the developer may be required to lower price of the unit, leading

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<sup>3</sup> These affordable units include units provided through development agreements and inclusionary units, so those occupied by a single person were not subject to the two-person household requirement at the time they were leased.

to revenue losses.

In general, middle-income units have been more challenging to lease or sell since they are priced closer to current market rents and sales prices. While the Planning Code mandates that all inclusionary units be priced at least 20% below fair market rents, there is still not enough incentive for middle-income households to consider inclusionary units as an alternative if they can reasonably afford a non-BMR unit. Keeping the two-person occupancy requirement to these middle-income units, especially for the studio and one-bedroom units, adds another barrier to leasing these units, and is contrary to the demonstrated need for smaller middle-income units suitable for single occupants.

5. **Remove the on-site, off-site, and fee rates set forth in Planning Code Section 419 for the Urban Mixed-Use District.** Projects in the Urban Mixed Use (UMU) District are subject to the inclusionary rates set forth in Planning Code Section 419, which also includes the land dedication and middle-income alternatives for the Eastern Neighborhoods. Sites in the UMU District are sorted into three tiers (Tier A, B, and C) which each have different on-site, off-site, and fee rates. A project is subject to the higher of the citywide rate or the UMU rate.

Projects in areas with different inclusionary requirements may seek a comparable reduction in the applicable rate. Pipeline Projects seeking modification under 415A are eligible for a 45.5% reduction in their inclusionary requirement, so long as the reductions do not result in a rate that is lower than the citywide rate. Interim rate projects seeking approval under Section 415B are eligible for a 32% reduction in the inclusionary requirement.

If the inclusionary rates are reduced for all projects, including small projects, per Recommendation 1, then the citywide rates will exceed the UMU rates for all projects seeking reductions under Section 415A and 415B, and the citywide rates would apply in all cases. After Sections 415A and 415B expire in 2026, the UMU rate is only higher than the citywide rate for two types: 1) the fee rate would be 0.5% higher than citywide rates for small projects on a Tier B UMU site, and 2) the fee rate would be 2.1% higher than citywide rates on a Tier C UMU site. These projects are extremely unlikely to occur, as Tier C sites received the largest height increase under the Eastern Neighborhoods Plan (29 feet, above the baseline 40 feet). The department generally would not see a small project (10-24 units) on Tier C sites that are zoned to accommodate larger projects. In other words, because the site could accommodate more than 24 units, a developer is unlikely to propose a small project.

Removing the on-site, off-site and fee rates specific to the UMU District from Section 419 would simplify the inclusionary program and make it much easier for both department staff and the general public to understand and implement. Since the citywide rate prevails in almost every case, the Department could improve implementation of the program by removing the UMU-specific tiers for on-site, off-site and fee projects. The current Inclusionary Affidavit of Compliance and accompanying charts are included as Exhibit D. If the on-site, off-site, and fee requirements in the UMU District are removed, Department staff can eliminate duplicative portions of Chart B in Sections 1 and 2 (pages 2 and 5).<sup>4</sup>

6. **Simplify the requirements set forth in the Divisadero NCT (Planning Code Section 428) by removing the**

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<sup>4</sup> This recommendation does not propose to remove the Land Dedication Alternative in the Eastern Neighborhoods. The Land Dedication requirements of Section 419, and other related references in other Planning Code Sections, would remain.

distinction for projects that were upzoned through the creation of the Divisadero NCT. The ordinance reduces the Divisadero NCT inclusionary requirements after November 1, 2026 in proportion to the overall reduction in inclusionary rates and in accordance to the ratio  $x/22 \times 18$ , discussed above. The Divisadero NCT requires separate rates for projects based on 1) if they were submitted before or after October 1, 2018, and 2) if the project had received at least a 50% upzoning after establishing the NCT Zoning District. There is currently no established methodology to determine the percentage upzoning on a given parcel. These unique criteria lead to six unique sets of requirements for projects in the Divisadero NCT, which must then be compared to the citywide rates to determine which is higher and would apply to the project. Section 428.3(a) requires a project filed prior to October 1, 2018 on a site that was upzoned more than 50% to provide 20% or 23% on-site, depending on tenure. Section 428.3(b) requires projects filed after October 1, 2018 that have been upzoned to provide 23% on-site, regardless of the tenure. Projects on sites that were not upzoned are subject to the Citywide rates in effect at the time of project submittal. The Department recommends applying one set of requirements to all projects in the NCT, preferably those set forth in 428.3(a) (20%/23% on-site), and removing the requirements of 428.3(b) completely. The proposed rate reductions in Sections 415A and 415B would then be applied to 20% on-site, as the reductions rely on the rate for a large Rental Housing Project.

One way to simplify the Inclusionary Ordinance is to reduce the number of variables needed to determine a project's inclusionary obligation. In addition to the four criteria described in "The Way it Was" section, the Divisadero NCT adds two more: 1) whether a project was upzoned by more than 50% in 2018, and 2) whether the project was submitted before or after October 1, 2018.

The Department's recommendation to remove this distinction does not materially change the overall requirement and would improve implementation by removing the need to analyze whether a parcel had been upzoned by more than 50%, and removing the distinction of when a project was submitted. The Department is aware of two projects that are subject to Section 428, and the underlying rate applied to both projects would not change, except if the sponsors seek a reduction under Section 415A or 415B.

7. **Modify Section 415.3, 415.5, 415.6, and 415.7 to maintain the same on-site, off-site and fee rates for both Rental Housing Projects and Ownership Housing Projects beginning November 1, 2026.** The temporary reductions set forth in Sections 415A and 415B establish a single rate for both Rental Housing Projects and Ownership Housing Projects. The Department supports this consolidation, as it will simplify the implementation of the inclusionary program, making it more accessible to both staff and other stakeholders, consistent with Housing Element policies. As proposed, the citywide on-site requirement that becomes effective after November 1, 2026, reestablishes large project rates based on project tenure (18% on-site and 24.5% fee for rental, 20% on-site and 27% fee for ownership). The Department recommends establishing the same rate for both tenures for any project approved after November 1, 2026.
8. **Recommendation: Modify Section 415.6(a)(5) to remove the annual increases ("the ramp") from the Inclusionary Affordable Housing Program which are set to begin on January 1, 2028.** Section 415.6(a)(5) sets forth an annual increase in inclusionary rates ("the ramp"), creating a mismatch between the text of Section 415 and the actual requirements. For example, Section 415.5 states that the on-site requirement for large rental projects is 18%, but due to the ramp, the actual rate is 22%. The Ordinance proposes to pause the annual increase to the on-site inclusionary rate and to restart the annual increases on January

1, 2028 at the modified rates that become effective in November 2026. The ramp not only adds complexity to the inclusionary program, but it also assumes that residential development will be significantly more feasible in three years. Like other recommendations, the Department recommends that the ordinance be amended to remove the ramp, to simplify the implementation of the program and make it more accessible to staff, developers, and members of the public. In lieu of the annual increases, the Department encourages the TAC, after it convenes again in 2026, to recommend how the inclusionary program can respond more quickly and dynamically to economic shifts.

### Corrections and Clean-up

9. **Correct the proposed Citywide Fee/Off-site rate for Interim Rate Projects to 20.4%, instead of 20.5%, and adjust the low-income tier to 11.4% instead of 11.5%.** Interim rate projects are eligible for a 32% reduction in the applicable inclusionary rate. As applied, a 32% rate reduction is equal to 20.4%, not 20.5%, which is currently included in the Ordinance. This recommendation is intended to correct what is an assumed miscalculation, and to ensure consistency in implementation for projects that are currently subject to the same requirements. For example, an interim rate project in the North of Market Residential SUD would be eligible for a 32% reduction of the applicable 30% fee rate, or 20.4%. The Citywide off-site/fee rate for a large rental project is currently 30%, and should also be eligible for the same reduction.

## Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

## Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

## Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

### Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 230769
- Exhibit C: Current Inclusionary Affordable Housing Affidavit dated January 10, 2022
- Exhibit D: Draft updates to the Inclusionary Affordable Housing Affidavit charts, including charts of recommendations 1, 2 and 5
- Exhibit E: Memo from the Office of the Controller dated June 20, 2023, re. Inclusionary Housing: Triennial Review of Economic Feasibility



# PLANNING COMMISSION DRAFT RESOLUTION

**HEARING DATE: JULY 13, 2023**

**Project Name:** Development Impact Fee Reductions  
**Case Number:** 2023-005422PCA / Board File No. 230769  
**Initiated by:** Supervisor Peskin / Introduced June 27, 2023  
**Staff Contact:** Carly Grob, Senior Planner, Current Planning  
carly.grob@sfgov.org, 628-652-7532  
**Reviewed by:** Kate Conner, Manager of Housing Implementation  
kate.conner@sfgov.org, 628-652-7535

**RESOLUTION APPROVING A PROPOSED ORDINANCE AMENDING THE PLANNING CODE TO: 1) REDUCE INCLUSIONARY HOUSING PROGRAM REQUIREMENTS OF THE PLANNING CODE, FOR PROJECTS EXCEEDING A STATED UNIT SIZE THAT HAVE BEEN APPROVED PRIOR TO NOVEMBER 1, 2023, AND THAT RECEIVE A FIRST CONSTRUCTION DOCUMENT WITHIN A SPECIFIED PERIOD; 2) ADOPT A PROCESS FOR THOSE PROJECTS TO REQUEST A MODIFICATION TO CONDITIONS OF APPROVAL RELATED TO DEVELOPMENT IMPACT FEES, SUBJECT TO DELEGATION BY THE PLANNING COMMISSION; 3) REDUCE ARTICLE 4 DEVELOPMENT IMPACT FEES, INCLUDING INCLUSIONARY AFFORDABLE HOUSING FEES, FOR PROJECTS APPROVED BEFORE NOVEMBER 1, 2026 THAT RECEIVE A FIRST CONSTRUCTION DOCUMENT WITHIN 30 MONTHS OF ENTITLEMENT; AND 4) MODIFY THE INCLUSIONARY HOUSING PROGRAM ORDINANCE EFFECTIVE NOVEMBER 1, 2026 TO REDUCE APPLICABLE FEES, AND ON-SITE OR OFF-SITE UNIT REQUIREMENTS, FOR PROJECTS THAT EXCEED A STATED UNIT SIZE; AMENDING THE ADMINISTRATIVE CODE TO UPDATE THE INCLUSIONARY HOUSING TECHNICAL ADVISORY COMMITTEE MEMBER REQUIREMENTS; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING PUBLIC NECESSITY, CONVENIENCE, AND WELFARE FINDINGS UNDER PLANNING CODE SECTION 302; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.**

WHEREAS, on June 27, 2023 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 230769, which would amend the Planning Code to: 1) reduce Inclusionary Housing Program requirements of the Planning Code, for projects exceeding a stated unit size that have been approved prior to November 1, 2023 and that receive a first construction document within a specified period;



2) adopt a process for those projects to request a modification to conditions of approval related to development impact fees, subject to delegation by the Planning Commission; 3) reduce Article 4 development impact fees for projects approved before November 1, 2026 that receive a first construction document within 30 months of entitlement, and projects that are approved before November 1, 2023 that receive a first construction document by May 1, 2029; and, 4) modify the Inclusionary Housing Program Ordinance effective November 1, 2026 to reduce applicable fees, and on-site or off-site unit requirements, for projects that exceed a stated unit size; and which would amend the Administrative Code to update the Inclusionary Housing Technical Advisory Committee member requirements.

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 13, 2023; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

Therefore, be it MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission’s proposed recommendations are as follows:

## Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

San Francisco’s Inclusionary Affordable Housing Program is intended to help address the demonstrated need for affordable housing in San Francisco. As rents and sales prices for housing outpace what is affordable to the typical San Francisco family, the City faces a continuing shortage of affordable housing for all but households with the highest incomes.

San Francisco is facing a shortage of all types of housing. To meet San Francisco’s share of the regional need for housing between 2023-2031, the City must accommodate over 82,000 units, including 32,881 units for extremely low, very-low and low- income households, and 49,188 units for moderate and above-moderate income households. The Inclusionary Housing Program is an important part of the City’s overall strategy for providing affordable housing to very-low, low- moderate-, and middle-income households, and has created

more than 3,300 units since its inception. But the success of the Inclusionary Housing Program is contingent on the overall feasibility of residential development. For that reason, Planning Code Section 415.10 requires periodic review of the program's requirements.

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

The Controller and TAC found that none of the development prototypes studied were financially feasible at the current inclusionary housing rates in the Planning Code. Most prototypes studied had significant negative land value, indicating that the prototype would not be financially feasible, even setting aside the cost of land. The prototypes, which were studied because they represent the types of residential development that are common in San Francisco, account for a majority of the housing production in San Francisco. The finding that these two prototypes are not feasible suggests that residential development is, broadly speaking, not financially feasible under current economic conditions at current inclusionary housing rates.

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

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

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

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

The recommended modifications from the Planning Commission are intended to continue to improve the feasibility of residential projects and would further streamline implementation of the inclusionary program.

## General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

### HOUSING ELEMENT

#### POLICY 5

IMPROVE ACCESS TO THE AVAILABLE AFFORDABLE RENTAL AND HOMEOWNERSHIP UNITS ESPECIALLY FOR DISPROPORTIONATELY UNDERSERVED RACIAL AND SOCIAL GROUPS.

#### POLICY 24

ENABLE MIXED-INCOME DEVELOPMENT PROJECTS TO MAXIMIZE THE NUMBER OF PERMANENTLY AFFORDABLE HOUSING UNITS CONSTRUCTED, IN BALANCE WITH DELIVERING OTHER PERMANENT COMMUNITY BENEFITS THAT ADVANCE RACIAL AND SOCIAL EQUITY.

### Implementing Action Section 1.3 – Inclusionary Housing

Action 1.3.2: Through the Controller's Office triennial study of financial feasibility of the Inclusionary housing Program including feedback from the Technical Advisory Committee, assess by 2024 whether affordability levels of rental and ownership units created through the program could be made accessible to lower income groups in balance with ensuring financial feasibility as referenced in Action 1.3.1.

Action 1.3.3: Assess inclusionary tiers to address constraints on housing development including financial feasibility, to increase certainty for housing projects, to ensure that inclusionary requirements do not impede or undermine use of State Density Bonus Law, and to reduce staff time and need for specific expertise. Changes to inclusionary tiers should improve or maintain average affordability of inclusionary housing units. Changes to inclusionary tiers and their requirements should retain or expand the percentage of units required, including with consideration to rents, purchase prices, and HOA fees.

Action 1.3.6: Prioritize achieving the maximum number of permanently affordable housing units at lower- and moderate-incomes that are financially feasible, as an essential benefit of new mixed-use development agreements alongside other benefits such as community facilities and transit investments

Action 1.3.9: Ensure that implementation of the City's inclusionary ordinance for State Density Bonus projects does not undermine the feasibility of projects that already provide affordable units and are consistent with State Density Bonus Law.

- For projects already providing affordable housing through State Density Bonus Law, consider applying the inclusionary tier and requirement to the base project to increase the financial feasibility of smaller density bonus projects.

- Allow greater flexibility for projects that invoke State Density Bonus Law by allowing more deeply affordable units to be counted toward the affordability tiers required under the inclusionary ordinance.
- Study the applicability of the Affordable Housing Fee to bonus projects, evaluating its impacts on project feasibility and affordable housing production. Based on the findings of this study, take action to mitigate impacts of the Affordable Housing Fee program.

#### Implementing Action Section 8.9 – Post-Entitlement Permitting and Pipeline Support

*The inclusionary affordable housing program is an important policy to facilitate the construction of housing that is affordable low- and moderate-income households without public subsidy; however, the production of affordable units can only occur if market-rate projects can move forward. As described in the Background Section, the Controller and TAC have found that residential development with the current inclusionary rates is infeasible under current economic conditions. The Ordinance aims to improve the feasibility of residential development by temporarily reducing inclusionary rates and other development impact fees. The proposed reductions are consistent with Policy 24 of the Housing Element, to enable mixed-income projects to maximize affordability in balance with delivering other community benefits that advance racial and social equity, and with Policy 5, to improve access to available affordable units for disproportionately underserved racial and social groups.*

*The Housing Element of the General Plan includes set of Implementing Programs that San Francisco may undertake to implement the policies set forth in the Housing Element and to achieve its goals and objectives. Section 1.3 of the Implementing Programs sets forth policy recommendations related to the Inclusionary Housing Program. This Ordinance would implement Action No. 1.3.2, which instructs the City to consider feedback from the Controller’s triennial feasibility study, with input from the TAC, to assess whether the inclusionary affordable housing program can provide access to affordable housing in balance with ensuring financial feasibility. The Ordinance would also implement Action No. 1.3.6 to prioritize achieving the maximum number of affordable units alongside other community benefits, and Action Nos. 1.3.3 and 1.3.9, which ensures that the inclusionary ordinance, along with any modification of the affordability tiers, does not undermine the feasibility of projects that are consistent with the State Density Bonus Law. The proposal to provide an administrative process for Pipeline Projects to modify their affordability and impact fees is also consistent with the general goals of Implementing Program No. 8.9 to provide support to pipeline projects and improve post-entitlement processes.*

#### **POLICY 26**

**STREAMLINE AND SIMPLIFY PERMIT PROCESSES TO PROVIDE MORE EQUITABLE ACCESS TO THE APPLICATION PROCESS, IMPROVE CERTAINTY OF OUTCOMES, AND ENSURE MEETING STATE- AND LOCAL-REQUIRED TIMELINES, ESPECIALLY FOR 100% AFFORDABLE HOUSING AND SHELTER PROJECTS.**

#### Implementing Action Section 8.4 – Process and Permit Procedures

Action No. 8.4.19: Whenever Planning Code amendments or revisions are proposed, advocate for ensure and promote simpler or an overall reduction of rules that affect housing approvals to reduce the specific or institutional knowledge needed by City staff, applicants, and members of the public to increase accessibility.

Housing Element Policy No. 26 directs the City to Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State- and local-required timelines, especially for 100% affordable housing and shelter projects. This policy is reiterated in Implementation Action No. 8.4.19, directs the Department to advocate for simpler rules and/or an overall reduction in regulations that affect housing approvals, which in turn would reduce the specific or institutional knowledge required by City staff, applicants, and members of the public to engage with the information. The Ordinance proposes to simplify the program in some respects, however, the recommendations adopted by the Planning Commission suggest additional actions which would support this action of the Housing Element.

### **Planning Code Section 101 Findings**

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on existing housing or neighborhood character. Projects that would benefit from development impact fee reductions may become feasible, and may further activate soft sites or vacant sites. Aside from stabilization efforts, the Inclusionary Program is an important tool to maintain economic diversity in our neighborhoods. Not only does the proposed Ordinance preserve cultural and economic diversity by ensuring a mix of income levels in new construction, but it also furthers this goal by further diversifying Well-resources neighborhoods with mixed-income housing.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance proposes temporary streamlining and impact fee rate reductions to improve the feasibility of residential development, which enhances the affordability of housing by adding to the housing stock. Reductions in the inclusionary requirements balance the need for feasible residential development while also providing affordable housing without City subsidy, either through the construction of affordable units or payment of fees to construct affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or*

*overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

### **Planning Code Section 302 Findings.**

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 13, 2023.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: July 13, 2023

## **LEGISLATIVE DIGEST**

[Planning, Administrative Codes – Development Impact Fee Reductions]

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

### **Existing Law**

#### **Inclusionary Affordable Housing Program**

The Inclusionary Affordable Housing Ordinance, Planning Code section 415 *et seq.*, applies to new market-rate housing developments of 10 units or more. There are several ways a developer can comply with the ordinance: a developer can pay a fee to the City, which the City uses to construct affordable housing, or a developer can choose to comply with the ordinance by providing affordable units within the new development (on-site units) or on in a separate building (off-site units). The number of on-site or off-site units required by the ordinance depends on a variety of factors: the size of the project; whether the project is a rental project or an ownership project; where the project is located; when the project’s environmental application was submitted; and in some cases, the height of the project. On-site requirements range from 12% to 25% of the total number of units in the project; the off-site requirement ranges from 20% to 33% of the total number of units in the project. When a developer pays the fee, the City calculates the fee by multiplying the off-site inclusionary obligation (number of units) by the “affordability gap” – the amount of subsidy the Mayor’s Office of Housing and Community Development needs to finance the construction of a unit of affordable housing.



The current Citywide inclusionary requirements were originally established in 2017, and include a legislatively set increase each year (currently .5% per year). Similarly, the amount of the fee per square foot is set each year based on the cost of constructing affordable housing.

### **Current Inclusionary Requirements**

The current Citywide requirements for new projects are as follows:

- For projects of 10-24 units, the on-site requirement is 15% and the off-site and fee requirement is 20% for both rental and ownership projects. Units must have a sales price or rental rate affordable to households earning 80% AMI for ownership projects and 55% AMI for rental projects.
- The on-site requirement for projects of 25 or more units is 22% of units for a rental project, and 24% of units for an ownership project.
- The off-site and fee requirement for projects of 25 units or more is 30% for rental projects and 33% for ownership projects.
- Projects of 25 units or more must provide on-site and off-site affordable units at three income tiers: low, moderate and middle income, or 55% of Area Median Income (AMI), 80% AMI and 110% AMI for rental projects; and 80% AMI, 105% AMI, and 130% AMI for ownership projects.

Requirements in specific geographic areas can vary, but generally are slightly higher than Citywide rates.

### **Approval Process**

Inclusionary housing requirements become conditions on a project approval. If the Planning Commission approved a development, the Planning Commission must modify the conditions of approvals, although the Zoning Administrator has authority to allow changes to project plans or minor modifications to conditions. Most projects are required to obtain a building or site permit within 36 months from project approval; projects that fail to meet this deadline must request an extension from the Planning Commission. Projects that have not obtained a building or site permit within 30 months of project approval are subject to the inclusionary rates at the time a building permit is procured.

The State Density Bonus law, implemented in Planning Code section 206.6, allows projects that provide specified amounts of on-site affordable units to receive an increase in the number of total dwellings units, and “concessions and incentives” and waivers of development standards. On-site units provided under the Inclusionary Housing Ordinance can be used to qualify for a density bonus under state law. Under State Density Bonus law, projects can receive up to a 50% increase in density and between one and four concessions and incentives depending on the amount of affordable housing provided and the level of affordability. The City must waive any development standard that would preclude the construction of the project at the density allowed and with the concessions and incentives requested. The Planning Commission must adopt findings that a project is eligible for the requested density bonus, concessions and incentives, and waivers. Projects may request, as an incentive, that units at lower income tiers (e.g. 50% AMI) count towards the Inclusionary

Program's requirement to provide units at higher tiers (e.g. 80% AMI). Conditions of approval for a density bonus project will include findings related to the amount of density bonus, eligibility for concessions, incentives and waivers, and the income tiers of the inclusionary units.

**Development Impact Fees**

San Francisco assesses development impact fees on residential and non-residential projects for various public purposes, including fees for transit, parks, public infrastructure, and art. Development impact fees are set forth in Article 4 of the Planning Code.

**Inclusionary Housing Technical Advisory Committee**

Planning Code section 415.10 requires the Controller, in consultation with the Inclusionary Housing Technical Advisory Committee (TAC), to conduct a feasibility study of San Francisco's inclusionary housing requirements every three years. The TAC, established in Administrative Code Section 5.29, is a policy body created to advise the Controller and the Board about the Inclusionary Ordinance. Members of the TAC are appointed by the Board or the Mayor, and serve for a limited term; members are appointed in anticipation of the three-year economic feasibility analysis, and their term ends three months after the study is finalized.

Amendments to Current Law

This ordinance would allow for a reduction in San Francisco's inclusionary requirements and other development impact fees as follows:

**Reduction in Inclusionary Requirements for Previously Approved Projects**

Projects finally approved before November 1, 2023 with 25 units or more would be allowed to modify their conditions of approval to reduce the required inclusionary rate: the on-site rate for both rental and ownership projects would be 12%; the rate for projects that elected to pay the fee or provide off-site units would be 16.4%. The rate for projects in areas with special inclusionary requirements would be 54.5% of the applicable rental rate, but in no case would be less than 16.4%.

The ordinance would create an administrative process for certain previously approved projects to request the reduced inclusionary rates, if the Planning Commission delegates their authority to modify conditions of approval. The Director of Planning would also be authorized to modify conditions of approval to allow projects to extend the time to get a site permit, and to allow projects to request a modification to the findings required by the City's density bonus requirements. However, projects that request significant modifications, including changing from dwelling units to group housing, increasing or decreasing the number of units by more than 20%, or modifying the gross floor area by more than 10% would require Planning Commission approval. Previously approved projects would have until November 1, 2026 to request a modification, and then until May 1, 2029 to obtain a first construction document. Modified projects that fail to obtain a first construction document by May 1, 2029 would be

subject to the inclusionary requirements in effect on the date a first construction document was issued. Projects approved under a development agreement would be ineligible to seek a modification under the administrative process.

**Temporary Reduction in Inclusionary Requirements for New Projects**

Projects approved between November 1, 2023 and November 1, 2026 would be subject to reduced inclusionary rates as follows: rental and ownership projects of 25 or more units would be required to provide 15% of units on-site, or pay a fee or provide off-site units equivalent to 20.5% of the total units. Affordable units would have to be provided at the three income tiers. Projects of 25 units or more in areas with special rates would be required to pay 68% of the otherwise required rental housing rate. If a project does not receive a first construction document within 30 months of project approval, the inclusionary requirement will be the inclusionary requirement at the time the first construction document is issued.

**Reduction in Other Development Impact Fees for Previously Approved and New Projects**

Other development impact fees, such as the Transit Sustainability Fee, the Jobs Housing Linkage Fee, various park and open space fees, and other area plan infrastructure fees, would be discounted by 33%, provided that the project receives a first construction document before May 1, 2029 for previously approved projects, or within 30 months of project approval for projects approved between November 1, 2023 and November 1, 2026. Projects approved under a development agreement would be ineligible for reduced impact fees.

**No Annual Increase to Inclusionary Rate (other than indexing)**

Between November 1, 2023 and November 1, 2026, the inclusionary rates would not automatically increase pursuant to the set schedule, and any increase in the inclusionary housing fee based on affordability gap would be capped at 2%.

**Future Inclusionary Housing Rates**

This ordinance would also amend the Inclusionary Housing Ordinance effective November 1, 2026, unless the Board of Supervisors amended the program before that date. The amendment would require rental housing projects of 25 units or more to provide 18% on-site affordable units or 24.5% if paying the fee or providing off-site units. Ownership housing projects of 25 units or more would be required to provide 20% on-site, or 27% if paying the fee or providing off-site units. Requirements in areas with specific affordable housing obligations would be decreased proportionally (according to the formula  $X/22*18$ , where X equals the current required percentage). Rental and ownership housing projects of 10-24 units would be required to provide 15% of units as affordable if included on-site, or 20% if off-site or paying the fee, consistent with current requirements.

**Inclusionary Housing Technical Advisory Committee**

The ordinance would also update the findings in Planning Code Section 415.10 related to the Controller's report to the Board of Supervisors on the Inclusionary program's requirements, and amend the Administrative Code creating the Inclusionary Housing Technical Advisory

Committee, to allow members of the committee, which serve at the pleasure of the appointing member, to serve for an unlimited term. The ordinance would require the TAC to convene again, no later than January 1, 2026.

### Background Information

Consistent with Planning Code section 415.10, from October 2022 through April 2023, the Controller and the Inclusionary Housing Technical Advisory Committee (TAC) met to review the impact of the City's inclusionary housing obligations on the feasibility of residential development. The Controller and the TAC studied key economic parameters including interest rates, capitalization rate, land prices, construction costs, use of the state density bonus, and rents and sales prices for both rental and condominium projects, finding that the current rates directly contributed to the economic infeasibility of residential development in San Francisco. The Controller will issue a Technical Advisory Committee Report on June 30, 2023, recommending that the inclusionary requirements be set between 12% and 16%.

San Francisco's share of the regional housing need is over 82,000 units in the next 8 years, over 32,000 of which must be affordable for extremely low, very-low and low income households. Reduced inclusionary rates and development fees are intended to incentivize construction of housing to meet this housing need. Previously approved projects are farther along in the development process, and thus inclusionary rates are further reduced to incentivize construction of those projects.

Amendments to the Technical Advisory Committee requirement are intended to make it easier for the TAC to convene as needed in response to changing economic conditions.

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

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

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

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

1 Section 1.

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

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

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

17

18 Section 2. General Findings.

19 (a) San Francisco's Inclusionary Affordable Housing Program is intended to help  
20 address the demonstrated need for affordable housing in San Francisco. As rents and sales  
21 prices for housing outpace what is affordable to the typical San Francisco family, the City  
22 faces a continuing shortage of affordable housing for all but households with the highest  
23 incomes. The California Association of Realtor's "California Housing Affordability Update," for  
24 the first quarter of 2023, reported that the median home price in San Francisco was  
25 \$1,550,000, requiring a minimum qualifying income of \$384,000 to purchase such a home.

1 San Francisco's median home prices are over twice the State of California's median of  
2 \$619,900, and over four times the national median home price of \$371,200. The majority of  
3 market-rate homes for sale in San Francisco are priced out of the reach of low- and moderate-  
4 income households.

5 (b) San Francisco is facing a shortage of all types of housing. To meet San  
6 Francisco's share of the regional need for housing between 2023-2031, the City must  
7 accommodate over 82,000 units, including 32,881 units for extremely low, very-low and low-  
8 income households, and 49,188 units for moderate and above-moderate income households.  
9 The Inclusionary Housing Program is an important part of the City's overall strategy for  
10 providing affordable housing to very-low, low- moderate-, and middle-income households, and  
11 has created more than 3,300 units since its inception. But the success of the Inclusionary  
12 Housing Program is contingent on the overall feasibility of residential development. For that  
13 reason, Planning Code Section 415.10 requires periodic review of the program's  
14 requirements.

15 (c) From October 2022 through April 2023, consistent with Planning Code Section  
16 415.10, the Controller and the Affordable Housing Technical Advisory Committee (TAC) met  
17 to conduct and review the feasibility of the City's inclusionary affordable housing obligations.  
18 The Controller and the TAC studied five condominium prototypes and five rental apartment  
19 prototypes, and considered key economic parameters, such as: interest rates, capitalization  
20 rates, land prices, construction costs, use of the State Density Bonus law, rents and sale  
21 prices.

22 (d) The Controller and TAC found that none of the development prototypes studied  
23 were financially feasible at the current inclusionary housing rates in the Planning Code. Most  
24 prototypes studied had significant negative land value, indicating that the prototype would not  
25 be financially feasible, even setting aside the cost of land. The prototypes, which were studied

1 because they represent the types of residential development that are common in San  
2 Francisco, account for a majority of the housing production in San Francisco. The finding that  
3 these two prototypes are not feasible suggests that residential development is, broadly  
4 speaking, not financially feasible under current economic conditions at current inclusionary  
5 housing rates.

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

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

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

22 (h) In addition to reducing the inclusionary obligations for new projects seeking  
23 entitlement from the City, the TAC discussed and recommended reducing inclusionary  
24 obligations for projects that already have been approved, but have not been constructed.  
25 These "pipeline projects" represent tens of thousands of units that could quickly move into the



1 construction phase of development should the project’s economics improve. The sponsors of  
2 these pipeline projects have likely spent considerable money securing land, pursuing  
3 entitlements, and advancing design, but have also been subject to significant construction  
4 cost escalation and rising interest rates during the time between project conception and today.  
5 By reducing their inclusionary obligation below that of new projects seeking entitlement over  
6 the next three years, the City will incentivize these projects to advance into the construction  
7 phase, and swiftly provide much needed market rate and inclusionary units.

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

19  
20 Section 3. Article 4 of the Planning Code is hereby amended by adding new Section  
21 415A, to read as follows:

22  
23 **SECTION 415A. TEMPORARY REDUCTION OF INCLUSIONARY REQUIREMENTS FOR**  
24 **RESIDENTIAL AND LIVE/WORK DEVELOPMENT PROJECTS APPROVED PRIOR TO**  
25 **NOVEMBER 1, 2023.**

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**SEC. 415A.1. PURPOSE.**

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

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

*The following terms shall have the following definitions:*

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

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

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

*This Section 415A shall apply to Pipeline Projects. This Section 415A shall not apply to (1) any mixed-use project that has entered into a development agreement executed pursuant to Chapter 56 of the Administrative Code or other similar binding agreement with the City on or before November 1,*

1 2023, or (2) projects that have chosen to comply with affordable housing requirements by dedicating  
2 land, including but not limited to projects meeting the requirements set forth in Sections 419.5(a)(2) or  
3 249.33(b)(16), or (3) projects that have paid development impact fees, including inclusionary impact  
4 fees, on or before November 1, 2023.

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

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

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

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

23 (2) For any Pipeline Project consisting of 25 units or more located in an area  
24 with a specific affordable housing requirement set forth in a Special Use District, Area Plan, or in any  
25 other section of the Code, including 415.3(d), 419, or 428, the applicable percentage shall be 54.5% of

1 the rate for Rental Housing Projects in the specific area, rounded to the nearest tenth of one percent.  
2 This reduction shall not apply to fees subject to the Temporary Fee Reduction Program set forth in  
3 Section 403.

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

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

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

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

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

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

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

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

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

12                    **(d) Site Permit and First Construction Document Timing Requirements; Conditions of**  
13 **Approval.**

14                    (1) Notwithstanding any contrary provision in this Code, project sponsors of  
15 Pipeline Projects shall be entitled to a modification under Section 415A.5 of any conditions of approval  
16 or conditions on a project permit, requiring procurement of a site permit within a specified time, but in  
17 no event may such a deadline be extended past May 1, 2029.

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

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

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

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

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

9  
10            **SEC. 415A.5 PROCESS FOR MODIFICATION OF INCLUSIONARY AFFORDABLE**  
11 **HOUSING PROGRAM REQUIREMENTS.**

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

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

1                   (1) a change in the number of Residential or Group Housing units by more than  
2 20%, or a change of more than 10% in Gross Floor Area; or,

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

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

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

13                   (2) the applicable percentage of off-site units required consistent with Section  
14 415A.4(b).

15                   (3) the applicable percentage of on-site units required, consistent with Section  
16 415A.4(c).

17                   (4) for projects that elected to develop using the State Density Bonus Law,  
18 Government Code section 65915 or State Density Bonus Program: Individually Requested, under  
19 Planning Code section 206.6, the number of on-site Affordable Units, and the affordability levels of  
20 those units if such levels require modification for the project to continue to qualify for the same amount  
21 of density bonus previously approved, and findings required by Section 206.6(e) related to eligibility  
22 for a density bonus, concessions and incentives and/or waivers of development standards, consistent  
23 with Section 415A.4(e). Notwithstanding the previous sentence, modifications to a density bonus project  
24 that are significant as set forth in subsection (a), shall be reviewed by the Planning Commission.

1                                    (5) performance standards consistent with Section 415A.4(d), including the time  
2 of validity, expiration and renewal.

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

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

10                                   This section 415A shall expire by operation of law on May 1, 2029, unless extended by an  
11 ordinance effective on or before that date. Upon expiration of this Section 415A, the City Attorney shall  
12 cause the section to be removed from the Planning Code.

13  
14                                   Section 4. Article 4 of the Planning Code is hereby amended by adding new Section  
15 415B, to read as follows:

16  
17                                   **SEC. 415B. TEMPORARY REDUCTION IN REQUIREMENTS FOR NEW**  
18 **RESIDENTIAL AND LIVE/WORK DEVELOPMENT PROJECTS.**

19                                   In order to encourage construction of residential and live/work development projects subject to  
20 the Inclusionary Affordable Housing Program, Planning Code Sections 415.1 et seq, this Section 415B  
21 shall apply to housing and live/work development projects that are Finally Approved, as defined in  
22 Planning Code Section 415A.2, between November 1, 2023 and November 1, 2026, provided that such  
23 projects receive a First Construction Document within 30 months from Final Approval. Such deadline  
24 shall be extended in the event of any litigation seeking to invalidate the City’s approval of such project,  
25 for the duration of the litigation. Housing development projects that fail to obtain a First Construction



1 Document within 30 months of Final Approval shall be subject to the requirements of Section 415.1 et  
2 seq. in effect on the date a First Construction Document is finally obtained. Except as specifically set  
3 forth herein, all other Inclusionary Affordable Housing requirements in Sections 415.1 et seq shall  
4 continue to apply.

5 **SEC. 415B.1. AFFORDABLE HOUSING FEE.** If a project sponsor elects to pay the  
6 affordable housing fee under Section 415.5, the project shall comply the requirements set forth in  
7 Section 415.6(b)(1), except as follows:

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

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

15 **SEC. 415B.2. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.** If a project sponsor  
16 elects to provide on-site Affordable Units pursuant to Section 415.5(g), the housing development shall  
17 be subject to the following required percentages rather than the percentage of units set forth in Section  
18 415.6(a):

19 (a) For any housing development consisting of 25 or more units, the number of  
20 Affordable Units constructed on-site shall be 15% of all units constructed on the project site. Project  
21 sponsors shall ensure that a minimum of 10% of the Affordable Units shall be affordable to low-income  
22 households, 2.5% of the Affordable Units shall be affordable to moderate-income households, and  
23 2.5% of the Affordable Units shall be affordable to middle-income households.

24 (b) For any housing development located in an area with a specific affordable housing  
25 requirement set forth in a Special Use District, Area Plan, or in any other section of the Code such as

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

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

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

7 (a) For any housing development consisting of 25 units or more, the applicable  
8 percentage shall be 20.5%. Project sponsors shall ensure that a minimum of 11.5% of the Affordable  
9 Units shall be affordable to low-income households, 5% of the Affordable Units shall be affordable to  
10 moderate-income households, and 4% of the Affordable Units shall be affordable to middle-income  
11 households.

12 (b) For any housing development that is located in an area with a specific off-site  
13 affordable housing requirement set forth in a Special Use District, Area Plan, or in any other section of  
14 the Code including Section 415.3(d), 419, or 428, the percentage shall be the 68% of the applicable  
15 rate for Rental Housing Projects in the area, rounded to the nearest tenth of one percent.

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

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

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

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

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

1  
2 Section 5. Article 4 of the Planning Code is hereby amended by revising Sections 403  
3 and 415.10, to read as follows:

4  
5 **SEC. 403. PAYMENT OF DEVELOPMENT FEE(S) OR SATISFACTION OF**  
6 **DEVELOPMENT IMPACT REQUIREMENT(S) AS A CONDITION OF APPROVAL**  
7 **~~PLANNING COMMISSION REVIEW; TEMPORARY FEE REDUCTION PROGRAM~~**  
8 **~~RECOMMENDATION CONCERNING EFFECTIVENESS OF FEE DEFERRAL PROGRAM.~~**

9 ~~(a) Condition of Approval.~~ In addition to any other condition of approval that may  
10 otherwise be applicable, the Department or Commission shall require as a condition of  
11 approval of a development project subject to a development fee or development impact  
12 requirement under this Article that such development fee or fees be paid prior to the issuance  
13 of the first construction document for any building or buildings within the development project,  
14 in proportion to the amount required for each building if there are multiple buildings.

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

- 25 (1) The Transportation Sustainability Fee (Section 411A);

- 1                   (2)    The Downtown Park Fee (Section 412);
- 2                   (3)    The Jobs Housing Linkage Program (Section 413);
- 3                   (4)    The Childcare Requirement for Office and Hotel Development Projects
- 4 (Section 414);
- 5                   (5)    The Childcare Requirements for Residential Projects (Section 414A);
- 6                   (6)    Market and Octavia Area Plan and Upper Market Neighborhood
- 7 Commercial District Affordable Housing Fee (Section 416);
- 8                   (7)    Eastern Neighborhoods Area Plan Affordable Housing Requirement
- 9 (Section 417);
- 10                  (8)    Rincon Hill Community Improvements Fund and SOMA Community
- 11 Stabilization Fund (Section 418);
- 12                  (9)    Visitation Valley Community Facilities and Infrastructure Fee and Fund
- 13 (Section 420);
- 14                  (8)    The Market and Octavia Community Improvements Fund (Section 421);
- 15                  (10)   Balboa Park Community Improvements Fund (Section 422);
- 16                  (11)   Eastern Neighborhood Impact Fees and Public Benefits Fund (Section
- 17 423);
- 18                  (12)   Van Ness & Market Affordable Housing and Neighborhood Infrastructure
- 19 Fee and Program (Section 424);
- 20                  (13)   Transit Center District Open Space Impact Fee and Fund (Section 424.6)
- 21 and Transportation and Street Improvement Impact Fee (Section 424.7);
- 22                  (14)   Van Ness and Market Community Facilities Fee and Fund (Section 425);
- 23                  (15)   Open Space requirements (Sections 426 and 427);
- 24                  (16)   Public Art Fee (Section 429);
- 25                  (17)   Bicycle Parking fee (Section 430);

1 (18) Central SOMA Community Services Facilities Fees and Fund (Section  
2 432);

3 (19) Central SOMA Infrastructure Fee and Fund (Section 433);

4 (20) Union Square Park, Recreation, and Open Space Fee (Section 435);

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

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

16  
17 **SEC. 415.10. REPORTING TO BOARD OF SUPERVISORS.**

18 (a) Findings.

19 San Francisco continues to experience a housing crisis that requires a broad spectrum  
20 of land use and financing tools to address. The 2022 Housing Element Update of the City's  
21 General Plan calls for 40% ~~38%~~ of all new housing production to be affordable for lower  
22 income households below 80% of area median income and ~~19%~~ 17% of new housing  
23 affordable to be built for moderate/middle income households up to 120% of area median  
24 income. San Francisco's inclusionary housing program, which requires housing developers to  
25 provide affordable units as part of their projects, is a critical component of the City's programs

1 to expand affordable housing options. The Inclusionary Housing program is one of the City's  
2 tools for increasing affordable housing dedicated to lower income San Franciscans without  
3 using public subsidies, and in particular it is a useful tool for creating any affordable housing to  
4 meet the growing need of moderate/middle income households.

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

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

24 ~~The Board of Supervisors has proposed to the voters a Charter amendment that will appear on~~  
25 ~~the June 7, 2016 ballot. The Charter amendment would authorize the City to enact by ordinance~~

1 ~~subsequent changes to the inclusionary housing requirements, including changes to the minimum or~~  
2 ~~maximum inclusionary or affordable housing obligations applicable to market rate housing projects.~~

3 ~~On March 1, 2016, the Board of Supervisors unanimously adopted Resolution No. 79-16~~  
4 ~~declaring that (1) it shall be City policy to maximize the economically feasible percentage of affordable~~  
5 ~~inclusionary housing in market rate housing development to create housing for lower and~~  
6 ~~moderate/middle income households; (2) if the voters adopt the proposed Charter amendment on June~~  
7 ~~7, the Board intends to adopt a future ordinance requiring the Controller and other City departments to~~  
8 ~~conduct a periodic economic study to maximize affordability in the City's inclusionary housing~~  
9 ~~requirements; and (3) the future ordinance would create an advisory committee to ensure that the~~  
10 ~~economic study is the result of a transparent and inclusive public process.~~

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

16 \* \* \* \*

17  
18 Section 6. Article XXIX of Chapter 5 of the Administrative Code Chapter is hereby  
19 amended to revise Sections 5.29-1, 5.29-4, and 5.29-6 to read as follows:

20 **ARTICLE XXIX:**

21 **INCLUSIONARY HOUSING TECHNICAL ADVISORY COMMITTEE**

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

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

25 \* \* \* \*

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

2           (a) Each member shall serve at the pleasure of the member's appointing authority, and  
3 may be removed by their appointing officer at any time for any reason. Each member appointed to  
4 the Advisory Committee shall serve for an unlimited term. ~~in 2016 shall serve until three months~~  
5 ~~after the date the Controller produces the first economic feasibility analysis required by Planning Code~~  
6 ~~Section 415.10, at which point the member's term shall expire. The Board of Supervisors and the Mayor~~  
7 ~~shall appoint members to the Advisory Committee in anticipation of each subsequent economic~~  
8 ~~feasibility analysis by the Controller, and those members' terms shall similarly expire three months~~  
9 ~~after the date the Controller produces the economic feasibility analysis required by Planning Code~~  
10 ~~Section 415.10. Members shall not may hold over after the expiration of their terms.~~

11           \* \* \* \*

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

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

17           \* \* \* \*

18  
19           Section 7. Article 4 of the Planning Code is hereby amended to revise Sections 415.3,  
20 415.5, 415.6, 415.7, 419.3, 419.5, 428, and 428.3, to read as follows:

21  
22           **SECTION 415.3 APPLICATION.**

23           \* \* \* \*

24           (b) Except as provided in subsection (3) below, any development project that has  
25 submitted a complete Environmental Evaluation application prior to January 12, 2016 shall



1 comply with the Affordable Housing Fee requirements, the on-site affordable housing  
2 requirements or the off-site affordable housing requirements, and all other provisions of  
3 Section 415.1 et seq., as applicable, in effect on January 12, 2016. For development projects  
4 that have submitted a complete Environmental Evaluation application on or after January 1,  
5 2013, the requirements set forth in Planning Code Sections 415.5, 415.6, and 415.7 shall  
6 apply to certain development projects consisting of 25 dwelling units or more during a limited  
7 period of time as follows.

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

11 \* \* \* \*

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

19 (2) If a development project pays the Affordable Housing Fee or elects to provide  
20 off-site affordable housing, and such requirements have not been amended on or before November 1,  
21 2026, the development project shall provide the following fee amount or amounts of off-site  
22 affordable housing during the limited periods of time set forth below.

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

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

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

7 (D) Any development project that submits an Environmental Evaluation  
8 application after January 12, 2016 shall comply with the requirements set forth in Sections  
9 415.5, 415.6, and 415.7, as applicable.

10 (E) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and  
11 (C) of this Section 415.3, for development projects proposing buildings over 120 feet in height,  
12 as measured under the requirements set forth in the Planning Code, except for buildings up to  
13 130 feet in height located both within a special use district and within a height and bulk district  
14 that allows a maximum building height of 130 feet, such development projects shall pay a fee  
15 or provide off-site housing in an amount equivalent to ~~30%~~ 24.5% of the number of units  
16 constructed on-site. Any buildings up to 130 feet in height located both within a special use  
17 district and within a height and bulk district that allows a maximum building height of 130 feet  
18 shall comply with the provisions of subsections (b)(2)(A), (B) and (C) of this Section 415.3  
19 during the limited periods of time set forth therein.

20 (F) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and  
21 (C) of this Section 415.3, if a development project is located in a UMU Zoning District or in the  
22 South of Market Youth and Family Zoning District, and pays the Affordable Housing Fee or  
23 elects to provide off-site affordable housing pursuant to Section 415.5(g), or elects to comply  
24 with a Land Dedication Alternative, such development project shall comply with the fee, off-  
25 site or land dedication requirements applicable within such Zoning Districts, as they existed on

1 January 12, 2016, plus the following additional amounts for the Affordable Housing Fee or for  
2 land dedication or off-site affordable units: (i) if the development project has submitted a  
3 complete Environmental Evaluation application prior to January 1, 2014, the Project Sponsor  
4 shall pay an additional fee, or provide additional land dedication or off-site affordable units, in  
5 an amount equivalent to 5% of the number of units constructed on-site; (ii) if the development  
6 project has submitted a complete Environmental Evaluation application prior to January 1,  
7 2015, the Project Sponsor shall pay an additional fee, or provide additional land dedication or  
8 off-site affordable units, in an amount equivalent to 7.5% of the number of units constructed  
9 on-site; or (iii) if the development project has submitted a complete Environmental Evaluation  
10 application on or prior to January 12, 2016, the Project Sponsor shall pay an additional fee, or  
11 provide additional land dedication or off-site affordable units, in an amount equivalent to 10%  
12 of the number of units constructed on-site. Notwithstanding the foregoing, a development  
13 project shall not pay a fee or provide off-site units in a total amount greater than the equivalent  
14 of ~~30%~~ 24.5% of the number of units constructed on-site.

15 \* \* \* \*

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

1 shall (1) pay a fee or provide off-site housing in an amount equivalent to ~~30%~~ 24.5% if the  
2 Principal Project is a Rental Housing Project, or ~~33%~~ 27% if the Proposed Project is an  
3 Ownership Housing Project, or (2) provide Affordable Units in the amount of ~~25%~~ 20.5% of the  
4 number of units constructed on-site in a Rental Housing Project, or ~~27%~~ 22.1% of the number  
5 of units constructed on-site in an Ownership Housing Project. For Rental Housing Projects,  
6 15.5% of the on-site Affordable Units shall be affordable to low-income households, ~~5%~~ 2.5%  
7 shall be affordable to moderate-income households and ~~5%~~ 2.5% shall be affordable to  
8 middle-income households. For Ownership Housing Projects, ~~15%~~ 16.1% of the on-site  
9 Affordable Units shall be affordable to low-income households, ~~6%~~ 3% shall be affordable to  
10 moderate-income households and ~~6%~~ 3% shall be affordable to middle-income households.

11 \* \* \* \*

12

13 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

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

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

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

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

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

1 (B) For development projects consisting of 25 units or more, the  
2 applicable percentage shall be ~~27%~~<sup>33%</sup> if such units are Owned Units.

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

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

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

13 \* \* \* \*

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

23 \* \* \* \*

24 \* \* \* \*

25

1           **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

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

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

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

12                   ~~(2) For any Ownership Housing Project consisting of 25 or more units, the number of~~  
13 ~~Affordable Units constructed on-site shall generally be 20% of all units constructed on the project site.~~  
14 ~~A minimum of 10% of the units shall be affordable to low-income households, 5% of the units shall be~~  
15 ~~affordable to moderate-income households, and 5% of the units shall be affordable to middle-income~~  
16 ~~households. In no case shall the total number of Affordable Units required exceed the number required~~  
17 ~~as determined by the application of the applicable on-site requirement rate to the total project units.~~  
18 ~~Owned Units for low-income households shall have an affordable purchase price set at 80% of Area~~  
19 ~~Median Income or less, with households earning up to 100% of Area Median Income eligible to apply~~  
20 ~~for low-income units. Owned Units for moderate-income households shall have an affordable purchase~~  
21 ~~price set at 105% of Area Median Income or less, with households earning from 95% to 120% of Area~~  
22 ~~Median Income eligible to apply for moderate-income units. Owned Units for middle-income~~  
23 ~~households shall have an affordable purchase price set at 130% of Area Median Income or less, with~~  
24 ~~households earning from 120% to 150% of Area Median Income eligible to apply for middle-income~~  
25 ~~units. For any Affordable Units with purchase prices set at 130% of Area Median Income, the units~~

1 ~~shall have a minimum occupancy of two persons. This unit requirement shall be outlined within the~~  
2 ~~Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than February 26,~~  
3 ~~2018. MOHCD may reduce Area Median Income pricing and the minimum income required for~~  
4 ~~eligibility in each ownership category.~~

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

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



1 Income, with an affordable sales price set at 80% of Area Median Income or less. Rental Units shall be  
2 affordable to households earning up to 65% of Area Median Income, with an affordable rent set at 55%  
3 of Area Median Income or less.

4 (2) For any Ownership Housing Project consisting of 25 or more units, the number of  
5 Affordable Units constructed on-site shall generally be 20% of all units constructed on the project site.  
6 A minimum of 10% of the units shall be affordable to low-income households, 5% of the units shall be  
7 affordable to moderate-income households, and 5% of the units shall be affordable to middle-income  
8 households. In no case shall the total number of Affordable Units required exceed the number required  
9 as determined by the application of the applicable on-site requirement rate to the total project units.

10 Owned Units for low-income households shall have an affordable purchase price set at 80% of Area  
11 Median Income or less, with households earning up to 100% of Area Median Income eligible to apply  
12 for low-income units. Owned Units for moderate-income households shall have an affordable purchase  
13 price set at 105% of Area Median Income or less, with households earning from 95% to 120% of Area  
14 Median Income eligible to apply for moderate-income units. Owned Units for middle-income  
15 households shall have an affordable purchase price set at 130% of Area Median Income or less, with  
16 households earning from 120% to 150% of Area Median Income eligible to apply for middle-income  
17 units. For any Affordable Units with purchase prices set at 130% of Area Median Income, the units  
18 shall have a minimum occupancy of two persons. This unit requirement shall be outlined within the  
19 Mayor's Office of Housing Preferences and Lottery Procedures Manual no later than February 26,  
20 2018. MOHCD may reduce Area Median Income pricing and the minimum income required for  
21 eligibility in each ownership category.

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

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

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

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

1 consecutive years starting January 1, ~~2018~~2028. The increase shall be apportioned to units  
2 affordable to low-income households, as defined above in subsection 415.6(a)(3). Starting  
3 January 1, ~~2020~~2030, the increase to on-site housing developments with 25 or more units shall  
4 increase by 0.5% annually, with such increases allocated equally to moderate\_ and middle\_  
5 income households, as defined above in subsection 415.6(a)(3). The total on-site inclusionary  
6 affordable housing requirement shall not exceed 26% for Ownership Housing Projects or 24%  
7 for Rental Housing Projects, and the increases shall cease at such time as these limits are  
8 reached. MOHCD shall provide the Planning Department, DBI, and the Controller with  
9 information on the adjustment to the on-site percentage so that it can be included in the  
10 Planning Department's and DBI's website notice of the fee adjustments and the Controller's  
11 Citywide Development Fee and Development Impact Requirements Report described in  
12 Section 409(a).

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

25 \* \* \* \*

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

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

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

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

4 \* \* \* \*

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

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

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

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

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

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

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

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

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

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

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

12           \* \* \* \*

13

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

7

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

9 \* \* \* \*

10

**TABLE 419.5**

11

**HOUSING REQUIREMENTS FOR THE UMU DISTRICT**

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Tier	On-Site Housing Requirement	Off-Site/In-Lieu Requirement	Middle Income Alternative*	Land Dedication Alternative for sites that have less than 30,000 square feet of developable area	Land Dedication Alternative for sites that have at least 30,000 square feet of developable area
A	<del>14.4%</del> <u>12.3%</u>	<del>23%</del> <u>18.8%</u>	<del>30%</del> <u>24.5%</u>	35%	30%
B	<del>16%</del> <u>13.1%</u>	<del>25%</del> <u>20.5%</u>	<del>35%</del> <u>28.6%</u>	40%	35%
C	<del>17.6%</del> <u>14.4%</u>	<del>27%</del> <u>22.1%</u>	<del>40%</del> <u>32.7%</u>	45%	40%

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11

12 Section 8. Effective Date; Operative Dates.

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

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

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

24

25







# COMPLIANCE WITH THE INCLUSIONARY AFFORDABLE HOUSING PROGRAM

## AFFIDAVIT PACKET

Date: January 10, 2022

All projects that include 10 or more dwelling units must participate in the Inclusionary Affordable Housing Program contained in Planning Code Sections 415 and 419. Every project subject to the requirements of Planning Code Section 415 or 419 is required to pay the Affordable Housing Fee. A project may be eligible for an Alternative to the Affordable Housing Fee. All projects that can demonstrate that they are eligible for an Alternative to the Affordable Housing Fee must provide necessary documentation to the Planning Department and Mayor's Office of Housing and Community Development.

**This Affidavit for Compliance with the Inclusionary Affordable Housing Program must be completed at least 30 days before the Planning Department and/or Planning Commission can act on the project.**

Please note that this affidavit is required to be included in Planning Commission packets and therefore, must comply with packet submittal guidelines.

The inclusionary requirement for a project is determined by four factors: 1) the tenure of the project, 2) the date that the Project Application (PRJ) was deemed complete by the Department ("PRJ accepted date"), 3) the zoning district, and 4) the project size. There are different inclusionary requirements for smaller projects (10-24 units) and larger projects (25+ units). Please use the attached charts to determine the applicable requirement.

The Charts are organized into three Sections: Section 1 applies to Rental Housing Projects with complete a PRJ accepted date on or after January 12, 2016. Section 2 applies to Ownership Housing Projects with complete a PRJ accepted date on or after January 12, 2016. Section 3 applies to "grandfathered" projects or those with a complete PRJ accepted date prior to January 12, 2016.

Sections 1 and 2 are further organized by zoning district and project size. Each Section includes the Citywide rate (Chart A) as well as unique rates for the Urban Mixed Use (UMU) District (Chart B), projects in the Mission Area Plan, SoMa NCT, or North of Market Residential Special Use District (SUD) (Chart C), and projects in the Divisadero NCT (Chart D). If there are conflicting affordability requirements, the higher requirement shall apply. The Charts are updated with the correct requirement.

For projects with complete PRJ's accepted on or after January 12, 2016 (Sections 1 and 2), the Inclusionary Affordable Housing Program requires the provision of on-site and off-site affordable units at a mix of income levels. The number of units provided at each income level depends on the project tenure, PRJ accepted date, and the applicable schedule of on-site rate increases. Income levels are defined as a percentage of the Area Median Income (AMI), for low-income, moderate-income, and middle-income units, as indicated in the Charts. Projects with a complete PRJ accepted prior to January 12, 2016 (Section 3) must provide all the inclusionary units at 55% AMI for rental, or 90% AMI for ownership.

Projects that use the HOME-SF program are subject to Inclusionary rates and affordability levels as set forth in Planning Code Section 206.34. More information can be found in the HOME-SF Supplemental Application. Projects that include on-site units to qualify for a density bonus under CA Govt. Code Section 65915 (the State Density Bonus Law) may also be able to satisfy all or part of the Affordable Housing Fee requirement, by receiving a credit for any on-site affordable units provided. This credit is calculated in accordance with Planning Code Section 415.5(g)(1)(D), referred to as the Combination Alternative. The Combination Alternative allows projects to satisfy the Inclusionary Housing requirement through a combination of payment of the fee and provision of on-site units. More information is available in Planning Director Bulletin 6 and the Individually Requested State Density Bonus Program Supplemental Application. State Density Bonus Projects must submit a State Density Bonus Affidavit in addition to this Affidavit.

## SECTION 1: RENTAL HOUSING PROJECTS WITH COMPLETE PRJ ACCEPTED ON OR AFTER JANUARY 16, 2016

### CHART A: Inclusionary Requirements for Rental Housing Projects Citywide

Rental Housing Projects with 10 - 24 units that elect the on-site alternative will provide all Affordable Units at 55% AMI.

Complete PRJ Accepted: →	1/12/16 - 12/31/17	1/1/18 - 12/31/18	1/1/19 - 12/31/19	1/1/20 - 12/31/20	1/1/21 - 12/31/21	1/1/22 - 12/31/22	1/1/23 - 12/31/23	1/1/24 - 12/31/24	1/1/25 - 12/31/25	1/1/26 - 12/31/26	On or after 1/1/27
<b>On-site</b>											
10-24 unit projects	12.0%	12.5%	13.0%	13.5%	14.0%	14.5%	15.0%	15.0%	15.0%	15.0%	15.0%
25+ unit projects	18.0%	19.0%	20.0%	20.5%	21.0%	21.5%	22.0%	22.5%	23.0%	23.5%	24.0%
55% AMI	10.0%	11.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%
80% AMI	4.0%	4.0%	4.0%	4.25%	4.50%	4.75%	5.0%	5.25%	5.50%	5.75%	6.0%
110% AMI	4.0%	4.0%	4.0%	4.25%	4.50%	4.75%	5.0%	5.25%	5.50%	5.75%	6.0%
<b>Fee</b>											
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
<b>Off-site</b>											
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
55% AMI	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%
80% AMI	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%
110% AMI	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%

### CHART B: Requirements for Rental Housing Projects in the UMU Districts and certain projects within the SOMA Youth and Family SUD and Western SOMA SUD

Please note that certain projects in the SOMA Youth and Family SUD and Western SOMA SUD also rely upon UMU requirements. Generally, Rental Housing Projects in the UMU that elect the on-site alternative will provide all Affordable Units at 55% AMI. If the Citywide Inclusionary Rate is higher than the UMU rate, then the Citywide rate and associated AMI tiers will apply. If the on-site rate is *italicized* in the chart below, then the Citywide rates apply, and the Project is required to provide Rental Units at the three income levels in Chart A.

Complete PRJ Accepted: →	1/12/16 - 12/31/17	1/1/18 - 12/31/18	1/1/19 - 12/31/19	1/1/20 - 12/31/20	1/1/21 - 12/31/21	1/1/22 - 12/31/22	1/1/23 - 12/31/23	1/1/24 - 12/31/24	1/1/25 - 12/31/25	1/1/26 - 12/31/26	On or after 1/1/27
<b>On-site UMU</b>											
Tier A	10-24 unit projects	14.4%	14.4%	14.4%	14.4%	14.4%	14.5%	15.0%	15.0%	15.0%	15.0%
Tier A	25+ unit projects	<i>18.0%</i>	<i>19.0%</i>	<i>20.0%</i>	<i>20.5%</i>	<i>21.0%</i>	<i>21.5%</i>	<i>22.0%</i>	<i>22.5%</i>	<i>23.0%</i>	<i>23.5%</i>
Tier B	10-24 unit projects	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%
Tier B	25+ unit projects	<i>18.0%</i>	<i>19.0%</i>	<i>20.0%</i>	<i>20.5%</i>	<i>21.0%</i>	<i>21.5%</i>	<i>22.0%</i>	<i>22.5%</i>	<i>23.0%</i>	<i>23.5%</i>
Tier C	10-24 unit projects	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%
Tier C	25+ unit projects	19.6%	19.6%	20.0%	20.5%	21.0%	21.5%	22.0%	22.5%	23.0%	23.5%

**Complete PRJ Accepted: →**      1/12/16 - 1/1/18 - 1/1/19 - 1/1/20 - 1/1/21 - 1/1/22 - 1/1/23 - 1/1/24 - 1/1/25 - 1/1/26 - **On or after**  
 12/31/17 12/31/18 12/31/19 12/31/20 12/31/21 12/31/22 12/31/23 12/31/24 12/31/25 12/31/26 1/1/27

<b>Fee or Off-site UMU</b>												
Tier A	10-24 unit projects	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%
Tier A	25+ unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
Tier B	10-24 unit projects	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%
Tier B	25+ unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
Tier C	10-24 unit projects	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%
Tier C	25+ unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%

<b>Land Dedication in UMU or Mission NCT</b>												
Tier A	10-24 unit < 30K	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%
Tier A	10-24 unit > 30K	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
Tier A	25+ unit < 30K	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%
Tier A	25+ unit > 30K	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
Tier B	10-24 unit < 30K	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%
Tier B	10-24 unit > 30K	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%
Tier B	25+ unit < 30K	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%
Tier B	25+ unit > 30K	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%
Tier C	10-24 unit < 30K	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%
Tier C	10-24 unit > 30K	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%
Tier C	25+ unit < 30K	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%
Tier C	25+ unit > 30K	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%

**CHART C: Inclusionary Requirements for Rental Housing Projects located in the North of Market Residential SUD, the Mission Area Plan, or the SOMA NCT District.**

Rental Housing Projects with 10-24 units that elect the on-site alternative will provide all Affordable Units at 55% AMI.

<b>Complete PRJ Accepted: →</b>	<b>1/12/16 - 12/31/17</b>	<b>1/1/18 - 12/31/18</b>	<b>1/1/19 - 12/31/19</b>	<b>1/1/20 - 12/31/20</b>	<b>1/1/21 - 12/31/21</b>	<b>1/1/22 - 12/31/22</b>	<b>1/1/23 - 12/31/23</b>	<b>1/1/24 - 12/31/24</b>	<b>1/1/25 - 12/31/25</b>	<b>1/1/26 - 12/31/26</b>	<b>On or after 1/1/27</b>
<b>On-site</b>											
10-24 unit projects	12.0%	12.5%	13.0%	13.5%	14.0%	14.5%	15.0%	15.0%	15.0%	15.0%	15.0%
25+ unit projects	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%
55% AMI	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%
80% AMI	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
110% AMI	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%

<b>Fee</b>											
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%

<b>Off-site</b>											
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
55% AMI	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%
80% AMI	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%
110% AMI	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%

**CHART D: Inclusionary Requirements for all Rental Housing Projects within the Divisadero NCT with Complete PRJ on or after 10/1/18 that received a 50% upzoning or greater through Ordinance No. 127-15.**

Rental Housing Projects with 10-24 units are subject to the same regulations as projects with 25 units or more. The previous density for the Divisadero NCT was 1 unit for every 800 square feet of lot area. Consult with the Current Planner to determine if the project is subject to this requirement.

<b>Complete PRJ Accepted: →</b>	<b>10/1/18 - 12/31/18</b>	<b>1/1/19 - 12/31/19</b>	<b>1/1/20 - 12/31/20</b>	<b>1/1/21 - 12/31/21</b>	<b>1/1/22 - 12/31/22</b>	<b>1/1/23 - 12/31/23</b>	<b>1/1/24 - 12/31/24</b>	<b>1/1/25 - 12/31/25</b>	<b>1/1/26 - 12/31/26</b>	<b>On or after 1/1/27</b>
<b>On-site</b>										
10+ unit projects	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%
55% AMI	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%
80% AMI	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%
110% AMI	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%

<b>Fee or Off-site</b>										
10-24 unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%

## SECTION 2: OWNERSHIP HOUSING PROJECTS WITH COMPLETE PRJ ACCEPTED ON OR AFTER JANUARY 12, 2016

### CHART A: Inclusionary Requirements for Ownership Housing Projects Citywide

Ownership Housing Projects with 10-24 units that elect the on-site alternative will provide all Affordable Units at 80% AMI.

<b>Complete PRJ Accepted: →</b>	<b>1/12/16 - 12/31/17</b>	<b>1/1/18 - 12/31/18</b>	<b>1/1/19 - 12/31/19</b>	<b>1/1/20 - 12/31/20</b>	<b>1/1/21 - 12/31/21</b>	<b>1/1/22 - 12/31/22</b>	<b>1/1/23 - 12/31/23</b>	<b>1/1/24 - 12/31/24</b>	<b>1/1/25 - 12/31/25</b>	<b>1/1/26 - 12/31/26</b>	<b>On or after 1/1/27</b>
<b>On-site</b>											
10-24 unit projects	12.0%	12.5%	13.0%	13.5%	14.0%	14.5%	15.0%	15.0%	15.0%	15.0%	15.0%
25+ unit projects	20.0%	21.0%	22.0%	22.5%	23.0%	23.5%	24.0%	24.5%	25.0%	25.5%	26.0%
80% AMI	10.0%	11.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%
105% AMI	5.0%	5.0%	5.0%	5.25%	5.50%	5.75%	6.0%	6.25%	6.50%	6.75%	7.0%
130% AMI	5.0%	5.0%	5.0%	5.25%	5.50%	5.75%	6.0%	6.25%	6.50%	6.75%	7.0%
<b>Fee</b>											
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%
<b>Off-site</b>											
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%
80% AMI	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%
105% AMI	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%
130% AMI	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%

### CHART B: Requirements for Rental Housing Projects in the UMU Districts and certain projects within the SOMA Youth and Family SUD and Western SOMA SUD, and the Land Dedication Alternative for the Mission NCT

Please note that certain projects in the SOMA Youth and Family SUD and Western SOMA SUD also rely upon UMU requirements. Generally, Ownership Housing Projects in the UMU that elect the on-site alternative will provide all Affordable Units at 90% AMI. If the Citywide Inclusionary Rate is higher than the UMU rate, then the Citywide rate and associated AMI tiers will apply. If the on-site rate is *italicized* in the chart below, then the Citywide rates apply, and the Project is required to provide Rental Units at the three income levels in Chart.

<b>Complete PRJ Accepted: →</b>	<b>1/12/16 - 12/31/17</b>	<b>1/1/18 - 12/31/18</b>	<b>1/1/19 - 12/31/19</b>	<b>1/1/20 - 12/31/20</b>	<b>1/1/21 - 12/31/21</b>	<b>1/1/22 - 12/31/22</b>	<b>1/1/23 - 12/31/23</b>	<b>1/1/24 - 12/31/24</b>	<b>1/1/25 - 12/31/25</b>	<b>1/1/26 - 12/31/26</b>	<b>On or after 1/1/27</b>
<b>On-site UMU</b>											
Tier A	10-24 unit projects	14.4%	14.4%	14.4%	14.4%	14.4%	14.4%	15.0%	15.0%	15.0%	15.0%
Tier A	25+ unit projects	20.0%	21.0%	22.0%	22.5%	23.0%	23.5%	24.0%	24.5%	25.0%	25.5%
Tier B	10-24 unit projects	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%
Tier B	25+ unit projects	20.0%	21.0%	22.0%	22.5%	23.0%	23.5%	24.0%	24.5%	25.0%	25.5%
Tier C	10-24 unit projects	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%
Tier C	25+ unit projects	20.0%	21.0%	22.0%	22.5%	23.0%	23.5%	24.0%	24.5%	25.0%	25.5%



**CHART C: Inclusionary Requirements for Ownership Housing Projects located in the North of Market Residential SUD, the Mission Area Plan, or the SOMA NCT District.**

Ownership Housing Projects with 10-24 units that elect the on-site alternative will provide all affordable units at 80% AMI.

Complete PRJ Accepted: →	1/12/16 - 12/31/17	1/1/18 - 12/31/18	1/1/19 - 12/31/19	1/1/20 - 12/31/20	1/1/21 - 12/31/21	1/1/22 - 12/31/22	1/1/23 - 12/31/23	1/1/24 - 12/31/24	1/1/25 - 12/31/25	1/1/26 - 12/31/26	On or after 1/1/27
<b>On-site</b>											
10-24 unit projects	12.0%	12.5%	13.0%	13.5%	14.0%	14.5%	15.0%	15.0%	15.0%	15.0%	15.0%
25+ unit projects	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%
80% AMI	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%	15.0%
105% AMI	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%
130% AMI	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%

<b>Fee</b>											
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%

<b>Off-site</b>											
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
80% AMI	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%	18.0%
105% AMI	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%
130% AMI	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%	7.0%

**CHART D: Inclusionary Requirements for Ownership Housing Projects within the Divisadero NCT with Complete PRJ on or after 10/1/18 that received a 50% upzoning or greater through Ordinance No. 127-15.**

Ownership Housing Projects with 10-24 units are subject to the same regulations as projects with 25 units or more. The previous density for the Divisadero NCT was 1 unit for every 800 square feet of lot area. Consult with the Current Planner to determine if the project is subject to this requirement.

Complete PRJ Accepted: →	10/1/18 - 12/31/18	1/1/19 - 12/31/19	1/1/20 - 12/31/20	1/1/21 - 12/31/21	1/1/22 - 12/31/22	1/1/23 - 12/31/23	1/1/24 - 12/31/24	1/1/25 - 12/31/25	1/1/26 - 12/31/26	On or after 1/1/27
<b>On-site</b>										
10+ unit projects	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%
80% AMI	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%
105% AMI	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%
130% AMI	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%

<b>Fee or Off-site</b>										
10-24 unit projects	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%	33.0%



## SECTION 3: INCLUSIONARY REQUIREMENTS PROJECTS WITH A COMPLETE PRJ PRIOR TO JANUARY 12, 2016.

**CHART 1-A: Inclusionary Requirements for all projects Citywide with Complete PRJ accepted before 1/12/2016**

Complete PRJ Accepted: →	Before 1/1/13	Before 1/1/14	Before 1/1/15	Before 1/1/16
<b>On-site</b>				
10-24 unit projects	12.0%	12.0%	12.0%	12.0%
25+ unit projects	12.0%	13.0%	13.5%	14.5%
<b>Fee or Off-site</b>				
10-24 unit projects	20.0%	20.0%	20.0%	20.0%
25+ unit projects at or below 120'	20.0%	25.0%	27.5%	30.0%
25+ unit projects over 120' in height*	20.0%	30.0%	30.0%	30.0%

*\*except buildings up to 130 feet in height located both within a special use district and within a height and bulk district that allows a maximum building height of 130 feet, which are subject to the requirements of 25+ unit projects at or below 120 feet.*

**CHART 1-B: Requirements for all projects in UMU Districts with Complete PRJ accepted before 1/12/2016**

Please note that certain projects in the SOMA Youth and Family SUD and Western SOMA SUD also rely upon UMU requirements.

Complete PRJ Accepted: →		Before 1/1/13	Before 1/1/14	Before 1/1/15	Before 1/1/16
<b>On-site UMU</b>					
Tier A	10-24 unit projects	14.4%	14.4%	14.4%	14.4%
Tier A	25+ unit projects	14.4%	15.4%	15.9%	16.4%
Tier B	10-24 unit projects	16.0%	16.0%	16.0%	16.0%
Tier B	25+ unit projects	16.0%	17.0%	17.5%	18.0%
Tier C	10-24 unit projects	17.6%	17.6%	17.6%	17.6%
Tier C	25+ unit projects	17.6%	18.6%	19.1%	19.6%
<b>Fee or Off-site UMU</b>					
Tier A	10-24 unit projects	23.0%	23.0%	23.0%	23.0%
Tier A	25+ unit projects	23.0%	28.0%	30.0%	30.0%
Tier B	10-24 unit projects	25.0%	25.0%	25.0%	25.0%
Tier B	25+ unit projects	25.0%	30.0%	30.0%	30.0%
Tier C	10-24 unit projects	27.0%	27.0%	27.0%	27.0%
Tier C	25+ unit projects	30.0%	30.0%	30.0%	30.0%

Complete PRJ Accepted: →

Before 1/1/13

Before 1/1/14

Before 1/1/15

Before 1/1/16

Land Dedication in UMU or Mission NCT		Before 1/1/13	Before 1/1/14	Before 1/1/15	Before 1/1/16
Tier A	10-24 unit < 30K	35.0%	35.0%	35.0%	35.0%
Tier A	10-24 unit > 30K	30.0%	30.0%	30.0%	30.0%
Tier A	25+ unit < 30K	35.0%	40.0%	42.5%	45.0%
Tier A	25+ unit > 30K	30.0%	35.0%	37.5%	40.0%
Tier B	10-24 unit < 30K	40.0%	40.0%	40.0%	40.0%
Tier B	10-24 unit > 30K	35.0%	35.0%	35.0%	35.0%
Tier B	25+ unit < 30K	40.0%	45.0%	47.5%	50.0%
Tier B	25+ unit > 30K	35.0%	40.0%	42.5%	45.0%
Tier C	10-24 unit < 30K	45.0%	45.0%	45.0%	45.0%
Tier C	10-24 unit > 30K	40.0%	40.0%	40.0%	40.0%
Tier C	25+ unit < 30K	45.0%	50.0%	52.5%	55.0%
Tier C	25+ unit > 30K	40.0%	45.0%	47.5%	50.0%

**AFFIDAVIT**

# COMPLIANCE WITH THE INCLUSIONARY AFFORDABLE HOUSING PROGRAM

**PLANNING CODE SECTION 415, 417 & 419**



**San Francisco Planning**

49 South Van Ness Avenue, Suite 1400  
San Francisco, CA 94103  
www.sfplanning.org

\_\_\_\_\_  
Date

I, \_\_\_\_\_,  
do hereby declare as follows:

**A** The subject property is located at (address and block/lot):

\_\_\_\_\_  
Address

\_\_\_\_\_  
Block / Lot

The subject property is located within the following Zoning District:

\_\_\_\_\_  
Zoning District

\_\_\_\_\_  
Height and Bulk District

\_\_\_\_\_  
Special Use District, if applicable

Is the subject property located in the SOMA NCT, North of Market Residential SUD, or Mission Area Plan?

Yes  No

Is the subject property located in the Divisadero NCT?

Yes  No

Is this project in an UMU Zoning District within the Eastern Neighborhoods Plan Area?

Yes \_\_\_\_\_  No

(If yes, please indicate Affordable Housing Tier)

**B** The proposed project at the above address is subject to the *Inclusionary Affordable Housing Program*, Planning Code Section 415 and 419 et seq.

The Planning Case Number and/or Building Permit Number is:

\_\_\_\_\_  
Planning Case Number

\_\_\_\_\_  
Building Permit Number

This project requires the following approval:

- Planning Commission approval (e.g. Conditional Use Authorization, Large Project Authorization)
- Zoning Administrator approval (e.g. Variance)
- This project is principally permitted.

The Current Planner assigned to my project within the Planning Department is:

\_\_\_\_\_  
Planner Name

A complete Project Application was accepted on:

\_\_\_\_\_  
Date

The project contains \_\_\_\_\_ total dwelling units and/or group housing rooms.

This project is exempt from the *Inclusionary Affordable Housing Program* because:

- This project is 100% affordable.
- This project is 100% student housing.

Is this project a HOME-SF Project?

- Yes \_\_\_\_\_  No

*(If yes, please indicate HOME-SF Tier)*

Is this project an Analyzed or Individually Requested State Density Bonus Project?

- Yes  No

**C** Please indicate the tenure of the project.

- Ownership.** The housing project consists solely of units that are condominiums, stock cooperatives, community apartments, or detached single-family homes. If Affordable Units are provided on-site or off-site, all Affordable Units will be sold as Owned Units. The applicable fee rate is the ownership fee rate.
- Rental.** The housing project shall mean a housing project consisting solely of units owned by a single entity and rented to individual tenants. If Affordable Units are provided on-site or off-site, all Affordable Units will be Rental Units. The applicable fee rate is the rental fee rate.

**D** This project will comply with the Inclusionary Affordable Housing Program by:

- Payment of the Affordable Housing Fee prior to the first construction document issuance (Planning Code Section 415.5)
- On-site Affordable Housing Alternative (Planning Code Sections 415.6)
- Off-site Affordable Housing Alternative (Planning Code Sections 415.7)
- Combination of payment of the Affordable Housing Fee and the construction of on-site or off-site units (Planning Code Section 415.5 - required for Individually Requested State Density Bonus Projects)
- Eastern Neighborhoods Alternate Affordable Housing Fee (Planning Code Section 417)
- Land Dedication (Planning Code Section 419)

The applicable inclusionary rate is:

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*On-site, off-site or fee rate as a percentage*

If the method of compliance is the payment of the Affordable Housing Fee pursuant to Planning Code Section 415.5, please indicate the total residential gross floor area in the project.

---

*Residential Gross Floor Area*

**E** The Project Sponsor acknowledges that any change in the elected alternative which results in the reduction of the number of on-site affordable units or off-site affordable units following the project approval shall require public notice for a hearing and approval by the Planning Commission.

**F** The Project Sponsor acknowledges that failure to sell or rent the affordable units or to eliminate the on-site or off-site affordable units at any time will require the Project Sponsor to:

- (1) Inform the Planning Department and the Mayor's Office of Housing and Community Development and, if applicable, fill out a new affidavit;
- (2) Record a new Notice of Special Restrictions; and
- (3) Pay the Affordable Housing Fee plus applicable interest (using the fee schedule in place at the time that the units are converted from ownership to rental units) and any applicable penalties by law.

**G** Project Sponsor acknowledges that in the event that a Rental Housing Project becomes an Ownership Housing Project, the Project Sponsor shall notify the Planning Department of the conversion, and shall either reimburse the City the proportional amount of the Inclusionary Affordable Housing Fee equivalent to the then-current requirement for ownership units, or provide additional on-site or off-site affordable units equivalent to the then-current requirements for ownership units. The Project Sponsor acknowledges that any change in the elected tenure shall require public notice for a hearing and approval by the Planning Commission.

Prior to issuance of the site permit, the project sponsor shall submit an estimated construction timeline to the Department.

**H** For projects with PRJ's accepted on or after January 12, 2016, in the event that the Project Sponsor does not procure a building or site permit for construction of the principal project within 30 months of the Project's approval, the Project shall comply with the Inclusionary Affordable Housing Requirements applicable thereafter at the time the Sponsor is issued a site or building permit.

**I** If a Project Sponsor elects to completely or partially satisfy their Inclusionary Housing requirement by paying the Affordable Housing Fee, the Sponsor must pay the fee in full sum to the Development Fee Collection Unit at the Department of Building Inspection for use by the Mayor's Office of Housing prior to the issuance of the first construction document.

**J** If a Project Sponsor elects the on-site alternative, the Sponsor shall record Notice of Special Restrictions (NSR) identifying the location of the affordable units in the project. This NSR shall be recorded no later than the architectural addendum and at least 12 months prior to the first certificate of occupancy. The Project Sponsor shall submit a request for pricing determination to MOHCD at least 8 months prior to first certificate of occupancy.

**K** If a Project Sponsor elects the on-site alternative, the Project Sponsor acknowledges that the Affordable Units will remain affordable for the life of the project.

## UNIT MIX TABLES

### Number of All Units in PRINCIPAL PROJECT:

<b>TOTAL UNITS:</b>	SRO / Group Housing:	Studios:	One-Bedroom Units:	Two-Bedroom Units:	Three (or more) Bedroom Units:
---------------------	----------------------	----------	--------------------	--------------------	--------------------------------

If you selected the On-site, Off-Site, or Combination Alternative, please fill out the applicable section below. The On-Site Affordable Housing Alternative is required for HOME-SF Projects pursuant to Planning Code Section 206.34. State Density Bonus Projects must select the Combination Affordable Housing Alternative. If the Project includes the demolition, conversion, or removal of any qualifying affordable units, please complete the Affordable Unit Replacement Section.

**On-site Affordable Housing Alternative** (Planning Code Section 415.6, 419.3, or 206.34): \_\_\_\_\_ % of the unit total.

### Number of Affordable Units to be Located ON-SITE:

<b>TOTAL UNITS:</b>	SRO / Group Housing:	Studios:	One-Bedroom Units:	Two-Bedroom Units:	Three (or more) Bedroom Units:
---------------------	----------------------	----------	--------------------	--------------------	--------------------------------

<b>LOW-INCOME</b>	Number of Affordable Units	% of Total Units	AMI Level
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<b>MODERATE-INCOME</b>	Number of Affordable Units	% of Total Units	AMI Level
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<b>MIDDLE-INCOME</b>	Number of Affordable Units	% of Total Units	AMI Level
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**Off-site Affordable Housing Alternative** (Planning Code Section 415.7 or 419.3): \_\_\_\_\_ % of the unit total.

### Number of Affordable Units to be Located OFF-SITE:

<b>TOTAL UNITS:</b>	SRO / Group Housing:	Studios:	One-Bedroom Units:	Two-Bedroom Units:	Three (or more) Bedroom Units:
---------------------	----------------------	----------	--------------------	--------------------	--------------------------------

Area of Dwellings in Principal Project (in sq. feet):	Off-Site Project Address:
Area of Dwellings in Off-Site Project (in sq. feet):	

Off-Site Block/Lot(s):	Motion No. for Off-Site Project (if applicable):	Number of Market-Rate Units in the Off-site Project:
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<b>AMI LEVELS:</b>	Number of Affordable Units	% of Total Units	AMI Level
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<b>AMI LEVELS:</b>	Number of Affordable Units	% of Total Units	AMI Level
--------------------	----------------------------	------------------	-----------

<b>AMI LEVELS:</b>	Number of Affordable Units	% of Total Units	AMI Level
--------------------	----------------------------	------------------	-----------

**UNIT MIX TABLES: CONTINUED**

**Combination** of payment of a **fee, on-site affordable units, or off-site affordable units** with the following distribution:  
*Indicate what percent of each option will be implemented (from 0% to 99%) and the number of on-site and/or off-site below market rate units for rent or for sale.*

1. On-Site                      % of affordable housing requirement.

Number of Affordable Units to be Located ON-SITE:					
<b>TOTAL UNITS:</b>	SRO / Group Housing:	Studios:	One-Bedroom Units:	Two-Bedroom Units:	Three (or more) Bedroom Units:

2. Off-Site                      % of affordable housing requirement.

Number of Affordable Units to be Located OFF-SITE:					
<b>TOTAL UNITS:</b>	SRO / Group Housing:	Studios:	One-Bedroom Units:	Two-Bedroom Units:	Three (or more) Bedroom Units:
Area of Dwellings in Principal Project (in sq. feet):		Off-Site Project Address:			
Area of Dwellings in Off-Site Project (in sq. feet):					
Off-Site Block/Lot(s):		Motion No. for Off-Site Project (if applicable):		Number of Market-Rate Units in the Off-site Project:	

Income Levels for On-Site or Off-Site Units in Combination Projects:			
<b>AMI LEVELS:</b>	Number of Affordable Units	% of Total Units	AMI Level
<b>AMI LEVELS:</b>	Number of Affordable Units	% of Total Units	AMI Level
<b>AMI LEVELS:</b>	Number of Affordable Units	% of Total Units	AMI Level
<b>AMI LEVELS:</b>	Number of Affordable Units	% of Total Units	AMI Level

3. Fee                              % of affordable housing requirement.

**Is this Project a State Density Bonus Project?**  Yes  No

If yes, please indicate the bonus percentage, up to 50% \_\_\_\_\_, and the number of bonus units and the bonus amount of residential gross floor area (if applicable) \_\_\_\_\_

Affordable Unit Replacement: Existing Number of Affordable Units to be Demolished, Converted, or Removed for the Project					
<b>TOTAL UNITS:</b>	SRO / Group Housing:	Studios:	One-Bedroom Units:	Two-Bedroom Units:	Three (or more) Bedroom Units:

**Contact Information and Declaration of Sponsor of PRINCIPAL PROJECT**

\_\_\_\_\_  
*Company Name*

\_\_\_\_\_  
*Name (Print) of Contact Person*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City, State, Zip*

\_\_\_\_\_  
*Phone / Fax*

\_\_\_\_\_  
*Email*

I am a duly authorized agent or owner of the subject property. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. I hereby declare that the information herein is accurate to the best of my knowledge and that I intend to satisfy the requirements of Planning Code Section 415 as indicated above.

**Sign Here**

Signature:

Name (Print), Title:

Executed on this day in:

Location:

Date:

**Contact Information and Declaration of Sponsor of OFF-SITE PROJECT ( If Different )**

\_\_\_\_\_  
*Company Name*

\_\_\_\_\_  
*Name (Print) of Contact Person*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City, State, Zip*

\_\_\_\_\_  
*Phone / Fax*

\_\_\_\_\_  
*Email*

I hereby declare that the information herein is accurate to the best of my knowledge and that I intend to satisfy the requirements of Planning Code Section 415 as indicated above.

**Sign Here**

Signature:

Name (Print), Title:



Exhibit D: Inclusionary Rates for Pipeline Projects and Interim Rate projects as set forth in the Ordinance

<b>Citywide</b>			
	<b>Current Rates (2023)</b>	<b>Pipeline Projects</b>	<b>Interim Rate Projects</b>
<b>On-Site</b>			
<b>10-24 Unit (small) projects</b>	<b>15%</b>	<b>15%</b>	<b>15%</b>
Low (55% AMI rental, 80% AMI ownership)	15%	15%	15%
Moderate (80% AMI rental, 105% AMI ownership)	0%	0%	0%
Middle (110% AMI rental, 130% AMI ownership)	0%	0%	0%
<b>25+ Unit (large) projects - Rental</b>	<b>22%</b>	<b>12%</b>	<b>15%</b>
Low (55% AMI)	12%	8%	10%
Moderate (80% AMI)	5%	2%	2.5%
Middle (110% AMI)	5%	2%	2.5%
<b>25+ Unit (large) projects - Ownership</b>	<b>24%</b>	<b>12%</b>	<b>15%</b>
Low (80% AMI)	12%	8%	10%
Moderate (105% AMI)	6%	2%	2.5%
Middle (130% AMI)	6%	2%	2.5%
<b>Off-Site</b>			
<b>10-24 Unit (small) projects</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>
Low (55% AMI rental, 80% AMI ownership)	20%	20%	20%
Moderate (80% AMI rental, 105% AMI ownership)	0%	0%	0%
Middle (110% AMI rental, 130% AMI ownership)	0%	0%	0%
<b>25+ Unit (large) projects - Rental</b>	<b>30%</b>	<b>16.4%</b>	<b>20.5%</b>
Low (55% AMI)	18%	9.4%	11.5%
Moderate (80% AMI)	6%	4%	5%
Middle (110% AMI)	6%	3%	4%
<b>25+ Unit (large) projects - Ownership</b>	<b>33%</b>	<b>16.4%</b>	<b>20.5%</b>
Low (80% AMI)	18%	9.4%	11.5%
Moderate (105% AMI)	8%	4%	5%
Middle (130% AMI)	7%	3%	4%
<b>Fee</b>			
10-24 Unit (small) projects	20%	20%	20%
25+ Unit (large) projects - Rental	30%	16.4%	20.5%
25+ Unit (large) projects - Ownership	33%	16.4%	20.5%

<b>Carve Out: Mission, SoMa, Tenderloin</b>			
<b>Reduction for Large Projects off of Large Project Rental Rate</b>		<b>54.5%</b>	<b>68%</b>
	<b>Current Rates (2023)</b>	<b>Pipeline Projects</b>	<b>Interim Rate Projects</b>
<b>On-Site</b>			
<b>10-24 Unit (small) projects</b>	<b>15%</b>	<b>15%</b>	<b>15%</b>
Low (55% AMI rental, 80% AMI ownership)	15%	15%	15%
Moderate (80% AMI rental, 105% AMI ownership)	0%	0%	0%
Middle (110% AMI rental, 130% AMI ownership)	0%	0%	0%
<b>25+ Unit (large) projects - Rental</b>	<b>25%</b>	<b>13.6%</b>	<b>17.0%</b>
Low (55% AMI)	15%	8.2%	10.2%
Moderate (80% AMI)	5%	2.7%	3.4%
Middle (110% AMI)	5%	2.7%	3.4%
<b>25+ Unit (large) projects - Ownership</b>	<b>27%</b>	<b>13.6%</b>	<b>17.0%</b>
Low (80% AMI)	15%	8.2%	10.2%
Moderate (105% AMI)	6%	2.7%	3.4%
Middle (130% AMI)	6%	2.7%	3.4%
<b>Off-Site</b>			
<b>10-24 Unit (small) projects</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>
Low (55% AMI rental, 80% AMI ownership)	20%	20%	20%
Moderate (80% AMI rental, 105% AMI ownership)	0%	0%	0%
Middle (110% AMI rental, 130% AMI ownership)	0%	0%	0%
<b>25+ Unit (large) projects - Rental</b>	<b>30%</b>	<b>16.4%</b>	<b>20.4%</b>
Low (55% AMI)	18%	9.4%	9.4%
Moderate (80% AMI)	6%	4%	4%
Middle (110% AMI)	6%	3%	3%

<b>25+ Unit (large) projects - Ownership</b>	<b>33%</b>	<b>16.4%</b>	<b>20.4%</b>
Low (80% AMI)	18%	9.4%	9.4%
Moderate (105% AMI)	8%	4%	4%
Middle (130% AMI)	7%	3%	3%
<b>Fee</b>			
10-24 Unit (small) projects	20%	20%	20%
25+ Unit (large) projects - Rental	30%	16.4%	20.4%
25+ Unit (large) projects - Ownership	33%	16.4%	20.4%

<b>Section 419: Urban Mixed Use (UMU) SoMa Youth and Family, Western SOMA SUD</b>			
<b>Reduction for Large Projects</b>		54.5%	68%
	Current Rates (2023)	Pipeline Projects	Interim Rate Projects
<b>On-Site</b>			
Tier A			
10-24 unit (small) projects	14.4%	14.4%	14.4%
25+ unit (large) projects	14.4%	12%	15%
Tier B			
10-24 unit (small) projects	16%	16%	16%
25+ unit (large) projects	16%	12%	15%
Tier C			
10-24 unit (small) projects	17.6%	17.6%	17.6%
25+ unit (large) projects	17.6%	12%	15%
<b>Fee/Off-Site</b>			
Tier A			
10-24 unit (small) projects	23%	23%	23%
25+ unit (large) projects	23%	16.4%	20.5%
Tier B			
10-24 unit (small) projects	25%	25%	25%
25+ unit (large) projects	25%	16.4%	20.5%
Tier C			
10-24 unit (small) projects	27%	27%	27%
25+ unit (large) projects	27%	16.4%	20.5%

<b>Section 428: Divisadero Street NCT</b>			
<b>Reduction for Large Projects</b>		54.5%	68%
<b>Complete Development App. Submitted pre 10/1/18 (assumes 50% upzoning)</b>			
	Current Rates (2023)	Pipeline Projects	Interim Rate Projects
<b>On-Site</b>			
<b>10-24 Unit (small) projects - Rental</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>
Low (55% AMI rental, 80% AMI ownership)	12%	12%	12%
Moderate (80% AMI)	4%	4%	4%
Middle (110% AMI)	4%	4%	4%
<b>10-24 Unit (small) projects - Ownership</b>	<b>23%</b>	<b>23%</b>	<b>23%</b>
Low (80% AMI)	12%	12%	12%
Moderate (105% AMI)	5.5%	5.5%	5.5%
Middle (130% AMI)	5.5%	5.5%	5.5%
<b>25+ Unit (large) projects - Rental</b>	<b>20%</b>	<b>12%</b>	<b>13.6%</b>
Low (55% AMI)	12%	8%	8.2%
Moderate (80% AMI)	4%	2%	2.7%
Middle (110% AMI)	4%	2%	2.7%
<b>25+ Unit (large) projects - Ownership</b>	<b>23%</b>	<b>12%</b>	<b>13.6%</b>
Low (80% AMI)	12%	8%	8.2%
Moderate (105% AMI)	5.5%	2%	2.7%
Middle (130% AMI)	5.5%	2%	2.7%
<b>Off-Site</b>			
<b>10-24 Unit (small) projects - Rental</b>	<b>30%</b>	<b>30.0%</b>	<b>30.0%</b>
Low (55% AMI rental, 80% AMI ownership)	18%	18.0%	18.0%
Moderate (80% AMI)	6%	6.0%	6.0%
Middle (110% AMI)	6%	6.0%	6.0%
<b>10-24 Unit (small) projects - Ownership</b>	<b>33%</b>	<b>33.0%</b>	<b>33.0%</b>

Low (80% AMI)	18%	18.0%	18.0%
Moderate (105% AMI)	8%	8.0%	8.0%
Middle (130% AMI)	7%	7.0%	7.0%
<b>25+ Unit (large) projects - Rental</b>	<b>30%</b>	<b>16.4%</b>	<b>20.4%</b>
Low (55% AMI)	18%	9.4%	12.2%
Moderate (80% AMI)	6%	4%	4.1%
Middle (110% AMI)	6%	3%	4.1%
<b>25+ Unit (large) projects - Ownership</b>	<b>33%</b>	<b>16.4%</b>	<b>20.4%</b>
Low (80% AMI)	18%	9.4%	12.2%
Moderate (105% AMI)	8%	4%	4.1%
Middle (130% AMI)	7%	3%	4.1%
<b>Fee</b>			
Small rental	30%	30.0%	30.0%
Small ownership	33%	33.0%	33.0%
Large Rental	30%	16.4%	20.4%
Large Ownership	33%	16.4%	20.4%

<b>Complete Development App. Submitted post 10/1/18, more than 50% upzoning</b>			
	Current Rates (2023)	Pipeline Projects	Interim Rate Projects
<b>On-Site</b>			
<b>10-24 Unit (small) projects - Rental</b>	<b>23%</b>	<b>23.0%</b>	<b>23.0%</b>
Low (55% AMI rental, 80% AMI ownership)	10%	10.0%	10.0%
Moderate (80% AMI)	8.0%	8.0%	8.0%
Middle (110% AMI)	5.0%	5.0%	5.0%
<b>10-24 Unit (small) projects - Ownership</b>	<b>23%</b>	<b>23.0%</b>	<b>23.0%</b>
Low (80% AMI)	10%	10.0%	10.0%
Moderate (105% AMI)	8.0%	8.0%	8.0%
Middle (130% AMI)	5.0%	5.0%	5.0%
<b>25+ Unit (large) projects - Rental</b>	<b>23%</b>	<b>12.5%</b>	<b>15.6%</b>
Low (55% AMI)	10%	5.5%	6.8%
Moderate (80% AMI)	8.0%	4.4%	5.4%
Middle (110% AMI)	5.0%	2.7%	3.4%
<b>25+ Unit (large) projects - Ownership</b>	<b>23%</b>	<b>12.5%</b>	<b>15.6%</b>
Low (80% AMI)	10%	5.5%	6.8%
Moderate (105% AMI)	8.0%	4.4%	5.4%
Middle (130% AMI)	5.0%	2.7%	3.4%
<b>Off-Site</b>			
<b>10-24 Unit (small) projects - Rental</b>	<b>30%</b>	<b>30%</b>	<b>30%</b>
Low (55% AMI rental, 80% AMI ownership)	18%	18%	18%
Moderate (80% AMI)	6%	6%	6%
Middle (110% AMI)	6%	6%	6%
<b>10-24 Unit (small) projects - Ownership</b>	<b>33%</b>	<b>33%</b>	<b>33%</b>
Low (80% AMI)	18%	18%	18%
Moderate (105% AMI)	8%	8%	8%
Middle (130% AMI)	7%	7%	7%
<b>25+ Unit (large) projects - Rental</b>	<b>30%</b>	<b>16.4%</b>	<b>20.4%</b>
Low (55% AMI)	18%	9.4%	12.2%
Moderate (80% AMI)	6%	4%	4.1%
Middle (110% AMI)	6%	3%	4.1%
<b>25+ Unit (large) projects - Ownership</b>	<b>33%</b>	<b>16.4%</b>	<b>20.4%</b>
Low (80% AMI)	18%	9.4%	12.2%
Moderate (105% AMI)	8%	4.0%	4.1%
Middle (130% AMI)	7%	3.0%	4.1%
<b>Fee</b>			
Small rental	30%	30.0%	30.0%
Small ownership	33%	33.0%	33.0%
Large Rental	30%	16.4%	20.4%
Large Ownership	33%	16.4%	20.4%

Future Inclusionary Rates - Operative November 1, 2026

<b>Citywide</b>							
	Current Rates (2023)	Proposed Rates	Annual Increases to Citywide Rates				
<b>On-Site</b>			1-Jan-28	1-Jan-29	1-Jan-30	1-Jan-31	
<b>10-24 Unit (small) projects</b>	<b>15%</b>	<b>15%</b>					
Low (55% AMI rental, 80% AMI ownership)	15%	15%					
<b>25+ Unit (large) projects - Rental</b>	<b>22%</b>	<b>18%</b>	<b>18.50%</b>	<b>19%</b>	<b>19.50%</b>	<b>20%</b>	
Low (55% AMI)	12%	10%	10.50%	11%	11%	11%	
Moderate (80% AMI)	5%	4.0%	4%	4%	4.25%	4.50%	
Middle (110% AMI)	5%	4.0%	4%	4%	4.25%	4.50%	
<b>25+ Unit (large) projects - Ownership</b>	<b>24%</b>	<b>20%</b>	<b>20.50%</b>	<b>21%</b>	<b>21.50%</b>	<b>22%</b>	
Low (80% AMI)	12%	10%	10.50%	11%	11%	11%	
Moderate (105% AMI)	6%	5.0%	5%	5%	5.25%	5.50%	
Middle (130% AMI)	6%	5.0%	5%	5%	5.25%	5.50%	

<b>Off-Site</b>		
<b>10-24 Unit (small) projects</b>	<b>20%</b>	<b>20%</b>
Low (55% AMI rental, 80% AMI ownership)	20%	20%
<b>25+ Unit (large) projects - Rental</b>	<b>30%</b>	<b>24.5%</b>
Low (55% AMI)	18%	12.5%
Moderate (80% AMI)	6%	6%
Middle (110% AMI)	6%	6%
<b>25+ Unit (large) projects - Ownership</b>	<b>33%</b>	<b>27.0%</b>
Low (80% AMI)	18%	12%
Moderate (105% AMI)	8%	7.5%
Middle (130% AMI)	7%	7.5%

<b>Fee - Complete EEA Before January 1, 2016</b>		
All projects - EEA before 1/1/14 - both Tenures at or below 120'	25%	20.5%
All projects - EEA before 1/1/15 - both Tenures at or below 120'	27.5%	22.5%
All projects - EEA before 1/12/16 - both Tenures at or below 120'	30%	24.5%
All projects above 120' (130' in certain cases) - EEA before 1/1/14	30%	24.5%

<b>Fee - Complete EEA After January 1, 2016</b>		
10-24 Unit (small) projects	20%	20%
25+ Unit (large) projects - Rental	30%	24.5%
25+ Unit (large) projects - Ownership	33%	27.0%

<b>Carve Out: Mission, SoMa, Tenderloin</b>		
	Current Rates (2023)	Proposed Rates
<b>On-Site</b>		
<b>10-24 Unit (small) projects</b>	<b>15%</b>	<b>15%</b>
Low (55% AMI rental, 80% AMI ownership)	15%	15%
<b>25+ Unit (large) projects - Rental</b>	<b>25%</b>	<b>20.5%</b>
Low (55% AMI)	15%	15.5%
Moderate (80% AMI)	5%	2.5%
Middle (110% AMI)	5%	2.5%
<b>25+ Unit (large) projects - Ownership</b>	<b>27%</b>	<b>22.1%</b>
Low (80% AMI)	15%	16.1%
Moderate (105% AMI)	6%	3.0%
Middle (130% AMI)	6%	3.0%

<b>Off-Site</b>		
<b>10-24 Unit (small) projects</b>	<b>20%</b>	<b>20%</b>
Low (55% AMI rental, 80% AMI ownership)	20%	20%
<b>25+ Unit (large) projects - Rental</b>	<b>30%</b>	<b>24.5%</b>
Low (55% AMI)	18%	14.7%
Moderate (80% AMI)	6%	4.9%
Middle (110% AMI)	6%	4.9%
<b>25+ Unit (large) projects - Ownership</b>	<b>33%</b>	<b>27.0%</b>
Low (80% AMI)	18%	14.7%
Moderate (105% AMI)	8%	6.5%
Middle (130% AMI)	7%	5.7%

<b>Fee</b>		
10-24 Unit (small) projects	20%	20%
25+ Unit (large) projects - Rental	30%	24.5%
25+ Unit (large) projects - Ownership	33%	27.0%

<b>Section 419: Urban Mixed Use (UMU) SoMa Youth and Family, Western SOMA SUD</b>		
	Current Rates (2023)	Proposed Rates
<b>On-Site</b>		
<b>Tier A</b>		
10-24 unit (small) projects	14.4%	15%
25+ unit (large) projects - rental	14.4%	18%
25+ unit (large) projects - ownership	14.4%	20%
<b>Tier B</b>		

10-24 unit (small) projects	16%	15%
25+ unit (large) projects - rental	16%	18%
25+ unit (large) projects - ownership	16%	20%
<b>Tier C</b>		
10-24 unit (small) projects	17.6%	15%
25+ unit (large) projects - rental	17.6%	18%
25+ unit (large) projects - ownership	17.6%	20%

<b>Fee/Off-Site</b>		
<b>Tier A</b>		
10-24 unit (small) projects	23%	20%
25+ unit (large) projects - rental	23%	24.5%
25+ unit (large) projects - ownership	23%	27.0%
<b>Tier B</b>		
10-24 unit (small) projects	25%	20.5%
25+ unit (large) projects - rental	25%	24.5%
25+ unit (large) projects - ownership	25%	27.0%
<b>Tier C</b>		
10-24 unit (small) projects	27%	22.1%
25+ unit (large) projects - rental	27%	24.5%
25+ unit (large) projects - ownership	27%	27.0%

<b>Section 428: Divisadero Street NCT</b>		
<b>Complete Development App. Submitted pre 10/1/18 - assumed upzoning</b>		
	Current Rates (2023)	Proposed Rates
<b>On-Site</b>		
<b>All Rental Housing Projects</b>	<b>20%</b>	<b>16.4%</b>
Low (55% AMI)	12%	10.0%
Moderate (80% AMI)	4%	3.0%
Middle (110% AMI)	4%	3.4%
<b>All Ownership Housing Projects</b>	<b>23%</b>	<b>18.8%</b>
Low (80% AMI)	12%	10%
Moderate (105% AMI)	5.5%	5.0%
Middle (130% AMI)	5.5%	4.8%

<b>Off-Site</b>		
<b>All Rental Housing Projects</b>	<b>30%</b>	<b>24.5%</b>
Low (55% AMI)	18%	14.7%
Moderate (80% AMI)	6%	4.9%
Middle (110% AMI)	6%	4.9%
<b>All Ownership Housing Projects</b>	<b>33%</b>	<b>27%</b>

Low (80% AMI)	18%	14.7%
Moderate (105% AMI)	8%	6.5%
Middle (130% AMI)	7%	5.7%

<b>Fee</b>		
All Rental Housing Projects	30%	24.5%
All Ownership Housing Projects	33%	27.0%

<b>Complete Development App. Submitted after 10/1/18, assumed upzoning</b>		
<b>On-Site</b>		
<b>10-24 Unit (small) projects - Rental</b>	<b>23%</b>	<b>18.8%</b>
Low (55% AMI rental, 80% AMI ownership)	10%	10%
Moderate (80% AMI)	8.0%	5.0%
Middle (110% AMI)	5.0%	4.8%
<b>10-24 Unit (small) projects - Ownership</b>	<b>23%</b>	<b>18.8%</b>
Low (80% AMI)	10%	10%
Moderate (105% AMI)	8.0%	5.0%
Middle (130% AMI)	5.0%	4.8%
<b>25+ Unit (large) projects - Rental</b>	<b>23%</b>	<b>18.8%</b>
Low (55% AMI)	10%	10%
Moderate (80% AMI)	8.0%	5.0%
Middle (110% AMI)	5.0%	4.8%
<b>25+ Unit (large) projects - Ownership</b>	<b>23%</b>	<b>20%</b>
Low (80% AMI)	10%	10%
Moderate (105% AMI)	8.0%	5%
Middle (130% AMI)	5.0%	5%

<b>Off-Site</b>		
<b>All Rental Housing Projects</b>	<b>30%</b>	<b>24.5%</b>
Low (55% AMI)	18%	14.7%
Moderate (80% AMI)	6%	4.9%
Middle (110% AMI)	6%	4.9%
<b>All Ownership Housing Projects</b>	<b>33%</b>	<b>27%</b>
Low (80% AMI)	18%	14.7%
Moderate (105% AMI)	8%	6.5%
Middle (130% AMI)	7%	5.7%

<b>Fee</b>		
All Rental Housing Projects	30%	24.5%
All Ownership Housing Projects	33%	27.0%

Recommendation 1: Expand the Ordinance to include temporary reductions in the inclusionary rate for projects that include 10-24 units (“small projects”)

<b>Citywide</b>		
	<b>Pipeline Projects</b>	<b>Interim Rate Projects</b>
<b>On-Site</b>		
<b>All Projects</b>	<b>12%</b>	<b>15%</b>
Low (55% AMI rental, 80% AMI ownership)	8%	10%
Moderate (80% AMI rental, 105% AMI ownership)	2%	2.5%
Middle (110% AMI rental, 130% AMI ownership)	2%	2.5%
<b>Off-Site</b>		
<b>All Projects</b>	<b>16.4%</b>	<b>20.5%</b>
Low (55% AMI rental, 80% AMI ownership)	9.4%	11.5%
Moderate (80% AMI rental, 105% AMI ownership)	4%	5%
Middle (110% AMI rental, 130% AMI ownership)	3%	4%
<b>Fee</b>		
All Projects	16.4%	20.5%

<b>Carve Out: Mission, SoMa, Tenderloin</b>		
	<b>Pipeline Projects</b>	<b>Interim Rate Projects</b>
<b>On-Site</b>		
<b>10-24 Unit (small) projects</b>	<b>12%</b>	<b>15%</b>
Low (55% AMI rental, 80% AMI ownership)	8%	10%
Moderate (80% AMI rental, 105% AMI ownership)	2%	2.5%
Middle (110% AMI rental, 130% AMI ownership)	2%	2.5%
<b>25+ Unit Projects</b>	<b>13.6%</b>	<b>17.0%</b>
Low (55% AMI rental, 80% AMI ownership)	8.2%	10.2%
Moderate (80% AMI rental, 105% AMI ownership)	2.7%	3.4%
Middle (110% AMI rental, 130% AMI ownership)	2.7%	3.4%
<b>Off-Site</b>		
<b>10-24 Unit (small) projects</b>	<b>16.4%</b>	<b>20.5%</b>
Low (55% AMI rental, 80% AMI ownership)	9.4%	11.5%
Moderate (80% AMI rental, 105% AMI ownership)	4%	5%
Middle (110% AMI rental, 130% AMI ownership)	3%	4%
<b>25+ Unit Projects</b>	<b>16.4%</b>	<b>20.4%</b>
Low (55% AMI rental, 80% AMI ownership)	9.4%	11.5%
Moderate (80% AMI rental, 105% AMI ownership)	4.0%	5%
Middle (110% AMI rental, 130% AMI ownership)	3.0%	4%
<b>Fee</b>		
10-24 Unit (small) projects	16.4%	20.5%
25+ Unit projects	16.4%	20.4%



<b>Section 419: Urban Mixed Use (UMU) SoMa Youth and Family, Western SOMA SUD</b>		
	<b>Pipeline Projects</b>	<b>Interim Rate Projects</b>
<b>On-Site</b>		
<b>Tier A, Tier B and Tier C projects, all sizes</b>	<b>12%</b>	<b>15%</b>
Low (55% AMI rental, 80% AMI ownership)	8%	10%
Moderate (80% AMI rental, 105% AMI ownership)	2%	2.5%
Middle (110% AMI rental, 130% AMI ownership)	2%	2.5%

<b>Fee/Off-Site</b>		
<b>Tier A, Tier B and Tier C projects, all sizes</b>	<b>16.4%</b>	<b>20.5%</b>
Low (55% AMI rental, 80% AMI ownership)	9.4%	11.5%
Moderate (80% AMI rental, 105% AMI ownership)	4.0%	5%
Middle (110% AMI rental, 130% AMI ownership)	3.0%	4%

<b>Section 428: Divisadero Street NCT - Complete Application before 10/1/18, upzoned</b>		
	<b>Pipeline Projects</b>	<b>Interim Rate Projects</b>
<b>On-Site</b>		
<b>All Projects</b>	<b>12%</b>	<b>15%</b>
Low (55% AMI rental, 80% AMI ownership)	8%	10%
Moderate (80% AMI rental, 105% AMI ownership)	2%	2.5%
Middle (110% AMI rental, 130% AMI ownership)	2%	2.5%

<b>Fee/Off-Site</b>		
<b>All Projects</b>	<b>16.4%</b>	<b>20.5%</b>
Low (55% AMI rental, 80% AMI ownership)	9.4%	11.5%
Moderate (80% AMI rental, 105% AMI ownership)	4.0%	5%
Middle (110% AMI rental, 130% AMI ownership)	3.0%	4%

<b>Section 428: Divisadero Street NCT - Complete Application after 10/1/18, upzoned</b>		
	<b>Pipeline Projects</b>	<b>Interim Rate Projects</b>
<b>On-Site</b>		
<b>All Projects</b>	<b>12%</b>	<b>15%</b>
Low (55% AMI rental, 80% AMI ownership)	8%	10%
Moderate (80% AMI rental, 105% AMI ownership)	2%	2.5%
Middle (110% AMI rental, 130% AMI ownership)	2%	2.5%

<b>Fee/Off-Site</b>		
<b>All Projects</b>	<b>16.4%</b>	<b>20.5%</b>
Low (55% AMI rental, 80% AMI ownership)	9.4%	11.5%
Moderate (80% AMI rental, 105% AMI ownership)	4.0%	5%
Middle (110% AMI rental, 130% AMI ownership)	3.0%	4%

Recommendation 2: Expand the Ordinance to include temporary reductions for projects using HOME-SF.

<b>HOME-SF Rate - All On-Site Rates</b>			
	Current Rates (2023)	Pipeline Rate	Interim Project Rate
<b>Rate Reduction</b>		54.5%	68%
<b>Tier 1: 10-24 Units</b>	<b>20%</b>	<b>10.9%</b>	<b>13.6%</b>
Low (55% AMI rental, 80% AMI ownership)	10%	5.5%	6.8%
Moderate (80% AMI rental, 105% AMI ownership)	5%	2.7%	3.4%
Middle (110% AMI rental, 130% AMI ownership)	5%	2.7%	3.4%
<b>Tier 1: 25+ Units</b>	<b>23%</b>	<b>12.5%</b>	<b>15.6%</b>
Low (55% AMI rental, 80% AMI ownership)	10%	5.5%	6.8%
Moderate (80% AMI rental, 105% AMI ownership)	8%	4.4%	5.4%
Middle (110% AMI rental, 130% AMI ownership)	5%	2.7%	3.4%
<b>Tier 2: All Projects</b>	<b>25%</b>	<b>13.6%</b>	<b>17.0%</b>
Low (55% AMI)	10%	5.5%	6.8%
Moderate (80% AMI)	8%	4.4%	5.4%
Middle (110% AMI)	7%	3.8%	4.8%
<b>Tier 3: All Projects</b>	<b>30%</b>	<b>16.4%</b>	<b>20.4%</b>
Low (80% AMI)	10%	5.5%	6.8%
Moderate (105% AMI)	10%	5.5%	6.8%
Middle (130% AMI)	10%	5.5%	6.8%

Recommendation 5: Remove the on-site, off-site and fee rates for the UMU District

Chart assumes that temporary reductions of 415A and 415B would apply to small projects - identified in red italics

Green cells indicate the two instances where UMU rates exceed proposed Citywide rates

PIPELINE	Old UMU	New UMU	New Citywide	Rate (the higher)
<b>Tier A</b>				
<i>Rental Small</i>	14.4	7.8	12	12
<i>Owner Small</i>	14.4	7.8	12	12
Rental Large	14.4	7.8	12	12
Owner Large	14.4	7.8	12	12
<i>Rental Small Fee</i>	23	12.5	16.4	16.4
<i>Owner Small Fee</i>	23	12.5	16.4	16.4
Rental Large Fee	23	12.5	16.4	16.4
Owner Large Fee	23	12.5	16.4	16.4
<b>Tier B</b>				
<i>Rental Small</i>	16	8.7	12	12
<i>Owner Small</i>	16	8.7	12	12
Rental Large	16	8.7	12	12
Owner Large	16	8.7	12	12
<i>Rental Small Fee</i>	25	13.6	16.4	16.4
<i>Owner Small Fee</i>	25	13.6	16.4	16.4
Rental Large Fee	25	13.6	16.4	16.4
Owner Large Fee	25	13.6	16.4	16.4
<b>Tier C</b>				
<i>Rental Small</i>	17.6	9.6	12	12
<i>Owner Small</i>	17.6	9.6	12	12
Rental Large	17.6	9.6	12	12
Owner Large	17.6	9.6	12	12
<i>Rental Small Fee</i>	27	14.7	16.4	16.4
<i>Owner Small Fee</i>	27	14.7	16.4	16.4
Rental Large Fee	27	14.7	16.4	16.4
Owner Large Fee	27	14.7	16.4	16.4

INTERIM RATE	Old UMU	New UMU	New Citywide	Rate (the higher)
<b>Tier A</b>				
<i>Rental Small</i>	14.4	9.8	15	15
<i>Owner Small</i>	14.4	9.8	15	15
Rental Large	14.4	9.8	15	15
Owner Large	14.4	9.8	15	15
<i>Rental Small Fee</i>	23	15.6	20.5	20.5
<i>Owner Small Fee</i>	23	15.6	20.5	20.5
Rental Large Fee	23	15.6	20.5	20.5
Owner Large Fee	23	15.6	20.5	20.5
<b>Tier B</b>				
<i>Rental Small</i>	16	10.9	15	15
<i>Owner Small</i>	16	10.9	15	15
Rental Large	16	10.9	15	15
Owner Large	16	10.9	15	15
<i>Rental Small Fee</i>	25	17	20.5	20.5
<i>Owner Small Fee</i>	25	17	20.5	20.5
Rental Large Fee	25	17	20.5	20.5
Owner Large Fee	25	17	20.5	20.5
<b>Tier C</b>				
<i>Rental Small</i>	17.6	12.0	15	15
<i>Owner Small</i>	17.6	12.0	15	15
Rental Large	17.6	12.0	15	15
Owner Large	17.6	12.0	15	15
<i>Rental Small Fee</i>	27	18.4	20.5	20.5
<i>Owner Small Fee</i>	27	18.4	20.5	20.5
Rental Large Fee	27	18.4	20.5	20.5
Owner Large Fee	27	18.4	20.5	20.5

FUTURE	Old UMU	New UMU	New Citywide	Rate (the higher)
<b>Tier A</b>				
Rental Small	14.4	12.3	15	15
Owner Small	14.4	12.3	15	15
Rental Large	14.4	12.3	18	18
Owner Large	14.4	12.3	20	20
Rental Small Fee	23	18.8	20	20
Owner Small Fee	23	18.8	20	20
Rental Large Fee	23	18.8	24.5	24.5
Owner Large Fee	23	18.8	27	27
<b>Tier B</b>				
Rental Small	16	13.1	15	15
Owner Small	16	13.1	15	15
Rental Large	16	13.1	18	18
Owner Large	16	13.1	20	20
Rental Small Fee	25	20.5	20	20.5
Owner Small Fee	25	20.5	20	20.5
Rental Large Fee	25	14.4	24.5	24.5
Owner Large Fee	25	14.4	27	27
<b>Tier C</b>				
Rental Small	17.6	14.4	15	15
Owner Small	17.6	14.4	15	15
Rental Large	17.6	14.4	18	18
Owner Large	17.6	14.4	20	20
Rental Small Fee	27	22.1	20	22.1
Owner Small Fee	27	22.1	20	22.1
Rental Large Fee	27	22.1	24.5	24.5
Owner Large Fee	27	22.1	27	27



**OFFICE OF THE CONTROLLER**  
CITY AND COUNTY OF SAN FRANCISCO

Ben Rosenfield  
Controller

Todd Rydstrom  
Deputy Controller

## MEMORANDUM

**TO:** Mayor London Breed  
President Aaron Peskin and Member of the Board of Supervisors

**FROM:** Ben Rosenfield, Controller  
Ted Egan, Chief Economist

**DATE:** June 30, 2023

**SUBJECT:** **Inclusionary Housing: Triennial Review of Economic Feasibility**

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### Background

Section 415.10 of the Planning Code requires the Controller, with the assistance of a Technical Advisory Committee (TAC) and consultants, to prepare a feasibility study of the City's inclusionary housing requirements every three years. This work has recently been completed, and this report summarizes the findings and recommendations stemming from this study.

Inclusionary housing refers to the inclusion of permanently affordable housing units within a market-rate housing development. Since 2002, the City has required market-rate housing developers to provide inclusionary housing, either within a market-rate development, off-site, or through paying an in-lieu fee to fund other affordable housing projects. The City's policy has been to maximize the affordable housing requirements without harming the financial feasibility of market-rate development. Since market conditions change, the amount of affordable housing that a project can provide, while remaining financially feasible, can change as well.

Inclusionary housing requirements were changed in 2007, and again in 2012. In 2016, voters adopted a ballot measure that raised the requirements. The measure also required the Controller to conduct a feasibility analysis with input from the TAC and assistance from consultants. That work was completed in 2017.

The 2016 measure also required the Controller to conduct a feasibility study of the requirements no less frequently than every three years. This review was delayed both because of the COVID-19 emergency, and because of delays in re-appointing members of the TAC. This report is the first Triennial Feasibility Analysis required by Section 415.10.

### **Process**

At the outset of the current analysis, the Controller's Office contracted with Century Urban, the consulting firm that conducted the financial feasibility analysis during the first Controller study of the City's inclusionary housing requirements in 2016-17. For this current engagement, Century Urban was joined by a sub-consultant, TBD Consultants (TBD). TBD is a construction cost-estimation firm that was brought on to provide construction cost estimates for the prototype projects to be analyzed.

In 2022 and 2023, the Controller's Office convened four meetings of the TAC. The four meetings covered the following general topics:

- October 27<sup>th</sup>, 2022: Review of Past Work and Discussion of Proposed Approach
- January 6<sup>th</sup>, 2023: Consultant Presentation of Feasibility Findings
- March 10<sup>th</sup>, 2023: Presentation of Controller Recommendations
- April 6<sup>th</sup>, 2023: Affordable Housing Context; Discussion of Options for Improving Feasibility; TAC Consideration of Recommendations

At the first meeting, members of the TAC and project team were introduced, past policy decisions were reviewed, and an approach for studying feasibility was presented. This approach is described below.

### **Approach**

The consultants used a similar methodology for assessing financial feasibility to that used in the 2016 study. While it is not possible to assess the maximum inclusionary requirement that any potential project could support, it is common to analyze project prototypes that represent the types of projects that are typically built in the city. Following the approach from the 2016 study, the following base case prototypes were developed for this study: a low-rise, a mid-rise, two high-rise, and a small low-rise project.

1. Case A: Low-rise, Type V construction, 55 feet height
2. Case B: Mid-rise, Type III construction, 95 feet height
3. Case C: High-rise, Type I construction, 135 feet height
4. Case D: High-rise, Type I construction, 245 feet height
5. Case E: Small Low-rise, Type V construction, 45 feet height

For each of these five prototypes, four scenarios were analyzed to assess the feasibility of inclusionary requirements. These scenarios include apartment and condominium scenarios. Additionally, new projects now often utilize the State Density Bonus (SDB) program, a State policy that provides developers with the ability to build more units in a project based on the level of affordable housing included in the project. Accordingly, the analyzed scenarios also include SDB apartment and condominium scenarios resulting in a total of 20 scenarios.

Analyses of the 20 scenarios are based on research regarding the revenues that a project is projected to generate and expenses that a project is expected to incur in the current market environment, as well as the costs of development including financing, and inclusionary housing and other exactions. To ensure that development costs are estimated as accurately as possible, TBD provided construction cost estimates for each of the base case prototypes. Based on this research and TBD's estimates, the consulting team estimated revenues, expenses, and costs for each scenario and made adjustments after receiving feedback from the TAC. Additional detail regarding the underwriting assumptions for each scenario is provided in the Appendix.

Based on these analyses, a residual land value – the amount that a potential project can afford to pay for land based on the estimated revenues, expenses, costs, and developer return – is estimated. If the residual land value exceeds the estimated current market value of land, the project may be feasible; if it is below the estimated land value, it would generally not be considered feasible.

To assess current land values, Century Urban reviewed recent land transactions for proposed residential development projects. The number of recent land sale transactions is limited when compared to prior periods, but based on the available data, the average land cost per unit for an unentitled project is estimated to be in the range of \$60,000 - \$70,000.

## **Findings**

In the second TAC meeting, the consulting team presented the economic analysis findings. In the tables below, the first two rows show the estimated residual land values for the base and SDB cases based on then-current (2022) inclusionary housing requirements. Purely for illustration, the third and fourth rows show the estimated residual land values for a case in which no in-lieu fee is required for any additional units afforded by the SDB, and a hypothetical case of a 100% market rate project, with no inclusionary housing requirement.

For both the base and SDB apartment cases, the estimated residual land values are negative, between -\$48,000 and -\$271,000 per unit, depending on the prototype. This means that, even if land for the project could be acquired at zero cost, the project is still not projected to be financially feasible.

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While removing the in-lieu fee paid on additional SDB units makes a small difference, as shown in the third row, the estimated residual land values are still negative. Even the hypothetical 100% market-rate project, with no inclusionary housing requirement, is projected to generate a positive residual land value in only one scenario, and this land value still falls well below the current market average land cost.

<i>Apartments</i>	Residual Land Value per Unit				
Case	A	B	C	D	E
Building Type (Base Program)	Lowrise	Midrise	Highrise	Highrise	Lowrise
1.) Base Non-Density Bonus	(\$97,000)	(\$72,000)	(\$181,000)	(\$271,000)	(\$143,000)
2.) State Density Bonus	(\$92,000)	(\$188,000)	(\$166,000)	(\$262,000)	(\$48,000)
3.) State Density Bonus No Fee	(\$71,000)	(\$166,000)	(\$145,000)	(\$240,000)	(\$31,000)
4.) Hypothetical 100% Market Rate	(\$24,000)	\$8,000	(\$96,000)	(\$194,000)	(\$44,000)

The estimated residual land values in the table above imply that the feasibility of developing apartments is limited in the current market environment.

For condominiums, the results are somewhat more mixed, as shown in the table below. The estimated residual land values for the base and SDB cases are either negative or below the \$70,000 per unit land value threshold. However, the 100% market-rate scenarios did generate positive estimated residual land values, above or close to the land value threshold, for the low-rise, mid-rise, and one of the high-rise cases.

<i>Condominiums</i>	Residual Land Value per Unit				
Case	A	B	C	D	E
Building Type (Base Program)	Lowrise	Midrise	Highrise	Highrise	Lowrise
1.) Base Non-Density Bonus	\$8,000	\$18,000	(\$81,000)	(\$168,000)	(\$186,000)
2.) State Density Bonus	\$14,000	(\$134,000)	(\$80,000)	(\$143,000)	(\$100,000)
3.) State Density Bonus No Fee	\$36,000	(\$115,000)	(\$60,000)	(\$125,000)	(\$84,000)
4.) Hypothetical 100% Market Rate	\$140,000	\$143,000	\$66,000	(\$17,000)	(\$87,000)

This suggested that low- and mid-rise projects that are similar to the prototypes may potentially be feasible with lower inclusionary requirements. At the third TAC meeting, the consultant team presented a sensitivity analysis for the condominium scenarios, which showed the estimated residual land values for the low-rise, mid-rise, and two high-rise prototypes, under different inclusionary requirements. As shown in the table below, with lower inclusionary requirements, the estimated residual land values for a few of the low- and mid-rise scenarios exceed the threshold land value range of \$70,000 per unit. These are highlighted in green and indicate a project that is potentially feasible in the current market environment. Other scenarios are close to this threshold – these were shown in yellow and indicate marginal potential feasibility.

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Case	Current Onsite Requirement (a)	Scenario A	Scenario B	Scenario C	Scenario D
<b>1.) Inclusionary Housing Scenario</b>					
2.) Onsite Units at 80% AMI Rent	12.00%	9.25%	8.25%	7.25%	6.25%
3.) Onsite Units at 105% AMI Rent	5.75%	4.50%	4.00%	3.50%	3.00%
4.) Onsite Units at 130% AMI Rent	5.75%	4.50%	4.00%	3.50%	3.00%
5.) Total Onsite Inclusionary Housing	23.50%	18.25%	16.25%	14.25%	12.25%
6.) Wtd. Average Onsite AMI Sale %	98.4%	98.5%	98.5%	98.4%	98.4%
7.) Wtd. Average Onsite AMI Sale Price	\$ 450,449	\$ 451,334	\$ 451,137	\$ 450,885	\$ 450,550
8.) Wtd. Average Density Bonus %	38.75%	25.51%	23.36%	21.69%	20.00%
<b>9.) Implied Residual Land Values</b>					
<b>10.) Case A - Type V, Lowrise</b>					
11.) - Base On-Site Inclusionary - No SDB	\$ 9,000	\$ 37,000	\$ 57,000	\$ 67,000	\$ 78,000
12.) - Base On-Site Inclusionary - By Right SDB	\$ 19,000	\$ 34,000	\$ 51,000	\$ 58,000	\$ 75,000
13.) - Base On-Site Inclusionary - Fee Out Equivalent (b)	45.1%	36.0%	29.2%	26.0%	22.3%
<b>14.) Case B - Type III, Midrise</b>					
15.) - Base On-Site Inclusionary - No SDB	\$ 19,000	\$ 43,000	\$ 51,000	\$ 62,000	\$ 73,000
16.) - Base On-Site Inclusionary - By Right SDB	\$ (132,000)	\$ (115,000)	\$ (107,000)	\$ (97,000)	\$ 62,000
17.) - Base On-Site Inclusionary - Fee Out Equivalent (b)	40.1%	33.0%	30.0%	26.3%	22.6%
<b>18.) Case C - Type I, Highrise</b>					
19.) - Base On-Site Inclusionary - No SDB	\$ (80,000)	\$ (49,000)	\$ (34,000)	\$ (24,000)	\$ (11,000)
20.) - Base On-Site Inclusionary - By Right SDB	\$ (77,000)	\$ (57,000)	\$ (45,000)	\$ (28,000)	NA
21.) - Base On-Site Inclusionary - Fee Out Equivalent (b)	47.2%	36.8%	32.1%	28.6%	24.2%
<b>22.) Case D - Type I, Highrise</b>					
23.) - Base On-Site Inclusionary - No SDB	\$ (167,000)	\$ (133,000)	\$ (121,000)	\$ (109,000)	\$ (97,000)
24.) - Base On-Site Inclusionary - By Right SDB	\$ (165,000)	\$ (143,000)	\$ (131,000)	\$ (120,000)	NA
25.) - Base On-Site Inclusionary - Fee Out Equivalent (b)	44.8%	33.8%	30.2%	26.1%	22.2%

### Notes:

- Citywide inclusionary housing requirement for for-sale condominium projects effective as of January 1, 2022, greater than 25 units.
- Fee out equivalent reflects in lieu fee percentage (i.e., percentage x residential GSF x \$230 PSF) equivalent to No SDB onsite inclusionary housing.

The table indicates that low- and mid-rise prototypes may potentially be feasible, or marginally feasible, with onsite inclusionary requirements in the range of 12-16% for condominiums. The current onsite requirement for condominiums is 23.5%. The analysis also estimated that the equivalent in-lieu fee percentage would be in the range of 22-29%, which is below the current 33% in-lieu fee percentage for condominium projects. None of the high-rise prototypes generated feasible estimated residual land values under the range of inclusionary requirements analyzed in these scenarios.

## Controller Recommendations

In the third TAC meeting, Controller's Office staff presented its policy recommendations, based on the consultants' findings discussed above. We made three recommendations:

- That onsite requirements for both apartments and condominiums be set in the 12% - 16% range, and that in-lieu fee percentages be set in the 22% - 29% range.
- That these requirements be in place only until April 2026, or three years after the final meeting where the recommendations were approved by the TAC.
- That the term of TAC members should not expire (as they do currently) shortly after the publication of this report, but rather that TAC members continue in their positions unless replaced by their appointing authority (either the Mayor or the



Board of Supervisors). This change will ensure that the TAC is fully seated for the next feasibility assessment in three years, or earlier if needed.

Our recommendations are for the same requirements to apply to apartments and condominiums. Currently, different requirements apply to each. While we do not believe that the City should make them the same as a matter of policy, given that no apartment scenarios appear to be currently feasible, different requirements specific to apartments are not being recommended at this time.

As the consultants' analysis indicates, only some low- and mid-rise condominium scenarios are projected to be feasible at the recommended inclusionary requirement levels. Given the current market environment, the City should expect continued low rates of housing development. While the recommended inclusionary requirements are not projected to lead to feasibility for larger high-rise condominiums, we decided against recommending setting requirements based on the size of the project.

At the meeting, we also concurred with a point made by several members of the TAC, that the City has many ways to influence housing feasibility, and that inclusionary requirements are but one tool. The code-directed scope of this exercise is to recommend inclusionary housing requirements that are feasible, but the TAC wished to go on record recommending that the City consider other policies to improve the feasibility of new housing development, and the resources available for affordable housing.

## **Conclusion**

At the fourth and final TAC meeting, discussion turned to the broader context of affordable housing in the city. TAC member Peter Cohen presented background data from the Planning Department regarding the city's track record in producing affordable housing, and its housing policy goals.

The City's recently adopted Housing Element reflects a Regional Housing Needs Assessment (RHNA) allocation averaging 10,258 units a year between 2023 and 2031, of which 57%, or 5,824, need to be affordable to moderate- or lower-income households. Over the 2015-22 period, an average of 1,062 units were built per year for moderate- or lower-income households. Approximately 31% of affordable units built during the 2018-2022 period were onsite inclusionary units.

The Housing Element represents a commitment to produce a far greater level of affordable housing than the City has been able to achieve in the past. Moreover, the current infeasibility of market-rate housing development suggests that onsite inclusionary housing, which has been a major source of affordable units in the past, may be limited in the future.

In this context, additional local funding is likely to be required to achieve the goals in the Housing Element, with estimates of the funding gap ranging from \$1.3 billion in 2023 to \$2.4 billion in 2029.

The TAC then proceeded to discuss the policy options available to the City to improve the feasibility of housing development in the current market environment. Century Urban facilitated a discussion of the following potential options:

1. A City subsidy or cost reimbursement, which might include City-sponsored grants, subsidies, and/or tax-exempt bond financing to support goal of producing new affordable housing units within market-rate projects.
2. Lowering onsite inclusionary housing percentages (as the Controller recommends) and reconsider the income limits of the affordability tiers.
3. Align the City's onsite inclusionary percentages and affordability tiers with the requirements of the State Density Bonus.
4. Reduce or temporarily abate property taxes for new development.
5. Phase-in inclusionary housing requirements over time.
6. Issue City-sponsored bonds to fund feasibility gap created by onsite inclusionary units to support production of affordable units within market-rate projects.
7. Evaluate City-imposed impact fees and potential for fee reductions to support production of affordable units within market rate projects.
8. Study City-specific building code requirements, which increase housing production costs, to identify code requirements that materially increase costs.
9. Review the impact of the City-imposed fee on SDB units on feasibility.
10. Review the impact of the transfer tax on economic feasibility of new residential development projects.
11. Evaluate and promote alternative construction types (e.g., cross-laminated timber & modular) to achieve cost savings.
12. Defer and spread-out the timing for payment of City-Imposed fees.

Additionally, the TAC was in receipt of a letter from the Council of Community Housing Organizations (CCHO) that made other recommendations, including:

1. Time-Limited Amendments: Ensure that amendments are temporary and sunset after two years since they are being adjusted in the context of a temporary downturn in the real estate market.
2. Equity Geographies: Retain existing affordability standards in equity geographies facing displacement and gentrification to achieve community stabilization goals.
3. Reduce only top Income tiers: Focus amendments on inclusionary requirements for smaller units with higher AMIs given the persistent under subscription in these units and the proximity of rents in these units to market rents.

4. Honor Community Benefits Agreements: Any rollback of inclusionary standards for pipeline projects that have been previously entitled should honor pre-existing community benefits agreements negotiated with local neighborhood groups.
5. Fee Deferrals for State Density Bonus Projects: Fee deferrals should be limited to projects that are utilizing the State Density Bonus and that the commitment to collect the fees with interest once the units are leased up remains intact.
6. Local Neighborhood AMIs: Adjust AMI levels in inclusionary housing units based on local neighborhood median incomes as opposed to citywide median incomes to provide meaningful affordability in local neighborhoods.
7. Proportional Reductions in Neighborhood Planning Areas: In neighborhood planning areas and special use districts where unique inclusionary standards are in place, any reductions in the inclusionary standard that the TAC might recommend should be a proportional reduction based on the pre-existing standards and/or should defer to those community planning processes that are currently underway.

At the end of the meeting, the TAC unanimously supported a motion that:

1. Endorsed the Controller's recommendations discussed above.
2. Acknowledged the affordable housing context provided by Peter Cohen, and the need for additional funding for affordable housing, in light of the expected decline in inclusionary housing production.
3. Urged the City to consider the other options for improving housing feasibility that were discussed at the meeting, and the recommendations submitted to the TAC by CCHO.

## Appendix

The City’s inclusionary requirements as of 2022, prototype programs, hard cost estimates, and scenario underwriting assumptions are summarized in the tables below.

### Inclusionary Requirements as of 2022

2022 Citywide Inclusionary Requirements for Rental Housing		
10-24 Unit Projects	Onsite	Offsite
55% AMI	14.50%	20.00%
25+ Unit Projects		
55% AMI	12.00%	18.00%
80% AMI	4.75%	6.00%
110% AMI	<u>4.75%</u>	<u>6.00%</u>
Total	21.50%	30.00%
Offsite In-Lieu Fee Percentage		
10-24 Unit Projects	20.00%	
25+ Unit Projects	30.00%	

*\* Reflects percentage of total project residential unit square footage on which in-lieu fee payment amount is to be calculated.*

2022 Citywide Inclusionary Requirements for Ownership Housing		
10-24 Unit Projects	Onsite	Offsite
80% AMI	14.50%	20.00%
25+ Unit Projects		
80% AMI	12.00%	18.00%
105% AMI	5.75%	8.00%
130% AMI	<u>5.75%</u>	<u>7.00%</u>
Total	23.50%	33.00%
Offsite In-Lieu Fee Percentage		
10-24 Unit Projects	20.00%	
25+ Unit Projects	33.00%	

\* Reflects percentage of total project residential unit square footage on which in-lieu fee payment amount is to be calculated.

### Prototype Programs

Product Type	For-Rent Apartments – Base Program				
Case	Case A	Case B	Case C	Case D	Case E
Building Type	Lowrise	Midrise	Highrise	Highrise	Lowrise
Construction Type	Type V	Type III	Type I	Type I	Type V
Building Height	55 Feet	85 Feet	135 Feet	245 Feet	45 Feet
Building Stories	5 Stories	8 Stories	13 Stories	24 Stories	4 Stories
Building Units	45 Units	130 Units	227 Units	341 Units	13 Units
Affordable Units (%)	12.0%	12.0%	12.0%	12.0%	14.5%
Average Unit Size	825 NSF	825 NSF	825 NSF	825 NSF	852 NSF
Parking Ratio	0.25:1	0.25:1	0.25:1	0.25:1	0.77:1

Product Type	For-Rent Apartments – State Density Bonus Program				
Case	Case A	Case B	Case C	Case D	Case E
Building Type	Midrise	Highrise	Highrise	Highrise	Midrise
Construction Type	Type III	Type I	Type I	Type I	Type III
Building Height	75 Feet	125 Feet	185 Feet	345 Feet	65 Feet
Building Stories	7 Stories	12 Stories	18 Stories	34 Stories	6 Stories
Building Units	62 Units	180 Units	315 Units	473 Units	20 Units
Affordable Units (%)	8.6%	8.6%	8.6%	8.6%	9.7%
Average Unit Size	825 NSF	825 NSF	825 NSF	825 NSF	831 NSF
Parking Ratio	0.25:1	0.25:1	0.25:1	0.25:1	0.65:1

Product Type	For-Sale Condominiums – Base Program				
Case	Case A	Case B	Case C	Case D	Case E
Building Type	Lowrise	Midrise	Highrise	Highrise	Lowrise
Construction Type	Type V	Type III	Type I	Type I	Type V
Building Height	55 Feet	85 Feet	135 Feet	245 Feet	45 Feet
Building Stories	5 Stories	8 Stories	13 Stories	24 Stories	4 Stories
Building Units	37 Units	107 Units	188 Units	281 Units	13 Units
Affordable Units (%)	12.0%	12.0%	12.0%	12.0%	14.5%
Average Unit Size	1,000 NSF	1,000 NSF	1,000 NSF	1,000 NSF	852 NSF
Parking Ratio	0.50:1	0.50:1	0.50:1	0.50:1	0.77:1

Product Type	For-Sale Condominiums – State Density Bonus Program				
Case	Case A	Case B	Case C	Case D	Case E
Building Type	Lowrise	Midrise	Highrise	Highrise	Lowrise
Construction Type	Type III	Type I	Type I	Type I	Type V
Building Height	75 Feet	105 Feet	165 Feet	295 Feet	55 Feet
Building Stories	7 Stories	10 Stories	16 Stories	29 Stories	5 Stories
Building Units	46 Units	132 Units	231 Units	346 Units	17 Units
Affordable Units (%)	9.8%	9.8%	9.8%	9.8%	11.4%
Average Unit Size	1,000 NSF	1,000 NSF	1,000 NSF	1,000 NSF	838 NSF
Parking Ratio	0.50:1	0.50:1	0.50:1	0.50:1	0.76:1

### Hard Cost Estimates

Product Type	For-Rent Apartments - Base Programs*				
Case	A	B	C	D	E
Building Type	Lowrise	Midrise	Highrise	Highrise	Lowrise
Construction Type	Type V	Type III	Type I	Type I	Type V
Building Stories	5 Stories	7 Stories	13 Stories	24 Stories	4 Stories
Total Project \$/GSF	\$442	\$452	\$550	\$588	\$503
Residential \$/GSF	\$471	\$474	\$584	\$620	\$587
Parking Location	At Grade	Below Grade	Below Grade	Below Grade	At Grade
Parking \$/GSF	\$223	\$310	\$320	\$328	\$294
Retail Shell \$/GSF	\$249	\$208	\$235	\$241	\$287

\* Hard cost estimates prepared by TBD Consultants.

Product Type	For-Sale Condominiums - Base Programs *				
Case	A	B	C	D	E
Building Type	Lowrise	Midrise	Highrise	Highrise	Lowrise
Construction Type	Type V	Type III	Type I	Type I	Type V
Building Stories	5 Stories	7 Stories	13 Stories	24 Stories	4 Stories
Total Project \$/GSF	\$428	\$440	\$538	\$573	\$516
Residential \$/GSF	\$473	\$471	\$584	\$619	\$603
Parking Location	At Grade	Below Grade	Below Grade	Below Grade	At Grade
Parking \$/GSF	\$198	\$291	\$321	\$327	\$297
Retail Shell \$/GSF	\$249	\$208	\$236	\$242	\$289

\* Hard cost estimates prepared by TBD Consultants.

## Underwriting Assumptions

### For-Rent Apartments – Base Non-Density Bonus Program Typology

Apartments	Underwriting Assumptions - Base Programs				
Case (a) (b)	A	B	C	D	E
Construction Type	Type V	Type III	Type I	Type I	Type V
Building Type	Lowrise	Midrise	Highrise	Highrise	Lowrise
1.) Building Stories	5 Stories	8 Stories	13 Stories	24 Stories	4 Stories
2.) Building Height	55 Feet	85 Feet	135 Feet	245 Feet	45 Feet
3.) Gross Square Feet	53,031	151,438	265,469	402,548	19,350
4.) Efficiency Factor	80.0%	80.0%	80.0%	78.0%	80.0%
5.) Apartment Unit Count	45	130	227	341	13
6.) Wtd. Average Market Rent	\$4,152 / \$4.98	\$4,371 / \$5.31	\$4,643 / \$5.62	\$4,442 / \$5.39	\$5,518 / \$6.56
7.) Wtd. Average BMR Rent	\$1,941 / \$2.44	\$1,922 / \$2.31	\$1,971 / \$2.40	\$1,966 / \$2.37	\$1,517 / \$1.93
8.) Hard Costs (Total / Unit) (c)	\$24.9M / \$552,400	\$72.3M / \$556,100	\$154.1M / \$678,800	\$249.2M / \$730,800	\$10.4M / \$800,200
9.) Soft Costs (Total / Unit) (c)	\$6.4M / \$142,400	\$17.3M / \$132,900	\$36.7M / \$161,700	\$61.8M / \$181,200	\$3.2M / \$242,500
10.) Total Costs (Total / Unit) (c)	\$31.4M / \$698,100	\$89.6M / \$688,900	\$190.8M / \$840,500	\$311.2M / \$912,000	\$13.7M / \$1,054,200
11.) Total Hard & Soft Costs / GSF (c)	\$590	\$591	\$719	\$773	\$708
12.) Untrended Annual NOI	\$1,399,100	\$4,171,300	\$7,620,400	\$10,840,100	\$600,400
13.) Untrended Return-on-Cost (d)	5.25%	5.25%	5.25%	5.25%	5.25%

#### Notes:

- (a) Cases A-D reflect current Citywide 21.5% onsite inclusionary housing requirement.  
(b) Case E reflects programmatic information provided by Planning Department (including current Citywide 14.5% onsite inclusionary housing requirement) and underwriting assumptions utilized for residential prototype from recently completed analysis.  
(c) Figures exclude land cost.  
(d) Reflects untrended return-on-cost target to derive residual land value.  
\* All financial and programmatic estimates are preliminary in nature and not intended as formal feasibility analysis.  
\*\* Financial analyses shown above reflect institutional investment underwriting assumptions.



### For-Rent Apartments – State Density Bonus Program Typology

Apartments	Underwriting Assumptions - State Density Bonus Programs					
	Case (a) (b)	A	B	C	D	E
Construction Type	Type III	Type I	Type I	Type I	Type I	Type III
Building Type	Midrise	Highrise	Highrise	Highrise	Highrise	Midrise
1.) Building Stories	7 Stories	12 Stories	18 Stories	34 Stories	6 Stories	
2.) Building Height	75 Feet	125 Feet	185 Feet	345 Feet	65 Feet	
3.) Gross Square Feet	72,438	207,500	364,469	554,538	26,225	
4.) Efficiency Factor	80.0%	80.0%	80.0%	78.0%	80.0%	
5.) Apartment Unit Count	62	180	315	473	20	
6.) Wtd. Average Market Rent	\$4,278 / \$5.17	\$4,500 / \$5.46	\$4,778 / \$5.79	\$4,575 / \$5.55	\$5,467 / \$6.58	
7.) Wtd. Average BMR Rent	\$1,941 / \$2.39	\$1,958 / \$2.37	\$1,990 / \$2.42	\$1,982 / \$2.39	\$1,517 / \$1.93	
8.) Hard Costs (Total / Unit) (c)	\$34.5M / \$557,200	\$121.2M / \$673,200	\$212.5M / \$674,600	\$344.4M / \$728,000	\$13.9M / \$694,300	
9.) Soft Cost - Impact Fees (Total / Unit)	\$1.0M/\$23,100	\$3.0M/\$23,000	\$7.4M/\$23,600	\$11.3M/\$23,800	\$0.6M/\$27,900	
10.) Soft Cost - Insurance Costs (Total / Unit)	\$0.2M/\$5,000	\$0.7M/\$5,000	\$1.6M/\$5,000	\$2.4M/\$5,000	\$0.1M/\$5,000	
11.) Remaining Soft Costs (Total / Unit) (c)	\$10.0M / \$160,700	\$32.8M / \$182,400	\$60.5M / \$191,900	\$104.4M / \$220,800	\$4.3M / \$215,000	
12.) Total Costs (Total / Unit) (c)	\$44.2M / \$720,300	\$154.2M / \$856,500	\$272.9M / \$866,600	\$448.8M / \$948.8	\$18.2M / \$909,300	
13.) Total Hard & Soft Costs / GSF (c)	\$617	\$743	\$749	\$809	\$693	
14.) Untrended Annual NOI	\$2,023,900	\$6,125,700	\$11,245,700	\$16,017,500	\$910,100	
15.) Untrended Return-on-Cost (d)	5.25%	5.25%	5.25%	5.25%	5.25%	

**Notes:**  
 (a) Cases A-D reflect current Citywide 22% onsite inclusionary housing requirement and State Density Bonus of 38.75% with inclusionary in-lieu fee applied to density bonus additional square footage.  
 (b) Case E reflects programmatic information provided by Planning Department (including current Citywide 15% onsite inclusionary housing requirement and State Density Bonus of 50% with inclusionary in-lieu fee applied to density bonus additional square footage) and underwriting assumptions utilized for residential prototype from recently completed analysis.  
 (c) Figures exclude land cost.  
 (d) Reflects untrended return-on-cost target to derive residual land value.  
 \* All financial and programmatic estimates are preliminary in nature and not intended as formal feasibility analysis.  
 \*\* Financial analyses shown above reflect institutional investment underwriting assumptions.

### For-Sale Condominiums – Base Non-Density Bonus Program Typology

Condominiums	Underwriting Assumptions - Base Programs				
	Case (a) (b)	A	B	C	D
Construction Type	Type V	Type III	Type I	Type I	Type V
Building Type	Lowrise	Midrise	Highrise	Highrise	Low Rise
1.) Building Stories	5 Stories	8 Stories	13 Stories	24 Stories	4 Stories
2.) Building Height	55 Feet	85 Feet	135 Feet	245 Feet	45 Feet
3.) Gross Square Feet	56,031	159,313	279,344	423,548	19,450
4.) Efficiency Factor	80.0%	80.0%	80.0%	78.0%	80.0%
5.) Condominium Unit Count	37	107	188	281	13
6.) Wtd. Average Market Sales Price	\$1,342,000 / \$1,342	\$1,359,000 / \$1,359	\$1,500,000 / \$1,500	\$1,497,000 / \$1,497	\$1,198,000 / \$1,406
7.) Wtd. Average BMR Sales Price	\$450,000	\$450,000	\$450,000	\$450,000	\$352,000
8.) Hard Costs (Total / Unit) (c)	\$25.4M / \$686,000	\$74.0M / \$692,000	\$158.7M / \$844,000	\$256.0M / \$911,000	\$10.7M / \$820,000
9.) Soft Costs (Total / Unit) (c)	\$7.0M / \$189,000	\$19.3M / \$180,000	\$39.7M / \$211,000	\$62.2M / \$221,000	\$3.5M / \$271,000
10.) Total Costs (Total / Unit) (c)	\$32.4M / \$875,000	\$93.3M / \$872,000	\$198.4M / \$1,055,000	\$318.2M / \$1,132,000	\$14.2M / \$1,090,000
11.) Total Hard & Soft Costs / GSF (c)	\$578	\$586	\$710	\$751	\$729
12.) Profit as % of Revenue (d)	20.00%	20.00%	20.00%	20.00%	20.00%

**Notes:**  
 (a) Cases A-D reflect current Citywide 23.5% onsite inclusionary housing requirement.  
 (b) Case E reflects programmatic information provided by Planning Department (including current Citywide 14.5% onsite inclusionary housing requirement) and underwriting assumptions utilized for residential prototype from recently completed analysis.  
 (c) Figures exclude land cost.  
 (d) Reflects profit margin target to derive residual land value.  
 \* All financial and programmatic estimates are preliminary in nature, and are not intended as formal feasibility analysis.  
 \*\* Financial analyses shown above reflect institutional investment underwriting assumptions.

For-Sale Condominiums – State Density Bonus Program Typology

Condominiums	Underwriting Assumptions - State Density Bonus Programs				
	Case (a) (b)	A	B	C	D
Construction Type	Type III	Type I	Type I	Type I	Type V
Building Type	Midrise	Highrise	Highrise	Highrise	Low Rise
1.) Building Stories	7 Stories	10 Stories	16 Stories	29 Stories	5 Stories
2.) Building Height	75 Feet	105 Feet	165 Feet	295 Feet	55 Feet
3.) Gross Square Feet	68,625	194,750	342,250	507,375	23,109
4.) Efficiency Factor	80.0%	80.0%	80.0%	78.0%	80.0%
5.) Condominium Unit Count	46	132	231	346	17
6.) Wtd. Average Market Sales Price	\$1,345,000 / \$1,345	\$1,357,000 / \$1,357	\$1,501,000 / \$1,501	\$1,497,000 / \$1,497	\$1,218,000 / \$1,453
7.) Wtd. Average BMR Sales Price	\$450,000	\$450,000	\$450,000	\$450,000	\$352,000
8.) Hard Costs (Total / Unit) (c)	\$31.5M / \$686,000	\$110.1M / \$834,000	\$195.0M / \$844,000	\$306.8M / \$887,000	\$12.5M / \$735,000
9.) Soft Costs (Total / Unit) (c)	\$9.6M / \$209,000	\$28.3M / \$214,000	\$54.9M / \$238,000	\$86.3M / \$249,000	\$4.3M / \$253,000
10.) Total Costs (Total / Unit) (c)	\$41.2M / \$895,000	\$138.5M / \$1,049,000	\$249.9M / \$1,082,000	\$393.0M / \$1,136,000	\$16.8M / \$987,000
11.) Total Hard & Soft Costs / GSF (c)	\$600	\$711	\$730	\$775	\$726
12.) Profit as % of Revenue (d)	20.00%	20.00%	20.00%	20.00%	20.00%

Notes:

- (a) Cases A-D reflect current Citywide 23.5% onsite inclusionary housing requirement and State Density Bonus of 23.00% with inclusionary in-lieu fee applied to density bonus additional square footage.
- (b) Case E reflects programmatic information provided by Planning Department (including current Citywide 14.5% onsite inclusionary housing requirement and State Density Bonus of 27.5% with inclusionary in-lieu fee applied to density bonus additional square footage) and underwriting assumptions utilized for residential prototype from recently completed analysis.
- (c) Figures exclude land cost.
- (d) Reflects profit margin target to derive residual land value.
- \* All financial and programmatic estimates are preliminary in nature, and are not intended as formal feasibility analysis.
- \*\* Financial analyses shown above reflect institutional investment underwriting assumptions.

**From:** [Board of Supervisors \(BOS\)](#)  
**To:** [BOS-Supervisors](#); [BOS-Legislative Aides](#)  
**Cc:** [Calvillo, Angela \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [De Asis, Edward \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [BOS Legislation \(BOS\)](#); [Major, Erica \(BOS\)](#)  
**Subject:** FW: Inclusionary and Developer Impact Fee Reduction package  
**Date:** Thursday, July 13, 2023 1:43:11 PM

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Hello,

Please see below for communication from Lorraine Petty regarding File Nos. 230769 and 230764.

**File No. 230769** - Planning, Administrative Codes - Development Impact Fee Reductions  
(Peskin, Safai)

**File No. 230764** - Planning, Building Codes - Development Impact Fee Indexing, Deferral, and  
Waivers; Adoption of Nexus Study (Mayor)

Sincerely,

**Joe Adkins**  
**Office of the Clerk of the Board**  
**San Francisco Board of Supervisors**  
**1 Dr. Carlton B. Goodlett Place, Room 244**  
**San Francisco, CA 94102**  
**Phone: (415) 554-5184 | Fax: (415) 554-5163**  
[board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

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**From:** lgpetty@juno.com <lgpetty@juno.com>  
**Sent:** Wednesday, July 12, 2023 10:17 PM  
**To:** Board of Supervisors (BOS) <board.of.supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative\_aides@sfgov.org>  
**Subject:** Re: Inclusionary and Developer Impact Fee Reduction package

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

July 12, 2023

Dear Supervisor, below is a copy of email urging CONTINUATION of proposed Inclusionary legislation sent today to the Planning Commissioners

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Re:Inclusionary and Development Impact Fee Reduction proposals for July 13, 2023  
2023-005422PCA (Board file 230769) and 2023-005461PCA (Board file 230764) Items #15 and 16

Dear President Tanner and Planning Commissioners:

I urge you to continue this Inclusionary and Developer Impact Fee Reduction package. There may be a need for these in the future, but I believe there is no justifiable reason to cut the affordable units and fee requirements on new market rate construction:

Because the Inclusionary requirements are not THE cause, or even partial cause, for the slowdown in market rate construction. And since we have a huge surplus of ready-to-rent or buy market rate apartments and condos, there is no lack of move-in available market rate units.

San Franciscans have confirmed, in survey after survey, their Number One overwhelming need is for affordable housing. And the State RHNA's require 46,000 affordable units be built in San Francisco by 2031. Clearly, now is not the time to reduce any contribution to affordable housing.

Market rate construction has slowed down lately because of the FED raising interest rates and the sharp decrease in high-income people moving into San Francisco. Some developers indeed admitted that they can't "pencil out" until there are enough high income people to pay high asking prices.

Similarly, I believe there is no reason to reduce Developer Impact Fees which would force San Francisco to pick up the tab for infrastructure required for new market rate construction—whether PDR, housing or commercial. Any and all of it requires more city services and physical street improvements that developers are supposed to cover in return for increased value and profits.

This Impact Fee aspect of today's proposal has received hardly any attention in the press and for that reason alone should require more time for the public to be fully informed. An issue that needs more scrutiny is whether these "temporary" reductions would lead to a stockpiling of fee-less and affordable unit-less entitlements, subject to extension by some unknown future Board of Supervisors.

Looking at the larger picture -- the combined sum of density, fee and zoning changes being enacted is already fulfilling an enormous deregulation wish list, mostly for market rate developers.

We are adding density while slashing neighborhood notification and public hearings-- somewhat upon orders of the State, but, in my view, going far beyond what is mandated in what seems like a panicky reaction to a not unexpected, and temporary, economic slowdown.

I can only conclude that this Inclusionary AND Impact Fee reduction plan is just some completely gratuitous icing on the cake: uncalled for, and inappropriate under this context. Not to mention that it's astonishing that anyone could propose cutting affordable housing when the need is practically infinite.

Further, to reduce affordable housing and infrastructure fees now, would be to break faith with voters and all those counting on these contributions --breaching cultural, neighborhood and geographical agreements, as well as our present and future social and equity contracts.

Furthermore, if this legislation is promoted on the basis that it was recommended by the Inclusionary Housing Technical Advisory Committee--that is a false premise. The committee is divided between affordable building advocates and market rate building proponents. What they presented was a list of irreconcilable suggestions, some of which stray beyond the Committee's scope. It was not a collaborative consensus. Nor was it a prescribed program with specific components and parameters.

Turning to provisions for the future composition of Advisory Committees, I believe the terms of members should be finite. The process of appointing Advisory Committee members and their terms should not be altered. To do so would invite even more politics and pre-determined agendas into Committee discussions.

In conclusion, it may be prudent to improve fee-collecting processes; but dangerous to throw away a

major portion of the actual fees.  
I urge you to continue these proposals.  
Thank you for your consideration.

Lorraine Petty  
Affordable housing & tenant protection advocate for Seniors and people with disabilities  
District 2 resident

President, District 3  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689

Tel. No. 554-7450  
Fax No. 554-7454  
TDD/TTY No. 544-6546

Aaron Peskin

**PRESIDENTIAL ACTION**

Date: 7/14/23

To: Angela Calvillo, Clerk of the Board of Supervisors

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2023 JUL 14 PM 4:30  
BY [Signature]

Madam Clerk,  
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 230769 Peskin  
(Primary Sponsor)

Title. Ordinance amending the Planning Code to: 1) reduce Inclusionary Housing Program requirements of the Planning Code, for projects **H**

Transferring (Board Rule No 3.3)

File No. \_\_\_\_\_  
(Primary Sponsor)

Title. \_\_\_\_\_

From: \_\_\_\_\_ Committee

To: \_\_\_\_\_ Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: \_\_\_\_\_ Replacing Supervisor: \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

Start Time: \_\_\_\_\_ End Time: \_\_\_\_\_

Temporary Assignment:  Partial  Full Meeting

[Signature]

Aaron Peskin, President  
Board of Supervisors



**MYRNA MELGAR**

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DATE: July 19, 2023

TO: Angela Calvillo  
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee  
COMMITTEE REPORTS

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A handwritten signature in blue ink, appearing to read "mm", located to the right of the "FROM:" line.

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request them be considered by the full Board on Tuesday, July 25, 2023, as Committee Reports:

- File No. 230800**      **Acceptance and Recording of Avigation Easement - SyNoor LLC - 410 Noor Avenue, South San Francisco**
- Resolution authorizing the acceptance and recording of an avigation easement by the City and County of San Francisco from SyNoor LLC for the development at 410 Noor Avenue in South San Francisco, California, at no cost to the City and County of San Francisco; to authorize the Director of Property to enter into amendments or modifications to the grant of avigation easement that do not materially increase the obligations or liabilities to the City and are necessary to effectuate the purposes of this Resolution; and making findings under the California Environmental Quality Act and affirming the Planning Department
- File No. 230779**      **Street Naming - Portions of Palo Alto Avenue to La Avanzada Street and Dellbrook Avenue**
- Sponsor: Melgar
- Resolution renaming a segment of Palo Alto Avenue to La Avanzada Street from its new terminus at 241 Palo Alto Avenue westward to its intersection with Dellbrook Avenue and renaming the remaining segment of Palo Alto Avenue between its intersection with Dellbrook Avenue and its westward terminus at Clarendon Avenue to Dellbrook Avenue.
- File No. 230559**      **Planning, Building, Fire Codes - Small Business Month Fee Waivers Including for Awning Installation and Business Signs**
- Sponsor: Engardio
- Ordinance amending the Planning, Building, and Fire Codes to codify the annual waiver of awning replacement fees and awning sign fees applied for during the month of May, to annually waive fees for Business Signs and new awning installations applied for during the months of May 2023 and

May 2024, and to indicate that the Planning Code, Building, and Fire Code waivers pertaining to pedestrian street lighting as well as awning replacement, awning installation, and awning sign fees are keyed to permit application in May rather than permit issuance in May; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

**File No. 230818**

**Supporting California State Senate Bill No. 532 (Wiener) - The Safe, Clean & Reliable Bay Area Public Transportation Emergency Act**

Sponsors: Mandelman; Melgar and Dorsey

Resolution supporting California State Senate Bill No. 532, introduced by Senator Scott Wiener, enabling the San Francisco Bay Area to raise funds to prevent a medium-term public transportation operations budget shortfall while requiring transit safety, cleanliness, and reliability improvements.

**File No. 230764**

**Planning, Building Codes - Development Impact Fee Indexing, Deferral, and Waivers; Adoption of Nexus Study**

Sponsor: Mayor

Ordinance amending the Planning Code to 1) modify the annual indexing of certain development impact fees, with the exception of inclusionary housing fees; 2) provide that the type and rates of applicable development impact fees, with the exception of inclusionary housing fees, shall be determined at the time of project approval; 3) exempt eligible development projects in PDR (Production, Distribution, and Repair) Districts, and the C-2 (Community Business) and C-3 (Downtown Commercial) Zoning Districts from all development impact fees for a three-year period; 4) allow payment of development impact fees, with the exception of fees deposited in the Citywide Affordable Housing Fund, to be deferred until issuance of the first certificate of occupancy; and 5) adopt the San Francisco Citywide Nexus Analysis supporting existing development impact fees for recreation and open space, childcare facilities, complete streets, and transit infrastructure and making conforming revisions to Article 4 of the Planning Code; amending the Building Code to allow payment of development impact fees, with the exception of fees deposited in the Citywide Affordable Housing Fund, to be deferred until issuance of the first certificate of occupancy and repealing the fee deferral surcharge; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

**File No. 230769**

**Planning, Administrative Codes - Development Impact Fee Reductions**

Sponsors: Peskin; Safai

Ordinance amending the Planning Code to: 1) reduce Inclusionary Housing Program requirements of the Planning Code, for projects exceeding a stated unit size that have been approved prior to November 1, 2023, and that receive a first construction document within a specified period; 2) adopt a process for those projects to request a modification to conditions of approval related to development impact fees, subject to delegation by the



Planning Commission; 3) reduce Article 4 development impact fees, including Inclusionary Affordable Housing fees, for projects approved before November 1, 2026, that receive a first construction document within 30 months of entitlement; and 4) modify the Inclusionary Housing Program Ordinance effective November 1, 2026, to reduce applicable fees, and on-site or off-site unit requirements, for projects that exceed a stated unit size; amending the Administrative Code to update the Inclusionary Housing Technical Advisory Committee member requirements; affirming the Planning Department's determination under the California Environmental Quality Act; making public necessity, convenience, and welfare findings under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

**File No. 230026**

**Planning, Subdivision, and Administrative Codes and Zoning Map - Family Housing Opportunity Special Use District**

Sponsors: Melgar; Engardio

Ordinance amending 1) the Planning Code to create the Family Housing Opportunity Special Use District; 2) the Planning Code to authorize the greater of up to four units or one unit per 1,000 square feet of lot area on individual lots in the RH (Residential, House) District, the greater of up to twelve units or one unit per 1,000 square feet of lot area on three merged lots and the greater of up to eight units or one unit per 1,000 square feet of lot area on two merged lots in RH-1 (Residential, House: One Family) districts, and Group Housing in RH-1 districts for eligible projects in the Special Use District; 3) the Planning Code to exempt eligible projects in the Special Use District from certain height, open space, dwelling unit exposure, and rear-yard requirements, conditional use authorizations, and neighborhood notification requirements; 4) the Subdivision Code to authorize eligible projects in the Special Use District to qualify for condominium conversion or a condominium map that includes the existing dwelling units and the new dwelling units that constitute the project; 5) the Administrative Code to require new dwelling or group housing units constructed pursuant to the density limit exception to be subject to the rent increase limitations of the Rent Ordinance; 6) the Zoning Map to show the Family Housing Opportunity Special Use District; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 24, 2023, at 1:30 p.m.

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

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## MEMORANDUM

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Date: July 5, 2023  
To: Planning Department / Commission  
From: Erica Major, Clerk of the Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Referral - File No. 230769  
Planning, Administrative Codes - Development Impact Fee Reductions

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- California Environmental Quality Act (CEQA) Determination  
(*California Public Resources Code, Sections 21000 et seq.*)
  - Ordinance / Resolution
  - Ballot Measure
  
- Amendment to the Planning Code, including the following Findings:  
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
  - General Plan
  - Planning Code, Section 101.1
  - Planning Code, Section 302
  
- Amendment to the Administrative Code, involving Land Use/Planning  
(*Board Rule 3.23: 30 days for possible Planning Department review*)
  
- General Plan Referral for Non-Planning Code Amendments  
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)  
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
  
- Historic Preservation Commission
  - Landmark (*Planning Code, Section 1004.3*)
  - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
  - Mills Act Contract (*Government Code, Section 50280*)
  - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to Erica Major at [Erica.Major@sfgov.org](mailto:Erica.Major@sfgov.org).