

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:

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.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

SECTION 415.3 APPLICATION.

* * * *

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

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

* * * *

~~(F) Any development project that has submitted a complete Environmental Evaluation application on or before January 12, 2016 and seeks to utilize a density bonus under State Law shall use its best efforts to provide on-site affordable units in the amount of 25% of the number of units constructed on-site and shall consult with the Planning Department about how to achieve this 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%~~^{33%} 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%~~^{30%} 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	14.4% <u>12.3%</u>	23% <u>18.8%</u>	30% <u>24.5%</u>	35%	30%
B	16% <u>13.1%</u>	25% <u>20.5%</u>	35% <u>28.6%</u>	40%	35%
C	17.6% <u>14.4%</u>	27% <u>22.1%</u>	40% <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

25 n:\legana\as2023\2300225\01693107.docx