

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

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3 **Ordinance amending the San Francisco Planning Code Section 415.3 to: 1) provide**
4 **that, as of January 15, 2013, the requirements of the Inclusionary Affordable Housing**
5 **Program apply only to housing projects of 10 units or more and will no longer apply to**
6 **buildings of 5 to 9 units that have not yet received a first construction document; (2)**
7 **make conforming amendments to Planning Code Section 419.3 related to the**
8 **Application of the UMU Affordable Housing Requirements to clarify that those**
9 **requirements only apply to housing projects of 10 units or more; and 23) condition**
10 **operation of the Ordinance on the adoption and implementation of the Housing Trust**
11 **Fund Charter amendment at the November 6, 2012 election; setting an operative date;**
12 **and making environmental findings and findings of consistency with the General Plan.**

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

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

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

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

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

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

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

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

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

15 **SEC. 415.3. APPLICATION.**

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

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

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

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

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

Table 415.3

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

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	<i>document as of January 415, 2013.</i>
Affordable Housing Percentages: 20% Fee 15% on-site* 20% off-site* *Of total number of units	All projects that submitted a first application on or after July 18, 2006 (except projects which require a rezoning to increase buildable residential units or square footage)
On-Site units must be priced and sold at 90% of AMI and rented at 55% of AMI	All projects that receive a first site or building permit on or after September 9, 2006
Project sponsor must select Program compliance option upon project approval and cannot alter their compliance option	All projects that received Planning Commission or Planning Department approval on or after September 9, 2006
All off-site units must be located within 1 mile of the principal project and Off-site units must be priced and sold at 70% of AMI	All Projects that receive Planning Commission or Planning Department approval after September 9, 2006
Lottery preference for applicants living or working in San Francisco	All projects that are marketed on or after June 4, 2007
Lottery preference for applicants holding a Certificate of Preference from the Redevelopment Agency	All projects that are marketed on or after December 30, 2008

<p>1 Lottery required for all new and</p> <p>2 resale units</p>	<p>All projects that are marketed</p> <p>on or after September 9, 2006</p>
<p>3 Must provide on-site units as</p> <p>4 owner-occupied only unless</p> <p>5 specifically exempted pursuant to</p> <p>6 Section 415</p>	<p>All projects beginning February</p> <p>11, 2010</p>
<p>7 All off-site units must follow</p> <p>8 standards set out in Procedures</p> <p>9 Manual</p>	<p>Projects that receive Planning</p> <p>Commission or Planning Department</p> <p>approval on or after June 4, 2007</p>

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

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

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

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

21 (1) For all projects sites designated as Tier A, a minimum of 18 percent of the
 22 total units constructed shall be affordable to and occupied by qualifying persons and families
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1 as defined elsewhere in this Code, so that a project sponsor must construct .18 times the total
2 number of units produced in the principal project beginning with the construction of the
3 fifth~~tenth~~ unit. If the total number of units is not a whole number, the sponsor shall round up to
4 the nearest whole number for any portion of .5 or above.
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6 (A) If the project sponsor is eligible for and elects pursuant to Section 415
7 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall
8 construct 23 percent so that a sponsor must construct .23 times the total number of units
9 produced in the principal project beginning with the construction of the fifth~~tenth~~ unit. If the
10 total number of units is not a whole number, the sponsor shall round up to the nearest whole
11 number for any portion of .5 or above.
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13 (B) If the project sponsor elects pursuant to Section 415.5 to pay the fee to
14 satisfy the requirements of this program, the sponsor shall meet the requirements of Section
15 415 according to the number of units required above if the project applicant were to elect to
16 meet the requirements of this Section by off-site housing development. For the purposes of
17 this Section, the City shall calculate the fee using the direct fractional result of the total
18 number of units multiplied by the percentage of off-site housing required, rather than rounding
19 up the resulting figure.
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1 (2) For all project sites designated Tier B, a minimum of 20 percent of the total
2 units constructed shall be affordable to and occupied by qualifying persons and families as
3 defined elsewhere in this Code, so that a project sponsor must construct .20 times the total
4 number of units produced in the principal project beginning with the construction of the
5 fifth~~th~~tenth unit. If the total number of units is not a whole number, the sponsor shall round up to
6 the nearest whole number for any portion of .5 or above.
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8 (A) If the project sponsor is eligible for and elects pursuant to Section
9 415.5(g) to build off-site units to satisfy the requirements of this program, the sponsor shall
10 construct 25 percent so that a sponsor must construct .25 times the total number of units
11 produced in the principal project beginning with the construction of the fifth~~th~~tenth unit. If the
12 total number of units is not a whole number, the sponsor shall round up to the nearest whole
13 number for any portion of .5 or above.
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15 (B) If the project sponsor elects pursuant to Section 415.5(g) to pay the fee
16 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
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1 number of units multiplied by the percentage of off-site housing required, rather than rounding
2 up the resulting figure.

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

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

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

1 2013. The requirements of Planning Code Section 415 et seq. shall continue to apply to any
2 building of 5 to 9 units that submitted a first application on or after July 18, 2006 and received
3 a first construction document prior to January 415, 2013.

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5 Section 7. This section is uncodified. Within three years of the effective date of this
6 legislation, the Planning Department shall evaluate the effect of the exemption for five- to
7 nine-unit developments on achieving the City's housing policies and production goals,
8 balancing the City's desire to create viable economic housing policies for small builders in
9 context with the city's other housing production goals. Subsequent evaluations shall be done
10 in conjunction with the five-year evaluation required to be undertaken by the Mayor's Office of
11 Housing under Planning Code Section 415.9(e) and in conjunction with any evaluation of the
12 Housing Trust Fund that may be required under the Administrative Code.

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14 Section 78. This section is uncodified. In enacting this Ordinance, the Board intends
15 to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
16 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
17 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
18 Board amendment deletions in accordance with the "Note" that appears under the official title
19 of the legislation.

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APPROVED AS TO FORM:
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