

1 [Approving Inclusionary Affordable Housing Program Ordinance]

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3 **Motion approving the Inclusionary Affordable Housing Program Ordinance**
4 **recommending a standard to determine what constitutes a “significant increase in**
5 **residential development potential” under Charter Section 16.110(h)(1)(B)(iv).**

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7 WHEREAS, In November 2012, the voters adopted Proposition C, titled “Affordable
8 Housing Trust Fund and Housing Production Incentives” (“Proposition C”). Among other
9 things, Proposition C added Charter Section 16.110 to lower and stabilize certain regulatory
10 requirements of the Inclusionary Affordable Housing Program in Planning Code Sections 415
11 et seq.; and

12 WHEREAS, Charter Section 16.110(h)(2) provides that: “As of January 1, 2013, the
13 City may not adopt any new land use legislation or administrative regulation, including a
14 Planning Code amendment, or impose any new condition of approval on the issuance of a
15 discretionary permit, that would require an increase in the project sponsor’s Inclusionary
16 Housing Cost Obligation” Charter Section 16.110(h)(1) provides certain exceptions to
17 this prohibition. One of the exceptions is for “An area subject to a change in zoning enacted
18 after November 6, 2012 that affects 40 or more acres or greater and results in a significant
19 increase in residential development potential, where the area is not also encompassed by a
20 Special Use District adopted after November 6, 2012.”; and

21 WHEREAS, Proposition C did not define a “significant increase in residential
22 development potential” for purposes of this exception, but established a Housing Review
23 Committee comprised of the Directors of the Mayor’s Office of Housing, the Planning
24 Department, and the Office of Economic and Workforce Development, or their successor

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1 agencies, to recommend a standard in the form of a proposed ordinance to the Board of
2 Supervisors; and

3 WHEREAS, The Housing Review Committee held public hearings on February 7, 2013
4 and March 13, 2013, and recommended the standard set forth in an ordinance on file with the
5 Clerk of the Board of Supervisors in File No. 130647, which is hereby declared to be a part of
6 this motion as if set forth fully herein; and

7 WHEREAS, Under Charter Section 16.110(h)(1)(B)(iv), the Board of Supervisors may
8 reject by a majority vote the proposed ordinance recommended by the Housing Review
9 Committee, and if the Board of Supervisors fails to reject the proposed ordinance within 60
10 days of receiving it from the Housing Review Committee, the proposed ordinance will be
11 deemed adopted; now, therefore, be it

12 MOVED, That the Board of Supervisors hereby approves the proposed ordinance
13 recommended by the Housing Review Committee as follows:

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15 **Ordinance amending the Planning Code to add a definition of “significant increase in**
16 **residential development potential” consistent with the Housing Trust Fund provisions**
17 **in Charter, Section 16.110; and making environmental findings, and findings of**
18 **consistency with the General Plan.**

19 NOTE: Additions are *single-underline italics Times New Roman*;
20 deletions are ~~*strike-through italics Times New Roman*~~.
21 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

23 Section Findings. The Planning Department has determined that the actions
24 contemplated in this ordinance comply with the California Environmental Quality Act
25 (California Public Resources Code Section 21000 et seq.). Said determination is on file with

1 the Clerk of the Board of Supervisors in File No. 130647 and is incorporated herein by
2 reference.

3 (b) On June 6, 2013, the Planning Commission, in Resolution No. 18897 approved
4 and recommended for adoption by the Board this legislation and adopted findings that it is
5 consistent, on balance, with the City's General Plan and eight priority policies of Planning
6 Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution
7 is on file with the Clerk of the Board of Supervisors in File No. 130647, and is incorporated by
8 reference herein.

9 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
10 legislation will serve the public necessity, convenience, and welfare for the reasons set forth in
11 Planning Commission Resolutions No. 18897, and incorporates such reasons by reference
12 herein.

13 Section 2. Background.

14 (a) In November, 2012, the voters adopted Proposition C "Affordable Housing Trust
15 Fund and Housing Production Incentives" ("Proposition C"). Among other things, Proposition
16 C added Charter Section 16.110 to lower and stabilize certain regulatory requirements of the
17 Inclusionary Affordable Housing Program in Planning Code Sections 415 et seq.

18 (b) Charter Section 16.110(h)(2) provided that: "As of January 1, 2013, the City
19 may not adopt any new land use legislation or administrative regulation, including a Planning
20 Code amendment, or impose any new condition of approval on the issuance of a discretionary
21 permit, that would require an increase in the project sponsor's Inclusionary Housing Cost
22 Obligation" Charter Section 16.110(h)(1) provided certain exceptions to this prohibition.
23 One of the exceptions was for "An area subject to a change in zoning enacted after November
24 6, 2012 that affects 40 or more acres or greater and results in a significant increase in

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1 residential development potential, where the area is not also encompassed by a Special Use
2 District adopted after November 6, 2012.”

3 (c) Proposition C, however, did not define a “significant increase in residential
4 development potential” for purposes of this exception, but established a Housing Review
5 Committee comprised of the Directors of the Mayor’s Office of Housing, the Planning
6 Department, and the Office of Economic and Workforce Development, or their successor
7 agencies, to recommend a standard in the form of a proposed ordinance to the Board of
8 Supervisors.

9 (d) The Housing Review Committee held public hearings on February 7, 2013 and
10 March 13, 2013. After considering public input and the recommendations of staff, the Housing
11 Review Committee recommends the standard set forth in this ordinance for purposes of
12 Charter Section 16.110(h).

13 (e) Charter Section 16.110(h) provides that the Board of Supervisors may reject the
14 proposed ordinance submitted by the Housing Review Committee by a majority vote. If the
15 Board fails to reject the proposed ordinance within 60 days of receiving it from the Housing
16 Review Committee, the proposed ordinance shall be deemed adopted.

17 Section 3. The Planning Code is hereby amended by adding a portion of Section 401,
18 to read as follows:

19 **SEC. 401. DEFINITIONS.**

20 In addition to the specific definitions set forth elsewhere in this Article, the following
21 definitions shall govern interpretation of this Article:

22 * * *

23 “Significant increase in residential development potential” shall mean, for purposes of Charter
24 Section 16.110(h) and the implementation of the Inclusionary Affordable Housing Program, for areas
25 subject to a change in zoning enacted after November 6, 2012 that affects 40 or more acres or greater

1 and results in a significant increase in residential development potential, where the area is not also
2 encompassed by a Special Use District adopted after November 6, 2012:

3 (a) a 20% or greater increase in developable residential gross floor area, as measured by a
4 change in height limits, Floor Area Ratio limits, or use, over prior zoning, or

5 (b) a change in use permitting residential uses (either as a principally permitted use or with
6 a conditional use authorization) where residential uses were not previously principally permitted or
7 permitted with a conditional use authorization, or

8 (c) For parcels with an existing residential development capacity of 10 units or greater, the
9 lesser of

10 1. a 50% or greater increase in residential densities over prior zoning, or,

11 2. an increase in density of at least 15 additional units over the number of units
12 allowed under prior zoning.

13 3. For the purposes of determining residential development capacity, the Planning
14 Department shall use unit sizes and efficiency ratios typical for the subject area at the time of the
15 rezoning.

16 (4) This definition was adopted and may only be amended under Charter Section
17 16.110(h)(1)(B)(iv).

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20 Section 4. Effective Date. This ordinance shall become effective 30 days from the
21 date of passage.

22 Section 5. This section is uncodified. In enacting this Ordinance, the Board intends to
23 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
24 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
25 explicitly shown in this legislation as additions, deletions, Board amendment additions, and

1 Board amendment deletions in accordance with the "Note" that appears under the official title
2 of the legislation.

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5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

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By: _____
Jon Givner
Deputy City Attorney
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10 The above Ordinance, received by the Housing Review Committee, is hereby included on file
11 with the Clerk of the Board of Supervisors in File No. 130647; and be it

12 FURTHER MOVED, That the Board of Supervisors waives the remainder of the 60-day
13 period to reject the proposed ordinance, so that the proposed ordinance shall be deemed
14 adopted on the day that the Board of Supervisors adopts this motion.

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