

[Off-Site Residential Inclusionary Affordable Housing Requirements.]

Ordinance amending Section 315.5 of the Planning Code to provide that twenty-five percent of off-site units given site permits annually may be built outside of the currently-required one-mile radius from the market-rate project, and to provide that off-site units cannot be located in industrially-zoned areas or within a quarter mile of developments containing 200 or more publicly-owned and operated affordable housing developments.

Note: Additions are single-underline italics Times New Roman;  
deletions are ~~strikethrough italics Times New Roman~~.  
Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Application of amendments: The amendments in this ordinance related to new requirements for off-site housing shall apply to all projects that submit their first application, including an environmental evaluation application or any other Planning Department or Building Department application, on or after the effective date of this ordinance.

Section 2. The San Francisco Planning Code is hereby amended by amending Section 315.5, to read as follows:

**SEC. 315.5. COMPLIANCE THROUGH OFF-SITE HOUSING DEVELOPMENT.**

If the project applicant elects, pursuant to Section 315.4(e), that the project applicant will build off-site units to satisfy the requirements of this Program, the project applicant shall meet the following requirements:

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

(1)

1 (1)

2 (A) For any housing development of any height that is located in an area with a specific  
3 inclusionary housing requirement, the more specific off-site inclusionary housing requirement  
4 shall apply.

5 (B) Buildings of 120 feet and under in height or buildings of over 120 feet in height that do  
6 not meet the criteria in subsection (C) below: Except as provided in Subsection (A), the for  
7 projects described in Section 315.3(a)(1), (2), (3), and (4) 20 percent so that a project  
8 applicant must construct .20 times the total number of units produced in the principal project  
9 beginning with the construction of the fifth unit. If the total number of units is not a whole  
10 number, the project applicant shall round up to the nearest whole number for any portion of .5  
11 or above. The Planning Department shall provide written notice by mail to the project  
12 applicant of the number of affordable units that shall be required within 30 days of approval by  
13 the Planning Department or Planning Commission. This notice shall also be sent to project  
14 applicants who elect to pay an in-lieu fee.

15 (C) Buildings of over 120 feet in height. Except as provided in subsection (A) above, the  
16 requirements of this Subsection shall apply to any project that is over 120 feet in height and  
17 does not require a Zoning Map amendment or Planning Code text amendment related to its  
18 project approvals which (i) results in a net increase in the number of permissible residential  
19 units, or (ii) results in a material increase in the net permissible residential square footage as  
20 defined in Section 315.3(b)(2); or has not received or will not receive a zoning map  
21 amendment or Planning Code text amendment as part of an Area Plan adopted after January  
22 1, 2006 which (i) results in a net increase in the number of permissible residential units, or (ii)  
23 results in a material increase in the net permissible residential square footage as defined in  
24 Section 315.3(b)(2). The Planning Department shall require for housing projects covered by  
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1 this Subsection and Section 315.3(a)(1), as a condition of Planning Department approval of a  
2 project's building permit, or by this Subsection and by Section 315.3(a)(2), (3) and (4), as a  
3 Condition of Approval of a conditional use or planned unit development permit or as a  
4 condition of Planning Department approval of a live/work project, that 17 percent of all units  
5 constructed on the project site shall be affordable to qualifying households so that a project  
6 applicant must construct .17 times the total number of units produced in the principal project  
7 beginning with the construction of the fifth unit. If the total number of units is not a whole  
8 number, the project applicant shall round up to the nearest whole number for any portion of .5  
9 or above. Consistent with the conclusions of the Mayor's Office of Housing study authorized in  
10 Section 315.8(e), the Mayor's Office of Housing shall recommend and the Board of  
11 Supervisors shall consider whether the requirements of this Subsection for buildings of over  
12 120 feet in height shall continue or expire after approximately five years. The Planning  
13 Department shall provide written notice by mail to the project applicant of the number of  
14 affordable units which shall be required within 30 days of approval by the Planning  
15 Department or Planning Commission. This notice shall also be sent to project applicants who  
16 elect to pay an in-lieu fee.

17 (b) Timing of Construction: The project applicant shall insure that the off-site units are  
18 constructed, completed, and ready for occupancy no later than the market rate units in the  
19 principal project.

20 (c) Location of off-site housing: The project applicant must insure that off-site units are  
21 located within one mile of the principal project (*the "one-mile radius"*). *Notwithstanding the*  
22 *foregoing, each year 25% of off-site units may be constructed outside of the one-mile radius. These*  
23 *units shall be called "citywide off-site units" and may be constructed anywhere in the City, subject to*  
24 *the limitations below. In determining the allowable number of citywide off-site units, each fiscal year*

1 MOH shall take the average number of off-site units receiving a first certificate of occupancy over the  
2 past five years. In determining the average, MOH shall not include any year where no off-site units  
3 received a first certificate of occupancy. MOH shall publish the allowable number of citywide off-site  
4 units for a given year on July 1 of each year. The Planning Department, in consultation with MOH,  
5 shall then grant permission to a project applicant to use citywide off-site units on a first-come, first-  
6 serve basis until the maximum allowable number of citywide off-site units is reached. If the maximum  
7 number of allowable citywide off-site units is not used in a given year, the citywide off-site units shall  
8 be carried over to the next fiscal year. If a project applicant does not receive a first certificate of  
9 occupancy for a citywide off-site unit within 2 years of the date the Planning Department grants  
10 permission for the citywide off-site unit, then the Zoning Administrator shall have the authority to  
11 revoke the permission to use the citywide offsite unit and to grant those units to another project  
12 applicant. Citywide off-site units shall not be built in districts zoned M-1 or M-2, or within a quarter  
13 mile of a high concentration of public housing units. A high concentration of public housing units shall  
14 mean a development or developments that consist of 200 or more publicly-owned and operated  
15 affordable housing units.

16 (d) Type of Housing: The type of affordable housing needed in San Francisco is documented  
17 in the City's Consolidated Plan and the Residence Element of the General Plan. New  
18 affordable rental housing and ownership housing affordable to households earning less than  
19 the median income is greatly needed in San Francisco. The Planning Department shall  
20 develop Quality Standards for Off-Site Affordable Housing Units and recommend such  
21 standards to the Planning Commission for adoption as part of the Procedures Manual. All off-  
22 site units constructed under this Section must be provided as rental housing for the life of the  
23 project or, if they are ownership units, must be affordable to households earning no more than  
24 80 percent of the median income for the City and County of San Francisco. Nothing in this  
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1 section shall limit a developer from meeting the requirements of this Section through the  
2 construction of units in a limited equity or land trust form of ownership if such units otherwise  
3 meet all of the requirements for off-site housing. In general, affordable units constructed under  
4 this Section 315.5 shall be comparable in number of bedrooms, exterior appearance and  
5 overall quality of construction to market rate units in the principal project. The total square  
6 footage of the off-site affordable units constructed under this Section 315.5 shall be no less  
7 than the calculation of the total square footage of the on-site market-rate units in the principal  
8 project multiplied by the relevant on-site percentage requirement for the project specified in  
9 Section 315.4. The Notice of Special Restrictions or Conditions of Approval shall include a  
10 specific number of units at specified unit sizes - including number of bedrooms and minimum  
11 square footage - for affordable units. The interior features in affordable units need not be the  
12 same as or equivalent to those in market rate units in the principal project, so long as they are  
13 consistent with the Planning Department's Quality Standards for Off-Site Affordable Housing  
14 Units found in the Procedures Manual. Where applicable, parking shall be offered to the  
15 affordable units subject to the terms and conditions of the Department's policy on unbundled  
16 parking for affordable housing units as specified in the Procedures Manual and amended from  
17 time to time. If the residential units in the principal project are live/work units which do not  
18 contain bedrooms or are other types of units which do not contain bedrooms separated from  
19 the living space, the off-site units shall be comparable in size according to the following  
20 equivalency calculation between live/work and units with bedrooms:

21 TABLE INSET:

23 Number of Bedrooms (or, for live/work units square foot 24 equivalency)	Number of Persons in
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	Household
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

(e) Marketing the Units: The Mayor's Office of Housing shall be responsible for overseeing and monitoring the marketing of affordable units under this Section. In general, the marketing requirements and procedures shall be contained in the Procedures Manual as amended from time to time and shall apply to the affordable units in the project. The Mayor's Office of Housing may develop occupancy standards for units of different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of affordable units. The Mayor's Office of Housing may require in the Procedures Manual that prospective purchasers complete homebuyer education training or fulfill other requirements. The Mayor's Office of Housing shall develop a list of minimum qualifications for marketing firms that market affordable units under this ordinance, referred to in the Procedures Manual as Below Market Rate (BMR units). Within three months from the effective date of this legislation, the Mayor's Office of Housing shall recommend to the Planning Commission that these minimum qualifications be published in the Procedures Manual such that, upon approval of the qualifications by the Planning Commission, no developer marketing units under the Inclusionary Housing Program shall be able to market BMR units except through a firm

1 meeting all of the minimum qualifications. For purposes of this ordinance, any developer that  
2 has not yet submitted a marketing plan to the Mayor's Office of Housing by the date of  
3 Planning Commission approval of the qualifications shall be required to comply with this  
4 section. The Notice of Special Restrictions or Conditions of Approval shall specify that the  
5 marketing requirements and procedures contained in the Procedures Manual as amended  
6 from time to time, shall apply to the affordable units in the project.


7 (1) Lottery: At the initial offering of affordable units in a housing project, the Mayor's Office of  
8 Housing must require the use of a public lottery approved by MOH to select purchasers or  
9 tenants. The Mayor's Office of Housing shall also hold a general public lottery and maintain  
10 and utilize a list generated from this lottery or utilize a list generated from a recent lottery at  
11 another similar housing project to fill spaces in units that become available for re-sale or  
12 occupancy in any housing project subject to this Ordinance after the initial offering. The list  
13 shall be updated from time to time but in no event less than annually to insure that it remains  
14 current.

15 (2) Preferences: The Mayor's Office of Housing shall create a lottery system that gives  
16 preference to people who live or work in San Francisco. MOH shall propose policies and  
17 procedures for implementing this preference to the Planning Commission for inclusion in the  
18 Procedures Manual. Otherwise, it is the policy of the Board of Supervisors to treat all  
19 households equally in allocating affordable units under this Program.

20 (f) Affordable units constructed under Section 315.5 shall not have received development  
21 subsidies from any Federal, State or local program established for the purpose of providing  
22 affordable housing, and shall not be counted to satisfy any affordable housing requirement for  
23 the off-site development.  
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1 (g) Notwithstanding the provisions of Section 315.5(f) above, a developer may use California  
2 Debt Limit Allocation Committee (CDLAC) tax-exempt bonds to help fund its obligations under  
3 this ordinance as long as it provides 20 percent of the units as affordable at 50 percent of area  
4 median income for on-site housing or 25 percent of the units as affordable at 50 percent of  
5 area median income for off-site housing. Except as provided in this subsection, all units  
6 provided under this Section must meet all of the requirements of this ordinance and the  
7 Procedures Manual for either on- or off-site housing.

8  
9 APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

10 By:   
11 Susan Cleveland-Knowles  
12 Deputy City Attorney  
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# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 080282

**Date Passed:**

Ordinance amending Section 315.5 of the Planning Code to provide that twenty-five percent of off-site units given site permits annually may be built outside of the currently-required one-mile radius from the market-rate project, and to provide that off-site units cannot be located in industrially-zoned areas or within a quarter mile of developments containing 200 or more publicly-owned and operated affordable housing developments.

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August 5, 2008 Board of Supervisors — PASSED ON FIRST READING

Ayes: 7 - Chu, Daly, Dufty, Elsbernd, McGoldrick, Mirkarimi, Sandoval

Noes: 4 - Alioto-Pier, Ammiano, Maxwell, Peskin


August 12, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 8 - Chu, Daly, Dufty, Elsbernd, McGoldrick, Mirkarimi, Peskin, Sandoval

Noes: 3 - Alioto-Pier, Ammiano, Maxwell

File No. 080282

I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on August 12, 2008  
by the Board of Supervisors of the City and  
County of San Francisco.

  
\_\_\_\_\_  
*for* Angela Calvillo  
Clerk of the Board

\_\_\_\_\_  
Date Approved

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Mayor Gavin Newsom