

1 [Administrative, Planning Codes - Preferences in Affordable Housing Programs]

2

3 **Ordinance amending the Administrative Code to clarify existing preferences in**  
4 **allocating City affordable housing units first to Certificate of Preference holders and**  
5 **second to tenants evicted under the Ellis Act, create a third preference for residents in**  
6 **the neighborhood where the affordable housing is located, ~~create additional categories~~**  
7 **~~of eligible displaced tenants and provide for preference to displaced tenants from the~~**  
8 **Neighborhood, create a fourth preference for people who live or work in San Francisco,**  
9 **to make conforming amendments to provisions of the Administrative and Planning**  
10 **Codes; to affirm the Planning Department’s determination under the California**  
11 **Environmental Quality Act; and to make findings of consistency with the General Plan,**  
12 **and the eight priority policies of Planning Code, Section 101.1.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
14 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
16 **Board amendment additions** are in double-underlined Arial font.  
17 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
18 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
19 subsections or parts of tables.

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

19

20 Section 1. Findings.

21 (a) The Planning Department has determined that the actions contemplated in this  
22 ordinance comply with the California Environmental Quality Act (California Public Resources  
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
24 Supervisors in File No. 151122 and is incorporated herein by reference. The Board affirms  
25 this determination.

1 (b) On October 22, 2015, the Planning Commission, in Resolution No. 19498, adopted  
2 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
3 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
4 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
5 Board of Supervisors in File No. 151122, and is incorporated herein by reference.

6  
7 Section 2. The Administrative Code is hereby amended by deleting Section 24.8, as  
8 follows:

9 **~~SEC. 24.8. PREFERENCE IN ALL CITY AFFORDABLE HOUSING PROGRAMS FOR~~**  
10 **~~CERTIFICATE OF PREFERENCE HOLDERS AND DISPLACED TENANTS.~~**

11 ~~This Section shall apply to all programs related to the provision of affordable housing, unless~~  
12 ~~specified otherwise. To the extent permitted by law, the Mayor's Office of Housing and Community~~  
13 ~~Development ("MOHCD") or its successor shall give or require project sponsors or their successors in~~  
14 ~~interest funded through MOHCD to give, preference in occupying units or receiving assistance under~~  
15 ~~all City affordable housing programs, including all former San Francisco Redevelopment Agency~~  
16 ~~affordable housing programs administered or funded by the City, first to Residential Certificate of~~  
17 ~~Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant~~  
18 ~~Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with~~  
19 ~~the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or assistance;~~  
20 ~~and second to any Displaced Tenant, as defined herein, who meets all of the qualifications for the unit~~  
21 ~~or assistance, provided that the following limitations shall apply to the Displaced Tenant preference:~~  
22 ~~(i) a Displaced Tenant may apply the preference to existing, currently occupied developments only for~~  
23 ~~three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration~~  
24 ~~Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to~~  
25 ~~the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the~~

1 ~~San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code~~  
2 ~~Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments~~  
3 ~~going through the initial occupancy process only for six years from the date the landlord filed with the~~  
4 ~~Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis~~  
5 ~~Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new~~  
6 ~~residential development going through the initial occupancy process, the Displaced Tenant preference~~  
7 ~~shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's~~  
8 ~~preference shall still apply even if such Displaced Tenant declines a unit offered through application of~~  
9 ~~the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced~~  
10 ~~Tenant's preference terminates.~~

11 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
12 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
13 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
14 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
15 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
16 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
17 ~~this paragraph are directory rather than mandatory.~~

18 ~~For purposes of this Section, "Displaced Tenant" shall mean any tenant residing in San~~  
19 ~~Francisco who on or after January 1, 2012 has received a notice that his or her landlord plans to~~  
20 ~~withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the~~  
21 ~~corresponding provisions of the Rent Ordinance, cited above, and, who, as of the date of receipt of the~~  
22 ~~notice of withdrawal from the rental market, has resided in his or her unit continuously for: (i) at least~~  
23 ~~ten years; or (ii) at least five years, if the tenant can verify that he or she is suffering from a life~~  
24 ~~threatening illness as certified by his or her primary care physician or that he or she is disabled, as~~  
25 ~~defined in Administrative Code Section 37.9(i). MOHCD shall establish a process for a tenant to verify~~

1 his or her status as a "Displaced Tenant," which, at a minimum, shall require a tenant to show: (i) the  
2 landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental  
3 market; (ii) the tenant meets the ten or five year residency requirement stated above; and (iii) the  
4 tenant either: (A) is listed on the notice of withdrawal; (B) is listed on the lease for the unit in question;  
5 or (C) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she has  
6 lived in the unit for the required five or ten year period as applicable. If the Rent Board grants a  
7 landlord's request to rescind the Notice of Intent to Withdraw Rental Units under the Ellis Act before a  
8 tenant moves out of his or her unit, such tenant shall no longer qualify as a "Displaced Tenant."  
9 Additionally, if a person disputes a MOHCD determination that he or she does not qualify as a  
10 "Displaced Tenant" under this Section, such person shall have the right to a hearing conducted by a  
11 Rent Board Administrative Law Judge (as defined in Administrative Code Section 37.2(f)), with  
12 MOHCD as the responding party.

13 ~~The Board of Supervisors shall hold a hearing on the status of this Section within 2 years of the~~  
14 ~~effective date of Ordinance 232-08 to assess its impact, or at such time as the MOHCD certifies to the~~  
15 ~~Board of Supervisors that, in any one fiscal year, the percent of Residential Certificate of Preference~~  
16 ~~holders obtaining an affordable housing unit by taking advantage of the applicable preferences in this~~  
17 ~~Section in all of the City's affordable housing programs combined exceeds 50% of the total number of~~  
18 ~~units made available through the City's affordable housing programs in that year.~~

19 ~~The Board of Supervisors shall hold an initial hearing to assess the impact of the Displaced~~  
20 ~~Tenant preference within one year of the effective date of the ordinance creating the Displaced Tenant~~  
21 ~~preference. The Board of Supervisors shall hold a subsequent hearing within three years of the effective~~  
22 ~~date, at which MOHCD and the Rent Board shall submit a report on the demographics and income~~  
23 ~~levels of beneficiaries of the Displaced Tenant preference system.~~

1 Section 3. The Administrative Code is hereby amended by adding Chapter 47,  
2 consisting of Sections 47.1, 47.2, 47.3, 47.4, and 47.5 to read as follows:

3 **CHAPTER 47: PREFERENCE IN CITY AFFORDABLE HOUSING PROGRAMS**

4 **SEC. 47.1 FINDINGS AND PURPOSE.**

5 *Based on the information presented to the Board of Supervisors in Board of Supervisor's File*  
6 *No. 151122, staff presentations, and public testimony, the Board of Supervisors makes the following*  
7 *findings:*

8 *(a) In 2008, the City enacted Ordinance 232-08, to establish a preference in occupying units or*  
9 *receiving assistance under all City affordable housing programs to Residential Certificate of*  
10 *Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant*  
11 *Preference Program. In 2013, the City enacted Ordinance 277-13, to establish a second preference in*  
12 *occupying units or receiving assistance under all City affordable housing programs to certain San*  
13 *Francisco residents displaced by an eviction under the Ellis Act, California Government Code Section*  
14 *7060 et seq.*

15 ~~*(b) From 2010 to 2014, eviction notices filed with the Rent Board for all causes (not*~~  
16 ~~*just evictions under the Ellis Act) increased 45% Citywide. Within specific neighborhoods,*~~  
17 ~~*including the Mission, the Sunset/Parkside, the Outer Richmond, the Tenderloin, and the*~~  
18 ~~*Castro, the percentage of eviction notices recorded was significantly higher than the Citywide*~~  
19 ~~*average.*~~

20 ~~*(c) From 2010 to 2014*~~~~*During that same period, average residential rents increased 54%*~~  
21 ~~*Citywide. Moreover, rents in those neighborhoods with the highest number of eviction notices filed*~~  
22 ~~*have risen by a greater percentage over the same time period, including the Castro (145%), the Outer*~~  
23 ~~*Richmond (137%), the Sunset/Parkside (121%), and the Mission (by 108%).*~~

1 (cd) While current market rate rents in San Francisco are unaffordable to more than 60% of  
2 all rental households in the City, current market rate rents are unaffordable to 100% of all low- and  
3 moderate-income San Francisco households earning less than 120% Area Median Income.

4 ~~(e) San Francisco tenants are being displaced through evictions, and current market~~  
5 ~~rate rents are unaffordable to the majority of San Francisco renters. Thus, when~~  
6 ~~displacement now occurs, remaining in San Francisco and paying market rate rent is not a~~  
7 ~~viable option for most San Francisco residents, especially low and moderate income~~  
8 ~~households.~~

9 (df) Affordable housing in San Francisco is a scarce resource with limited availability. In  
10 addition, production of affordable housing in San Francisco has not kept pace with population growth,  
11 nor have the Regional Housing Needs Allocation goals for affordable housing been met.

12 ~~(g) A preference in qualifying for affordable housing for residents who have been, or~~  
13 ~~are about to be, displaced is necessary to achieve the important public purpose of increasing~~  
14 ~~opportunities for those residents to continue to live in San Francisco even as market rate rents~~  
15 ~~rise.~~

16 (eh) 2010 data show that overcrowding is an issue faced by San Franciscans Citywide, and  
17 that there are specific neighborhoods, including the Mission, Chinatown, and the Tenderloin, in which  
18 the percentage of overcrowded households is close to double that of the Citywide average.

19 (fi) Compounding the problem of overcrowding, nearly half of all San Franciscans are  
20 currently rent burdened, paying more than 30% of household income toward rent. Approximately 22%  
21 of San Francisco renters are severely rent burdened, meaning they pay more than 50% of their  
22 household income toward rent.

23 (gj) The high cost of housing is a significant factor in causing low- and very-low income  
24 households to leave the City: 63% of people who moved out of San Francisco between 2011-2013 were  
25 members of low- or very-low income households.

1 (hk) It is a necessary and important public purpose to provide relief for these economic and  
2 social ills arising from the housing challenges facing most San Franciscans. But because of the trends  
3 in current San Francisco market rate rents, moving low- and very-low income households into market  
4 rate housing in San Francisco is not a viable option.

5 (ih) A limited preference for existing neighborhood residents that can be applied to a portion of  
6 new affordable housing developments in San Francisco will provide an opportunity to current low- and  
7 very-low income residents that are living in overcrowded housing configurations to move into  
8 appropriately sized units without leaving the community. This preference will also help provide relief  
9 for rent burdened low- and very-low income ~~income~~ households while allowing them to benefit from  
10 new affordable housing development within their communities.

11 (jf) In addition, it is in the City’s interest to assist residents in preserving their existing  
12 community-based safety nets, such as access to schools, after school programs, stores, community  
13 centers, places of worship, and health care providers. A neighborhood preference will help to preserve  
14 community webs that serve as efficient safety nets and enhance the quality of life for neighborhood  
15 residents.

16 (kf) Developers, community advocates, and residents have a long history of collaboration on  
17 housing development in San Francisco. A neighborhood preference for current low income residents  
18 for a portion of new affordable housing opportunities acknowledges this collaboration and will help  
19 increase participation in this process, which will in turn help generate additional support for, and  
20 contribute to, the successful approval of more affordable housing development in San Francisco.

21 **SEC. 47.2 DEFINITIONS.**

22 “City Affordable Housing Programs” shall mean, unless specified otherwise, all programs  
23 related to the provision of affordable housing administered or funded by MOHCD, including but not  
24 limited to Tax Exempt Bond Developments. “City Affordable Housing Programs” does not include  
25 programs or affordable housing units exclusively supported by the Department of Housing and Urban

1 Development, the San Francisco Human Services Agency, the San Francisco Department of Public  
2 Health, or the San Francisco Housing Authority.

3 “Displaced Tenant” shall mean any person who applies to MOHCD and who MOHCD  
4 determines qualifies for any one of the categories enumerated under the criterion below. If a  
5 person disputes MOHCD’s determination that he or she does not qualify as a “Displaced Tenant”  
6 under this Section 47.2, such person shall have the right to a hearing conducted by a Rent Board  
7 Administrative Law Judge (as defined in Administrative Code Section 37.2(f)), with MOHCD as the  
8 responding party:

9 Category 1: A tenant residing in San Francisco who on or after January 1, 2010  
10 receives a Notice of Intent to Withdraw Rental Units (“Notice of Intent to Withdraw”) pursuant to the  
11 Ellis Act, Government Code Section 7060 et seq., and corresponding provisions of the Rent Ordinance.  
12 MOHCD shall establish a process for a tenant to verify his or her status as a “Displaced Tenant” under  
13 Category 1 that, at a minimum, shall require a tenant to show: (a) the landlord filed with the Rent  
14 Board a Notice of Intent to Withdraw; and (b) the tenant either: (1) is listed on the Notice of Intent to  
15 Withdraw; (2) is listed on the lease for the unit in question; or (3) has other evidence sufficient to  
16 establish, in MOHCD’s reasonable discretion, that he or she resided in the unit at the time the Notice of  
17 Intent to Withdraw was filed. If the Rent Board grants a landlord’s request to rescind the Notice of  
18 Intent to Withdraw before a tenant moves out of his or her unit, such tenant shall no longer qualify as a  
19 “Displaced Tenant.”

20 Category 2: A tenant residing in San Francisco who on or after January 1, 2010  
21 receives a notice that his or her landlord plans to recover possession of the unit for any one of  
22 the “no fault” eviction provisions under Sections 37.9(a)(8) through (16) of the Rent  
23 Ordinance. MOHCD shall establish a process for a tenant to verify his or her status as a  
24 “Displaced Tenant” under Category 2 that, at a minimum, shall require a tenant to show: (a)  
25 the landlord filed with the Rent Board the notice to vacate, as required under Rent Ordinance



1 Section 37.9(c); and (b) the tenant either: (1) is listed on the notice to vacate; (2) is listed on  
2 the lease for the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's  
3 reasonable discretion, that he or she resided in the unit at the time the notice to vacate was  
4 filed.

5 ~~Category 3: A tenant residing in San Francisco who on or after January 1, 2010~~  
6 ~~is ordered to vacate his or her unit by a public safety official due to fire or other disaster, and~~  
7 ~~who can provide sufficient evidence to MOHCD that demonstrates that he or she cannot~~  
8 ~~return to the unit within a reasonable period of time (as determined by MOHCD) thereafter.~~  
9 ~~MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced~~  
10 ~~Tenant" under Category 3 that, at a minimum, shall require a tenant to show: (a) a public~~  
11 ~~safety official provided an order to vacate the unit; and (b) the tenant either: (1) is listed on the~~  
12 ~~order to vacate; (2) is listed on the lease for the unit in question; or (3) has other evidence~~  
13 ~~sufficient to establish, in MOHCD's reasonable discretion, that he or she resided in the unit at~~  
14 ~~the time the order was provided.~~

15 ~~Category 4: A tenant residing in San Francisco on or after January 1, 2010 in a~~  
16 ~~unit that is subject to affordability restrictions in a Tax Exempt Bond Development, or a similar~~  
17 ~~type of development with expiring affordability restrictions that the Director of MOHCD~~  
18 ~~determines are unable to be extended, where such restrictions will expire within one year of~~  
19 ~~the tenant's application to MOHCD for status as a Displaced Tenant, or have already expired.~~  
20 ~~MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced~~  
21 ~~Tenant" under Category 4 that, at a minimum, shall require a tenant to show: (a) the landlord~~  
22 ~~provided notice to the tenant that the affordability restrictions applicable to that unit have~~  
23 ~~expired or will be expiring; and (b) the tenant either: (1) is listed on the notice regarding~~  
24 ~~expiration of affordability restrictions; (2) is listed on the lease for the unit in question; or (3)~~  
25

1 has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she  
2 resided in the unit at the time the notice was provided to the tenant.

3 ~~———— Category 5: A tenant residing in San Francisco on or after January 1, 2010 in a  
4 Below Market Rate unit restricted under the San Francisco Inclusionary Affordable Housing  
5 Program, Planning Code Section 415 et seq., where the Below Market Rate unit is  
6 transitioning from a rental unit to an ownership unit, and the tenant provides sufficient  
7 evidence to MOHCD that demonstrates that he or she is not able to purchase the unit due to  
8 financial reasons. MOHCD shall establish a process for a tenant to verify his or her status as  
9 a "Displaced Tenant" under Category 5 that, at a minimum, shall require a tenant to show: (a)  
10 the landlord provided notice to the tenant of the intent to convert the unit to an ownership unit;  
11 and (b) the tenant either: (1) is listed on the notice; (2) is listed on the lease for the unit in  
12 question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion,  
13 that he or she resided in the unit at the time the notice was provided to the tenant.~~

14 ~~———— Category 6: A tenant residing in San Francisco on or after January 1, 2010 who  
15 can document that he or she was, or will be, displaced due to the loss of a legal residential  
16 unit through a residential demolition or residential merger (as both terms are defined in  
17 Planning Code Section 317) authorized by any City permit, or the loss of an illegal unit  
18 resulting from a merger or demolition authorized by any City permit. MOHCD shall establish a  
19 process for a tenant to verify his or her status as a "Displaced Tenant" under Category 6 that,  
20 at a minimum, shall require a tenant to show: (a) the Planning Commission or Planning  
21 Department approved the residential demolition or residential merger; and (b) the tenant  
22 either: (1) is listed on a Notice required by the Rent Board; (2) is listed on the lease for the unit  
23 in question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable  
24 discretion, that he or she resided in the unit at the time the approval was granted.~~

1 “MOHCD” shall mean the Mayor's Office of Housing and Community Development or its  
2 successor.

3 “Neighborhood” shall mean any one of the 11 Supervisorial Districts as defined and  
4 established in the San Francisco Charter, Appendix E plus a buffer such that for each unit or project  
5 that is part of a City Affordable Housing Program "Neighborhood" means the Supervisorial District in  
6 which the unit or project is located, plus a ½ mile buffer around the location of the unit or project.

7 “Neighborhood Resident” shall mean any person who has a primary residence in a certain  
8 Neighborhood at the time he or she applies for a unit or assistance. MOHCD shall establish a process  
9 for a person to verify status as a "Neighborhood Resident" for a particular Neighborhood, which, at a  
10 minimum, shall require a person to show: (a) that he or she is listed on the lease for a unit in that  
11 Neighborhood; or (b) other evidence sufficient to establish, in MOHCD's reasonable discretion, that  
12 the person resides in a unit in that Neighborhood. If a person disputes a MOHCD determination that he  
13 or she does not qualify as a "Neighborhood Resident" under this Section 47.2, such person shall have  
14 the right to a hearing conducted by a Rent Board Administrative Law Judge (as defined in  
15 Administrative Code Section 37.2(f)), with MOHCD as the responding party.

16 “Rent Board” shall mean the Residential Rent Stabilization and Arbitration Board.

17 “Rent Ordinance” shall mean the San Francisco Rent Stabilization and Arbitration Ordinance,  
18 Administrative Code Chapter 37.

19 “Residential Certificate of Preference Holders” shall mean a person who holds a Residential  
20 Certificate of Preference under the San Francisco Redevelopment Agency's Property Owner and  
21 Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on  
22 file with the Clerk of the Board in File No. 080521.

23 “Tax Exempt Bond Development” shall mean any housing development financed through a tax-  
24 exempt bond issuance that imposes rent and occupancy restrictions as a condition of the financing.

1           **SEC. 47.3 APPLICATION OF PREFERENCE.**

2           Except to the extent prohibited by an applicable State or Federal funding source, MOHCD shall  
3 give, or require project sponsors or their successors in interest funded through MOHCD to give,  
4 preference in occupying units or receiving assistance under all City Affordable Housing Programs.  
5 Each preference enumerated below shall be applied as of the effective date of the legislation  
6 establishing each preference. The City established preference for holders of Certificates of Preference  
7 in Ordinance 232-08, Displaced Tenants, Category 1 in Ordinance 277-13, and ~~Displaced Tenants,~~  
8 ~~Categories 2 through 6 and~~ Neighborhood Residents in legislation adding this Chapter 47. The  
9 preference requirements are intended to have prospective effect only, and shall not be interpreted to  
10 impair the obligations of any pre-existing contract entered into by the City. Notwithstanding the prior  
11 sentence, the preference requirements shall apply to contracts entered into by the City on or after the  
12 effective date of the legislation establishing each preference, including contracts materially amended  
13 on or after the effective date. Preference shall be given:

14           (a) First, to Residential Certificate of Preference Holders, who meet all of the qualifications for  
15 the unit or assistance. Preference under this subsection (a) shall be given in 100% of the units in all  
16 initial sales, re-sales, initial leases, and subsequent leases.

17           (b) Second, to any Displaced Tenant who meets all of the qualifications for the unit or  
18 assistance. For any Displaced Tenant displaced prior to the effective date of this Chapter 47,  
19 preference under this subsection (b) shall expire six years from the effective date of this Chapter  
20 47. For any Displaced Tenant displaced after the effective date of this Chapter 47, preference under  
21 this subsection (b) shall expire six years from the date of the earliest of any of the following  
22 circumstances: (i) the landlord filed with the Rent Board a Notice of Intent to Withdraw; (ii) the  
23 landlord filed with the Rent Board the notice to vacate pursuant to the Rent Ordinance Section  
24 37.9(e); (iii) a public safety official provided the order to vacate to the tenant; (iv) the landlord  
25 provided notice to the tenant that the affordability restrictions applicable to that unit will be

1 expiring; (v) the landlord provided notice to the tenant that the unit is transitioning from a  
2 rental unit to an ownership unit; or (vi) the residential demolition or residential merger of the  
3 tenant's unit, as defined in Planning Code Section 317, was approved by the Planning  
4 Commission or Planning Department. Preference under this subsection (b) shall be applicable to:

5 (1) 20% of the units in any new residential development that is part of a City Affordable  
6 Housing Program going through the initial occupancy or sale process; and

7 (2) units in all re-sales and subsequent leases until 20% of all units that are part of a  
8 City Affordable Housing Program in a building are occupied by tenants who have exercised this  
9 preference.

10 ~~\_\_\_\_\_ (3) 50% of the units for which Preference under this subsection (b) is applicable~~  
11 ~~will be prioritized for Displaced Tenants who were living in the Neighborhood in which the~~  
12 ~~units are located at the time of their displacement, such that 50% of the units in subsection (1)~~  
13 ~~subject to the preference shall be prioritized first for Displaced Tenants who were living in the~~  
14 ~~Neighborhood in which the units are located at the time of their displacement; and units~~  
15 ~~subject to subsection (2) shall be prioritized first for Displaced Tenants who were living in the~~  
16 ~~Neighborhood in which the units are located at the time of their displacement until 10% of all~~  
17 ~~the units that are part of a City Affordable Housing Program in a building are occupied by~~  
18 ~~Displaced Tenants who were living in the Neighborhood.~~

19 The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a  
20 unit offered through application of the preference, but upon accepting and occupying a unit obtained  
21 using the preference, such Displaced Tenant's preference terminates.

22 (c) Third, to a Neighborhood Resident, who meets all of the qualifications for the unit or  
23 assistance. Preference under this subsection (c) shall be given:

24 (1) for units located in the same Neighborhood as the person resides;

1           (2) only for any new residential development in that Neighborhood going through the  
2 initial occupancy or sale process, and only to 40%25% of the units in such development.

3           (d) Fourth, to any person who lives or works in San Francisco who meets all of the  
4 qualifications for the unit or assistance. Preference under this subsection (d) shall be  
5 applicable to:

6           (1) any unit in any new residential development that is part of a City Affordable  
7 Housing Program going through the initial occupancy or sale process; and

8           (2) units in all re-sales and subsequent leases.

9           **SEC. 47.4. IMPLEMENTATION AND MONITORING.**

10           (a) Certificate of Preference. The Board of Supervisors shall hold a hearing on the  
11 status of the legislation creating the Certificate of Preference preference, Ordinance 232-08,  
12 within two years of its effective date to assess its impact, or at such time as the MOHCD  
13 certifies to the Board of Supervisors that, if in any one fiscal year, the percent of Residential  
14 Certificate of Preference holders obtaining an affordable housing unit by taking advantage of the  
15 Certificate of Preference preference in all of the City's affordable housing programs combined exceeds  
16 50% of the total number of units made available through the City's affordable housing programs in that  
17 year, MOHCD shall submit a report to that effect to the Board of Supervisors along with a  
18 proposed resolution to formally accept the report.

19           (b) Displaced Tenant and Neighborhood Preferences. MOHCD shall implement the Displaced  
20 Tenant and Neighborhood preference requirements of this Chapter 47 by developing procedures and  
21 amending its applicable regulations within 90 days of the effective date of the ordinance adding this  
22 Chapter 47. Said procedures and regulations shall be subject to approval by Resolution of the  
23 Board of Supervisors. The requirements of this paragraph are directory rather than mandatory.

24           Within one year of the effective date of the ordinance adopting this Chapter 47,  
25 MOHCD shall submit to the The Board of Supervisors or a committee thereof shall hold an initial

1 ~~hearing to assess a report assessing the impact of the Displaced Tenant and Neighborhood~~  
2 ~~preferences along with a proposed resolution to formally accept the report within one year of~~  
3 ~~the effective date of this Chapter 47. The Board of Supervisors or a committee thereof shall~~  
4 ~~hold a subsequent hearing w~~Within three years of the effective date of this Chapter 47, at which  
5 MOHCD and the Rent Board shall submit a report on the demographics and income levels of  
6 beneficiaries of the Displaced Tenant and Neighborhood preference system, along with a proposed  
7 resolution to formally accept the report.

8 **SEC. 47.5. SEVERABILITY.**

9 If any section, subsection, sentence, clause, phrase, or word of this Chapter 47, or any  
10 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a  
11 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining  
12 portions or applications of the Chapter. The Board of Supervisors hereby declares that it would have  
13 passed the ordinances establishing this Chapter and each and every section, subsection, sentence,  
14 clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other  
15 portion of this Chapter or application thereof would be subsequently declared invalid or  
16 unconstitutional.

17  
18 Section 4. The Administrative Code is hereby amended by revising Sections 37.6,  
19 43.3.4, 10.100-110, and 10.100-370, to read as follows:

20 **SEC. 37.6. POWERS AND DUTIES.**

21 In addition to other powers and duties set forth in this Chapter, and in addition to  
22 powers under the Charter and under other City Codes, including powers and duties under  
23 Administrative Code Chapter 49 (“Interest Rates on Security Deposits”), the Board shall have  
24 the power to:

25 \* \* \* \*

1 (o) As provided by Administrative Code ~~Section~~ Chapter 24.847, utilize Administrative  
2 Law Judges to hear and decide petitions from persons who dispute the Mayor's Office of  
3 Housing and Community Development's determination that such person does not qualify as a  
4 "Displaced Tenant" or a "Neighborhood Resident" (each as defined in Administrative Code  
5 ~~Section~~ Chapter 24.847).

6  
7 **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

8 Following payment of costs of issuance, 85 percent of the bond proceeds will be used  
9 for the development of affordable rental housing through the development account described  
10 in the regulations, and 15 percent of the bond proceeds will be used for downpayment  
11 assistance for low and moderate income first-time homebuyers through the downpayment  
12 assistance loan account described in the program regulations; including all legally permissible  
13 administrative costs related to the program. The Mayor's Office of Housing and Community  
14 Development ("MOHCD") shall develop procedures and amend its regulations such that, for  
15 all projects funded by this affordable housing and home ownership bond program, including  
16 multifamily rental projects and down payment assistance to individual households, it requires  
17 the project sponsor or its successor in interest to give preference in occupying units or  
18 receiving assistance as provided for in Administrative Code Chapter 47. first to Residential  
19 Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner  
20 and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and  
21 on file with the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or  
22 assistance; and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who  
23 meets all of the qualifications for the unit or assistance, provided that the following limitations shall  
24 apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing,  
25 currently occupied developments only for three years from the date the landlord filed with the



1 ~~Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the~~  
2 ~~tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section~~  
3 ~~7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration~~  
4 ~~Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced~~  
5 ~~Tenant may apply the preference to new developments going through the initial occupancy process only~~  
6 ~~for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the~~  
7 ~~tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding~~  
8 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~  
9 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~  
10 ~~the units in such development. The Displaced Tenant's preference shall still apply even if such~~  
11 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~  
12 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

13 ~~—MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
14 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
15 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
16 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
17 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
18 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
19 ~~this paragraph are directory rather than mandatory.~~

20 **SEC. 10.100-110. MAYOR'S HOUSING AFFORDABILITY FUND.**

21 (a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a  
22 category two fund to receive any prior legally binding obligations any grants, gifts, bequests  
23 from private sources for the purposes cited in subsection (b), any monies repaid to the City as  
24 a result of loans made by the City to developers to assist in the development of affordable  
25 housing, any repayments of monies to the City where the City is beneficiary under a

1 promissory note which was acquired as a result of the City's housing affordability assistance,  
2 any repayments of loans made from this fund and any monies otherwise appropriated to the  
3 fund.

4 (b) Use of Fund. The fund shall be used exclusively for the purpose of providing  
5 financial assistance to for-profit and nonprofit housing developers, where the contribution of  
6 monies from the fund will allow units in a project to be affordable to persons and families of  
7 low and moderate income. City departments may recover any costs of administering any  
8 project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of  
9 Housing and Community Development ("MOHCD") shall develop procedures and amend its  
10 regulations such that, for all projects funded by this fund, it requires the project sponsor or its  
11 successor in interest to give preference in occupying units or receiving assistance *as provided*  
12 *for in Administrative Code Chapter 47. ~~first to Residential Certificate of Preference Holders under the~~*  
13 *~~San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as~~*  
14 *~~reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in~~*  
15 *~~File No. 080521, who meet all of the qualifications for the unit or assistance; and second to any~~*  
16 *~~Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications~~*  
17 *~~for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant~~*  
18 *~~preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied~~*  
19 *~~developments only for three years from the date the landlord tiled with the Residential Rent~~*  
20 *~~Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from~~*  
21 *~~the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the~~*  
22 *~~corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent~~*  
23 *~~Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply~~*  
24 *~~the preference to new developments going through the initial occupancy process only for six years from~~*  
25 *~~the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the~~*

1 ~~rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent~~  
2 ~~Ordinance; and (iii) for any new residential development going through the initial occupancy process,~~  
3 ~~the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such~~  
4 ~~development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant~~  
5 ~~declines a unit offered through application of the preference, but upon accepting and occupying a unit~~  
6 ~~obtained using the preference, such Displaced Tenant's preference terminates.~~

7 ~~—MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
8 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
9 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
10 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
11 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
12 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
13 ~~this paragraph are directory rather than mandatory.~~

14 **SEC. 10.100-370. SAN FRANCISCO HOPE SF FUND.**

15 (a) Establishment of Fund. The HOPE SF Fund is hereby established as a category  
16 four fund for the purpose of assisting in the replacement and/or rehabilitation of distressed  
17 public housing projects in the City and County of San Francisco.

18 \* \* \* \*

19 (d) Administration of Fund. The fund shall be administered by the Mayor's Office of  
20 Housing and Community Development ("MOHCD"). The Director of MOHCD shall  
21 promulgate such rules and regulations as he or she may deem appropriate to carry out the  
22 provisions of the fund. Such rules and regulations shall be developed in consultation with any  
23 appropriate agencies or organizations with which the Director, or his or her designee, may  
24 choose to consult. The rules and regulations shall be subject to a public hearing and  
25 approved by resolution of the Board of Supervisors. MOHCD shall develop procedures such

1 that, for all projects funded by the HOPE SF Fund, MOHCD requires the project sponsor or its  
2 successor in interest to give preference in occupying units as provided for in Administrative Code  
3 Chapter 47. first to any current occupants of a housing development receiving Funds, second to  
4 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's  
5 Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective  
6 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the  
7 qualifications for the unit; and third to any Displaced Tenant, as defined in Administrative Code  
8 Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following  
9 limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the  
10 preference to existing, currently-occupied developments only for three years from the date the landlord  
11 filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to  
12 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government  
13 Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization  
14 and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A;  
15 (ii) a Displaced Tenant may apply the preference to new developments going through the initial  
16 occupancy process only for six years from the date the landlord filed with the Rent Board a notice of  
17 intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and  
18 the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development  
19 going through the initial occupancy process, the Displaced Tenant preference shall apply only to  
20 twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still  
21 apply even if such Displaced Tenant declines a unit offered through application of the preference, but  
22 upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's  
23 preference terminates.

24 *MOHCD shall implement the Certificate of Preference Holder requirements of this Section by*  
25 *developing procedures and amending its applicable regulations within 90 days of the effective date of*

1 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
2 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
3 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
4 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
5 ~~this paragraph are directory rather than mandatory.~~

6  
7 Section 5. The Planning Code is hereby amended by revising Sections 413.10, 415.5,  
8 415.6 and 415.7, to read as follows:

9 **SEC. 413.10. CITYWIDE AFFORDABLE HOUSING FUND.**

10 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to  
11 Section 413.9 shall be deposited in the special fund maintained by the Controller called the  
12 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated  
13 in accordance with law to be used solely to increase the supply of housing affordable to  
14 qualifying households subject to the conditions of this Section. The Mayor's Office of Housing  
15 and Community Development ("MOHCD") shall develop procedures such that, for all projects  
16 funded by the Citywide Affordable Housing Fund, MOHCD requires the project sponsor or its  
17 successor in interest to give preference in occupying units as provided for in Administrative Code  
18 Chapter 47. first to Residential Certificate of Preference Holders under the San Francisco  
19 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September  
20 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who  
21 meet all of the qualifications for the unit; and second to any Displaced Tenant, as defined in  
22 Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance,  
23 provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced  
24 Tenant may apply the preference to existing, currently-occupied developments only for three years from  
25 the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board")

1 ~~a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act,~~  
2 ~~California Government Code Section 7060 et seq. and the corresponding provisions of the San~~  
3 ~~Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code~~  
4 ~~Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments~~  
5 ~~going through the initial occupancy process only for six years from the date the landlord filed with the~~  
6 ~~Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis~~  
7 ~~Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new~~  
8 ~~residential development going through the initial occupancy process, the Displaced Tenant preference~~  
9 ~~shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's~~  
10 ~~preference shall still apply even if such Displaced Tenant declines a unit offered through application~~  
11 ~~of the preference, but upon accepting and occupying a unit obtained using the preference, such~~  
12 ~~Displaced Tenant's preference terminates.~~

13 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
14 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
15 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
16 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
17 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~  
18 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements~~  
19 ~~of this paragraph are directory rather than mandatory.~~

20 The Fund shall be administered and expended by the Director of MOHCD, who shall  
21 have the authority to prescribe rules and regulations governing the Fund which are consistent  
22 with Section 413.1 et seq. No portion of the Fund may be used, by way of loan or otherwise, to  
23 pay any administrative, general overhead, or similar expense of any entity.

24 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

25 \* \* \* \*

1 (f) Use of Fees. All monies contributed pursuant to this Section shall be deposited in  
2 the special fund maintained by the Controller called the Citywide Affordable Housing Fund.  
3 The Mayor's Office of Housing and Community Development ("MOHCD") shall use the funds  
4 in the following manner:

5 (1) Except as provided in subsection (2) below, the receipts in the Fund are  
6 hereby appropriated in accordance with law to be used to:

7 (A) increase the supply of housing affordable to qualifying households  
8 subject to the conditions of this Section; and

9 (B) provide assistance to low and moderate income homebuyers; and

10 (C) pay the expenses of MOHCD in connection with monitoring and  
11 administering compliance with the requirements of the Program. MOHCD is authorized to use  
12 funds in an amount not to exceed \$200,000 every 5 years to conduct follow-up studies under  
13 Section 415.9(e) and to update the affordable housing fee amounts as described above in  
14 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated  
15 through the annual budget process or supplemental appropriation for MOHCD. The fund shall  
16 be administered and expended by MOHCD, which shall have the authority to prescribe rules  
17 and regulations governing the Fund which are consistent with this Section.

18 (2) "Small Sites Funds."

19 (A) Designation of Funds. MOHCD shall designate and separately  
20 account for 10% percent of all fees that it receives under Section 415.1 et seq., excluding fees  
21 that are geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(C), to  
22 support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall  
23 continue to divert 10 percent of all fees for this purpose until the Small Sites Funds reach a  
24 total of \$15 million at which point, MOHCD will stop designating funds for this purpose. At  
25 such time as designated Small Sites Funds are expended and dip below \$15 million, MOHCD

1 shall start designating funds again for this purpose, such that at no time the Small Sites Funds  
2 shall exceed \$15 million. When the total amount of fees paid to the City under Section  
3 415.1et seq. totals less than \$10 million over the preceding 12 month period, MOHCD is  
4 authorized to temporarily divert funds from the Small Sites Fund for other purposes. MOHCD  
5 must keep track of the diverted funds, however, such that when the amount of fees paid to the  
6 City under Section 415.1et seq. meets or exceeds \$10 million over the preceding 12 month  
7 period, MOHCD shall commit all of the previously diverted funds and 10 percent of any new  
8 funds, subject to the cap above, to the Small Sites Fund.

9 (B) Use of Small Sites Funds. The funds shall be used exclusively to  
10 acquire or rehabilitate "Small Sites" defined as properties consisting of less than 25 units.  
11 Units supported by monies from the fund shall be designated as housing affordable to  
12 qualifying households as defined in Section 415.1 for no less than 55 years. Properties  
13 supported by the Small Sites Funds must be either:

14 (i) rental properties that will be maintained as rental properties;  
15 (ii) vacant properties that were formerly rental properties as long  
16 as those properties have been vacant for a minimum of two years prior to the effective date of  
17 this legislation;

18 (iii) properties that have been the subject of foreclosure; or  
19 (iv) a Limited Equity Housing Cooperative as defined in  
20 Subdivision Code Sections 1399.1et seq. or a property owned or leased by a non-profit entity  
21 modeled as a Community Land Trust.

22 (C) Initial Funds. If, within 18 months from April 23, 2009 ~~the date of~~  
23 ~~adoption of this ordinance~~, MOHCD dedicates an initial one-time contribution of other eligible  
24 funds to be used initially as Small Sites Funds, MOHCD may use the equivalent amount of  
25



1 Small Sites Funds received from fees for other purposes permitted by the Citywide Affordable  
2 Housing Fund until the amount of the initial one-time contribution is reached.

3 (D) Annual Report. At the end of each fiscal year, MOHCD shall issue a  
4 report to the Board of Supervisors regarding the amount of Small Sites Funds received from  
5 fees under this legislation, and a report of how those funds were used.

6 (E) Intent. In adopting this ordinance regarding Small Sites Funds, the  
7 Board of Supervisors does not intend to preclude MOHCD from expending other eligible  
8 sources of funding on Small Sites as described in this Section, or from allocating or expending  
9 more than \$15 million of other eligible funds on Small Sites.

10 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD  
11 requires the project sponsor or its successor in interest to give preference *as provided for in*  
12 *Administrative Code Chapter 47. in-occupying units first to Residential Certificate of Preference*  
13  *Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference*  
14  *Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of*  
15  *the Board in File No. 080521, who otherwise meet all of the requirements for a unit; and second to any*  
16  *Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications*  
17  *for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant*  
18  *preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied*  
19  *developments only for three years from the date the landlord filed with the Residential Rent*  
20  *Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from*  
21  *the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the*  
22  *corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent*  
23  *Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply*  
24  *the preference to new developments going through the initial occupancy process only for six years from*  
25  *the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the*

1 ~~rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent~~  
2 ~~Ordinance; and (iii) for any new residential development going through the initial occupancy process,~~  
3 ~~the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such~~  
4 ~~development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant~~  
5 ~~declines a unit offered through application of the preference, but upon accepting and occupying a unit~~  
6 ~~obtained using the preference, such Displaced Tenant's preference terminates. Otherwise, it is the~~  
7 ~~policy of the City to treat all households equally in allocating affordable units under this Program.~~

8 \* \* \* \*

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

10 \* \* \* \*

11  
12  
13 (d) Marketing the Units. The Mayor's Office of Housing and Community Development  
14 ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable  
15 units under this Section. In general, the marketing requirements and procedures shall be  
16 contained in the Procedures Manual as amended from time to time and shall apply to the  
17 affordable units in the project. MOHCD may develop occupancy standards for units of  
18 different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of  
19 affordable units. MOHCD may require in the Procedures Manual that prospective purchasers  
20 complete homebuyer education training or fulfill other requirements. MOHCD shall develop a  
21 list of minimum qualifications for marketing firms that market affordable units under Section  
22 415.5 et seq., referred to the Procedures Manual as Below Market Rate (BMR units). No  
23 developer marketing units under the Program shall be able to market affordable units except  
24 through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or  
25 conditions of approval shall specify that the marketing requirements and procedures

1 contained in the Procedures Manual as amended from time to time, shall apply to the  
2 affordable units in the project.

3 (1) Lottery. At the initial offering of affordable units in a housing project and  
4 when ownership units become available for re-sale in any housing project subject to this  
5 Program after the initial offering, MOHCD must require the use of a public lottery approved by  
6 MOHCD to select purchasers or tenants.

7 (2) Preferences. MOHCD shall create a lottery system that gives preference  
8 according to the provisions of Administrative Code Chapter 47. ~~the following preferences (A) first to~~  
9 ~~Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's~~  
10 ~~Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective~~  
11 ~~October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications~~  
12 ~~of the Program; (B) second to any Displaced Tenant, as defined in Administrative Code Section 24.8,~~  
13 ~~who meets all of the qualifications for the unit or assistance, provided that the following limitations~~  
14 ~~shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to~~  
15 ~~existing, currently-occupied developments only for three years from the date the landlord filed with the~~  
16 ~~Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the~~  
17 ~~tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section~~  
18 ~~7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration~~  
19 ~~Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced~~  
20 ~~Tenant may apply the preference to new developments going through the initial occupancy process only~~  
21 ~~for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the~~  
22 ~~tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding~~  
23 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~  
24 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~  
25 ~~the units in such development; and (C) third to people who live or work in San Francisco who meet the~~

1 ~~qualifications of the Program. The Displaced Tenant's preference shall still apply even if such~~  
2 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~  
3 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

4 MOHCD shall propose policies and procedures for implementing these preferences to the  
5 Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the  
6 City to treat all households equally in allocating affordable units under this Program.

7 \* \* \* \*

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

9 \* \* \* \*

10 (e) Marketing the Units. MOHCD shall be responsible for overseeing and monitoring  
11 the marketing of affordable units under this Section. In general, the marketing requirements  
12 and procedures shall be contained in the Procedures Manual as amended from time to time  
13 and shall apply to the affordable units in the project. MOHCD may develop occupancy  
14 standards for units of different bedroom sizes in the Procedures Manual in order to promote  
15 an efficient allocation of affordable units. MOHCD may require in the Procedures Manual that  
16 prospective purchasers complete homebuyer education training or fulfill other requirements.  
17 MOHCD shall develop a list of minimum qualifications for marketing firms that market  
18 affordable units under Section 415.1 et seq., referred to the Procedures Manual as Below  
19 Market Rate (BMR units). No project sponsor marketing units under the Program shall be  
20 able to market BMR units except through a firm meeting all of the minimum qualifications.  
21 The Notice of Special Restrictions or conditions of approval shall specify that the marketing  
22 requirements and procedures contained in the Procedures Manual as amended from time to  
23 time, shall apply to the affordable units in the project.

24 (1) Lottery. At the initial offering of affordable units in a housing project and  
25 when ownership units become available for resale in any housing project subject to this

1 Program after the initial offering, MOHCD must require the use of a public lottery approved by  
2 MOHCD to select purchasers or tenants.

3 (2) Preferences. MOHCD shall create a lottery system that gives preference  
4 according to the provisions of Administrative Code Chapter 47. ~~the following preferences: (A) first to~~  
5 ~~Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's~~  
6 ~~Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective~~  
7 ~~October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications~~  
8 ~~of the Program; (B) second to any Displaced Tenant, as defined in Administrative Code Section 24.8,~~  
9 ~~who meets all of the qualifications for the unit for assistance, provided that the following limitations~~  
10 ~~shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to~~  
11 ~~existing, currently-occupied developments only for three years from the date the landlord filed with the~~  
12 ~~Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the~~  
13 ~~tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section~~  
14 ~~7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration~~  
15 ~~Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced~~  
16 ~~Tenant may apply the preference to new developments going through the initial occupancy process only~~  
17 ~~for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the~~  
18 ~~tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding~~  
19 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~  
20 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~  
21 ~~the units in such development; and (C) third to people who live or work in San Francisco who meet the~~  
22 ~~qualifications of the Program. The Displaced Tenant's preference shall still apply even if such~~  
23 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~  
24 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

25 MOHCD shall propose policies and procedures for implementing these preferences to the

1 Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the  
2 City to treat all households equally in allocating affordable units under this Program.

3 \* \* \* \*

4  
5 Section 6. Effective Date. This ordinance shall become effective 30 days after  
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
8 of Supervisors overrides the Mayor’s veto of the ordinance.

9  
10 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
11 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
12 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
13 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
14 additions, and Board amendment deletions in accordance with the “Note” that appears under  
15 the official title of the ordinance.

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17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By: SUSAN CLEVELAND-KNOWLES  
21 Deputy City Attorney

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