

File No. 151238

Committee Item No. _____

Board Item No. 80

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: December 8, 2015

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
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OTHER

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Ordinance in Board File No. 150969</u> |
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Prepared by: John Carroll

Date: December 4, 2015

Prepared by: _____

Date: _____

1 [Approval of a 90-Day Extension for Planning Commission Review of an Ordinance Creating
2 the Affordable Housing Bonus Programs (File No. 150969)]

3 **Resolution extending by 90 days the prescribed time within which the Planning**
4 **Commission may render its decision on a Ordinance (File No. 150969) amending the**
5 **San Francisco Planning Code to create the Affordable Housing Bonus Programs,**
6 **consisting of the Local Affordable Housing Bonus Program, the 100 Percent Affordable**
7 **Housing Bonus Program, the Analyzed State Density Bonus Program and the**
8 **Individually Requested State Density Bonus Program, to provide for development**
9 **bonuses and zoning modifications for affordable housing, in compliance with, and**
10 **above those required by the State Density Bonus Law, Government Code, Section**
11 **65915, et seq.; to establish the procedures in which the Local Affordable Housing**
12 **Bonus Program and the 100 Percent Affordable Housing Bonus Program shall be**
13 **reviewed and approved; and amending the Planning Code to exempt projects from the**
14 **height limits specified in the Planning Code and the Zoning Maps; and affirming the**
15 **Planning Department’s determination under the California Environmental Quality Act;**
16 **and making findings of consistency with the General Plan, and the eight priority**
17 **policies of Planning Code, Section 101.1.**

18
19 WHEREAS, On September 29, 2015, Mayor Lee and Supervisor Tang introduced
20 legislation amending the Planning Code to create the Affordable Housing Bonus Programs,
21 consisting of the Local Affordable Housing Bonus Program, the 100 Percent Affordable
22 Housing Bonus Program, the Analyzed State Density Bonus Program and the Individually
23 Requested State Density Bonus Program, to provide for development bonuses and zoning
24 modifications for affordable housing, in compliance with, and above those required by the
25 State Density Bonus Law, Government Code, Section 65915, et seq.; to establish the

1 procedures in which the Local Affordable Housing Bonus Program and the 100 Percent
2 Affordable Housing Bonus Program shall be reviewed and approved; and amending the
3 Planning Code to exempt projects from the height limits specified in the Planning Code and
4 the Zoning Maps; and affirming the Planning Department's determination under the California
5 Environmental Quality Act; and making findings of consistency with the General Plan, and the
6 eight priority policies of Planning Code, Section 101.1; and

7 WHEREAS, On or about September 29, 2015, the Clerk of the Board of Supervisors
8 referred the proposed ordinance to the Planning Commission; and

9 WHEREAS, The Planning Commission shall, in accordance with Planning Code,
10 Section 306.4(d), render a decision on the proposed Ordinance within 90 days from the date
11 of referral of the proposed amendment or modification by the Board to the Commission; and

12 WHEREAS, Failure of the Commission to act within 90 days shall be deemed to
13 constitute disapproval; and

14 WHEREAS, The Board, in accordance with Planning Code, Section 306.4(d), may, by
15 Resolution, extend the prescribed time within which the Planning Commission is to render its
16 decision on proposed amendments to the Planning Code that the Board of Supervisors
17 initiates; and

18 WHEREAS, Mayor Lee and Supervisor Tang has requested additional time for the
19 Planning Commission to review the proposed Ordinance; and

20 WHEREAS, The Board deems it appropriate in this instance to grant to the Planning
21 Commission additional time to review the proposed Ordinance and render its decision; now,
22 therefore, be it

23 RESOLVED, That by this Resolution, the Board hereby extends the prescribed time
24 within which the Planning Commission may render its decision on the proposed Ordinance for
25 approximately 90 additional days, until February 22, 2015.

1 [Planning Code - Affordable Housing Bonus Programs]

2
3 **Ordinance amending the Planning Code to create the Affordable Housing Bonus**
4 **Programs, consisting of the Local Affordable Housing Bonus Program, the 100 Percent**
5 **Affordable Housing Bonus Program, the Analyzed State Density Bonus Program and**
6 **the Individually Requested State Density Bonus Program, to provide for development**
7 **bonuses and zoning modifications for affordable housing, in compliance with, and**
8 **above those required by the State Density Bonus Law, Government Code, Section**
9 **65915, et seq.; to establish the procedures in which the Local Affordable Housing**
10 **Bonus Program and the 100 Percent Affordable Housing Bonus Program shall be**
11 **reviewed and approved; and amending the Planning Code to exempt projects from the**
12 **height limits specified in the Planning Code and the Zoning Maps; and affirming the**
13 **Planning Department's determination under the California Environmental Quality Act;**
14 **and making findings of consistency with the General Plan, and the eight priority**
15 **policies of Planning Code, Section 101.1.**

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

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

24 Section 1.

25 (a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources

1 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
2 Supervisors in File No. _____ and is incorporated herein by reference. The Board
3 affirms this determination.

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

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

13
14 Section 2. The Planning Code is hereby amended by adding Section 206 to read as follows:

15 **SEC. 206. THE AFFORDABLE HOUSING BONUS PROGRAMS.**

16 This section shall be known as the Affordable Housing Bonus Programs, which includes the
17 Local Affordable Housing Bonus Program, the 100 Percent Affordable Housing Bonus Program, the
18 Analyzed State Density Bonus Program and the Individually Requested State Density Bonus Program.

19 **SEC. 206.1. PURPOSE AND FINDINGS.**

20 (a) The purpose of the Affordable Housing Bonus Programs is to facilitate the development and
21 construction of affordable housing in San Francisco. Affordable housing is of paramount statewide
22 concern, and the California State legislature has declared that local and state governments have a
23 responsibility to use the powers vested in them to facilitate the improvement and development of
24 housing to make adequate provision for the housing needs of all economic segments of the community.
25 The State Legislature has found that local governments must encourage the development of a variety of

1 types of housing for all income levels, including multifamily rental housing and assist in the
2 development of adequate housing to meet the needs of low- and moderate-income households.

3 (b) Affordable housing is an especially paramount concern in San Francisco. San Francisco
4 has one of the highest housing costs in the nation, but San Francisco's economy and culture rely on a
5 diverse workforce at all income levels. It is the policy of the Board of Supervisors to provide housing
6 to these workers and ensure that they pay a proportionate share of their incomes to live in adequate
7 housing and to not commute ever-increasing distances to their jobs. The Association of Bay Area
8 Governments determined that San Francisco's share of the Regional Housing Need for January 2015
9 to June 2022 was provision of 28,870 new housing units, with 6,234 (or 21.6%) as very low, 4,639 (or
10 16.1%) as low, and 5,460 (or 18.9%) as moderate income units.

11 (c) This Board of Supervisors, and the voters in San Francisco, have long recognized the need
12 for the production of affordable housing. The voters, or this Board have adopted measures such as the
13 establishment of the mandatory Inclusionary Affordable Housing Ordinance in Planning Code section
14 415; the San Francisco Housing Trust Fund, adopted in 2012, which established a fund to create,
15 support and rehabilitate affordable housing, and set aside \$20 million in its first year, with increasing
16 allocations to reach \$50 million a year for affordable housing; the adoption of Proposition K in 2014
17 which established as City policy that the City, by 2020, will help construct or rehabilitate at least
18 30,000 homes, with more than 50% of the housing affordable for middle-income households, and at
19 least 33% as affordable for low-and moderate income households; and the multiple programs that rely
20 on Federal, State and local funding sources as identified in the Mayor's Office of Housing and
21 Community Development Comprehensive Plan.

22 (d) Historically, in the United States and San Francisco, affordable housing requires high
23 levels of public subsidy, including public investment and reliance on public dollars. Costs to subsidize
24 an affordable housing unit vary greatly depending on a number of factors, such as household income of
25 the residents, the type of housing, and the cost to acquire land acquisition. Currently, MOHCD

1 estimates that the level of subsidy for an affordable housing units is approximately \$250,000 per unit.
2 Given this high cost per unit, San Francisco can only meet its affordable housing goals through a
3 combination of increased public dollars dedicated to affordable housing and other tools that do not
4 rely on public money.

5 (e) Development bonuses are a long standing zoning tool that enable cities to encourage
6 private development projects to provide public benefits including affordable housing. By offering
7 increased development potential, a project sponsor can offset the expenses necessary to provide
8 additional public benefits. In 1979, the State of California adopted the Density Bonus Law,
9 Government Code section 65915 et seq, which requires that density bonuses and other concessions and
10 incentives be offered to projects that provide a minimum amount of on-site affordable housing.

11 (f) In recognition of the City's affordable housing goals, including the need to produce more
12 affordable housing without need for public subsidies, the Planning Department contracted with David
13 Baker Architects and Seifel Consulting to determine a menu of zoning modifications and development
14 bonuses that could offset a private developer's costs of providing various levels of additional on-site
15 affordable housing. David Baker Architects and Seifel Consulting analyzed various parcels in San
16 Francisco, to determine the conditions in which a zoning accommodation would be necessary to
17 achieve additional density. The analysis modeled various zoning districts and lot size configurations,
18 consistent with current market conditions and the City's stated policy goals, including to achieve a mix
19 of unit types, including larger units that can accommodate larger households. These reports are on file
20 in Board of Supervisors File No. _____.

21 (g) Based on the results of the studies, the Department developed four programs set forth in
22 this Section 206, the Affordable Housing Bonus Programs, which provide options by which developers
23 can include affordable units on-site in exchange for increased density and other zoning or design
24 modifications. These programs are the Local Affordable Housing Bonus Program, the 100 Percent

1 Affordable Housing Bonus Program, the Analyzed State Density Bonus Program and the Individually
2 Requested Bonus Program.

3 (h) The goal of the Local Affordable Housing Program is to increase affordable housing
4 production, especially housing affordable to Middle Income households. Housing for Middle Income
5 Households in San Francisco is necessary to stabilize San Francisco's households and families, ensure
6 income and household diversity in the long term population of San Francisco, and reduce
7 transportation impacts of middle income households working in San Francisco. Middle Income
8 households do not traditionally benefit from public subsidies.

9 (i) The 100 Percent Affordable Housing Bonus Program provides additional incentives for
10 developers of 100% affordable housing projects, thereby reducing the overall cost of such
11 developments on a per unit basis.

12 (j) The Affordable Housing Bonus Program also establishes a clear local process for all
13 projects seeking the density bonuses guaranteed through the State Density Bonus Law. The State
14 Analyzed Program provides an expedited process for projects that comply with a pre-determined menu
15 of incentives, concessions and waivers of development standards that the Department, in consultation
16 with David Baker Architects and Seifel Consulting can appropriately respond to neighborhood context
17 without causing adverse impacts on public health and safety, and provide affordable units through the
18 City's already-established Inclusionary Housing Program. Projects requesting density or concessions,
19 incentives and waivers outside of the City's preferred menu may seek a density bonus consistent with
20 State law in the Individually Requested Density Bonus Program.

21 **SEC. 206.2 DEFINITIONS.**

22 This Section applies to Sections 206 through 206.8. The definitions of Section 102 and the
23 definitions in Section 401 for "Area Median Income" or "AMI," "First Construction Document,"
24 "Housing Project," "Inclusionary Unit," "Life of the Project," "MOHCD," "On-site Unit," "Off-site
25 Unit," "Principal Project," and "Procedures Manual," shall generally apply. For purposes of this

1 Section 206 et seq., the following definitions shall apply, and shall prevail if there is a conflict with
2 other sections of the Planning Code.

3 “100 Percent Affordable Housing Project” shall be a project where all of the dwelling units
4 with the exception of the manager’s unit are “Affordable Units” as that term is defined in section
5 406(b).

6 “Affordable to a Household of Lower, Very Low, or Moderate Income shall mean, at a
7 minimum (1) a maximum purchase price that is affordable to a Household of Lower, Very Low, or
8 Moderate Income, adjusted for the household size, assuming an annual payment for all housing costs of
9 33 percent of the combined household annual gross income, a down payment recommended by the
10 Mayor’s Office of Housing and Community Development and set forth in the Procedures Manual, and
11 available financing; and (2) an affordable rent as defined in Section 50053 of the Health and Safety
12 Code sufficient to ensure continued affordability of all very low and low-income rental units that
13 qualified the applicant for the award of the density bonus for 55 years or a longer period of time if
14 required by the construction or mortgage financing assistance program, mortgage insurance program,
15 or rental subsidy program.

16 “Affordable to a Household of Middle Income” shall mean, at a minimum, (1) a maximum
17 purchase price that is affordable to a Household of Middle Income at 140% of Area Median Income,
18 adjusted for the household size, assuming an annual payment for all housing costs of 33 percent of the
19 combined household annual gross income, a down payment recommended by the Mayor’s Office of
20 Housing and Community Development and set forth in the Procedures Manual, and available
21 financing; and (2) the maximum annual rent for an affordable housing unit shall be no more than 30%
22 of the annual gross income for a Household of Middle Income at an Area Median Income of 120%, as
23 adjusted for the household size, as of the first date of the tenancy.

24 “Base Density” is the number of units permitted per a parcel’s zoning controls as established in
25 Article 2, 7 and 8 of this Code.

1 "Density Bonus" means a density increase over the Maximum Allowable Residential Density
2 granted pursuant to Government Code Section 65915 and Section 206 et seq.

3 "Density Bonus Units" means those market rate dwelling units granted pursuant to the
4 provisions of this Section 206.3, 206.5 and 206.6 that exceed the otherwise Maximum Allowable
5 Residential Density for the development site.

6 "Development standard" shall mean a site or construction condition, including, but not limited
7 to, a height limitation, a setback requirement, a floor area ratio, an onsite open space requirement, or
8 an accessory parking ratio that applies to a residential development pursuant to any ordinance,
9 general plan element, specific plan, charter, or other local condition, law, policy, resolution or
10 regulation.

11 "Household of Middle Income" shall mean a household whose combined annual gross income
12 for all members does not exceed 140% of AMI to qualify for ownership housing and 120% of AMI to
13 qualify for rental housing.

14 "Inclusionary Units" shall mean on-site income-restricted residential units provided within a
15 development that meet the requirements of the Inclusionary Affordable Housing Program, Planning
16 Code Section 415 et seq.

17 "Lower, Very Low, or Moderate Income" means annual income of a household that does not
18 exceed the maximum income limits for the income category, as adjusted for household size, applicable
19 to San Francisco, as published and periodically updated by the State Department of Housing and
20 Community Development pursuant to Sections 50079.5, 50105, or 50093 of the California Health and
21 Safety Code. Very low income is currently defined in California Health and Safety Code section
22 50105 as 50% of area median income. Lower Income is currently defined in California Health and
23 Safety Code section 50079.5 as 80% of area median income. Moderate Income is currently defined in
24 California Health and Safety Code section 50093 as 120% of area median income.

25

1 "Maximum Allowable Residential Density" means the maximum number of dwelling units per
2 square foot of lot area or, in zoning districts without such a density measurement, the maximum
3 number of dwelling units permitted in the Housing Project by the City's General Plan, Planning Code,
4 and Zoning Map at the time of application, excluding the provisions of Section 206 et seq., permitted
5 per the Planning Code without use of a modification, Conditional Use Authorization, Variance,
6 Planned Unit Development (PUD) or other exception from the Planning Code. In the Fillmore
7 Neighborhood Commercial Transit District and the Divisadero Neighborhood Commercial Transit
8 District, "Base Density" shall mean 1 unit per 600 square feet of lot area.

9 "Middle Income Unit" shall mean a residential unit affordable to a Household of Middle
10 Income.

11 "Qualifying Resident" means senior citizens or other persons eligible to reside in a Senior
12 Citizen Housing Development.

13 "Regulatory Agreement" means a recorded and legally binding agreement between an applicant
14 and the City to ensure that the requirements of this Chapter are satisfied. The Regulatory Agreement,
15 among other things, shall establish: the number of Restricted Affordable Units, their size, location,
16 terms and conditions of affordability, and production schedule.

17 "Restricted Affordable Unit" means a dwelling unit within a Housing Project which will be
18 Affordable to Very Low, Lower or Moderate Income Households, as defined in this Section 206.2 for a
19 minimum of 55 years. Restricted Affordable Units shall meet all of the requirements of Government
20 Code 65915, except that Restricted Affordable Units that are ownership units shall not be restricted
21 using an equity sharing agreement."

22 "Senior Citizen Housing Development" has the meaning in California Civil Code section 51.3.

23 **SEC. 206.3 LOCAL AFFORDABLE HOUSING BONUS PROGRAM.**

24 (a) Purpose. This Section sets forth the Local Affordable Housing Bonus Program. The Local
25 Affordable Housing Bonus Program or "Local Program" provides benefits to project sponsors of

1 housing projects that set aside a total of 30% of residential units onsite at below market rate rent or
2 sales price, including a percentage of units affordable to low and moderate income households
3 consistent with Section 415, the Inclusionary Housing Program, and the remaining percentage
4 affordable to a Household of Middle Income. The purpose of the Local Affordable Housing Bonus
5 Program is to expand the number of Inclusionary Units produced in San Francisco and provide
6 housing opportunities to a wider range of incomes than traditional affordable housing programs, which
7 typically provide housing only for very low, low or moderate income households. The Local Program
8 allows market-rate projects to match the City's shared Proposition K housing goals that 50% of new
9 housing constructed or rehabilitated in the City by 2020 be within the reach of working middle class
10 San Franciscans, and at least 33% affordable for low and moderate income households.

11 (b) **Applicability.** A Local Affordable Housing Bonus Project or "Local Project" under this
12 Section 206.3 shall be a project that:

13 (1) contains three or more residential units, as defined in Section 102, not including
14 Density Bonus Units permitted through this Section 206.3, or any other density bonus; and

15 (2) is located in any zoning district that: (A) is not designated as an RH-1 or RH-2
16 Zoning Districts; and (B) establishes a maximum dwelling unit density through a ratio of number of
17 units to lot area, including RH-3, RM, RC, C-2, Neighborhood Commercial, Named Neighborhood
18 Commercial, Chinatown Mixed Use Districts, and Soma Mixed Use Districts; or in (C) the Fillmore
19 Neighborhood Commercial Transit District and Divisadero Neighborhood Commercial Transit
20 District; and.

21 (3) is not seeking and receiving a density or development bonus under the provisions of
22 California Government Code Section 65915 et seq, Planning Code Section 207, Section 124(f), Section
23 202.2(f), 304, or any other State or local program that provides development bonuses; and

24 (4) includes at least 135% of the Base Density as calculated under Planning Code
25 Section 206.5.

1 (c) Local Affordable Housing Bonus Project Eligibility Requirements. To receive the
2 development bonuses granted under this Section, a Local Project must meet all of the following
3 requirements:

4 (1) Comply with the Inclusionary Affordable Housing Program, Section 415 of this
5 Code, by providing the applicable number of units on-site under Section 415.6. For projects not subject
6 to the Inclusionary Affordable Housing Program, the applicable number of on-site units under this
7 section shall be zero;

8 (2) Provide an additional percentage of affordable units in the Local Project as Middle
9 Income Units, as defined herein, such that the total percentage of Inclusionary Units and Middle
10 Income Units equals 30%. The Middle Income Units shall be restricted for the Life of the Project and
11 shall comply with all of the requirements of the Procedures Manual authorized in Section 415. As
12 provided for in subsection (e), the Planning Department and MOHCD shall amend the Procedures
13 Manual to provide policies and procedures for the implementation, including monitoring and
14 enforcement, of the Middle Income units;

15 (3) Demonstrate to the satisfaction of the Environmental Review Officer that the Local
16 Project does not:

17 (A) cause a substantial adverse change in the significance of an historic
18 resource as defined by California Code of Regulations, Title 14, Section 15064.5,

19 (B) create new shadow in a manner that substantially affects outdoor recreation
20 facilities or other public areas; and

21 (C) alter wind in a manner that substantially affects public areas;

22 (4) Has a minimum of a nine foot floor to ceiling height on all residential floors;

23 (5) Inclusive of Inclusionary Units and Middle Income Units, provides either (A) a
24 minimum unit mix of at least 40% of all units as two bedroom units or larger; or (B) any unit mix such
25 that 50% of all bedrooms within the Local Project are provided in units with more than one bedroom.

1 Local Projects are not eligible to modify this requirement under Planning Code Section 303, 328, or
2 any other provision of this Code; and,

3 (6) Provides replacement units for any units demolished or removed that are subject to
4 the San Francisco Rent Stabilization and Arbitration Ordinance, San Francisco Administrative Code
5 Section 37, or are units qualifying for replacement as units being occupied by households of Low or
6 Very Low Income, consistent with the requirements of Government Code section 65915(c)(3).

7 (d) **Development Bonuses.** Any Local Project shall, at the project sponsor's request, receive
8 any or all of the following:

9 (1) **Form based density.** Notwithstanding any zoning designation to the contrary,
10 density of a Local Project shall not be limited by lot area but rather by the applicable requirements and
11 limitations set forth elsewhere in this Code. Such requirements and limitations include, but are not
12 limited to, height, including any additional height allowed by subsection (d)(2), Bulk, Setbacks,
13 Required Open Space, Exposure and unit mix as well as applicable design guidelines, elements and
14 area plans of the General Plan and design review, including consistency with the Affordable Housing
15 Bonus Program Design Guidelines, referenced in Section 328, as determined by the Planning
16 Department.

17 (2) **Height.** Up to 20 additional feet, not including allowed exceptions permitted under
18 Section 260(b), above the height authorized for the Local Project under the Height Map of the Zoning
19 Map. The distance between the floor and ceiling for each residential floor of the Project shall be no
20 less than nine feet, so as to result in no more than two additional residential floors than would be
21 permitted by the applicable zoning rules for the Local Project lot.

22 (3) **Ground Floor Ceiling Height.** In addition to the permitted height allowed under
23 (d)(2), Local Projects with active ground floors as defined in Section 145.1(b)(2) shall receive one
24 additional foot of height, up to a maximum of an additional 5 feet in height at the ground floor, to
25 exclusively provide a minimum 14-foot (floor to ceiling) ground floor ceiling height.

1 (4) Zoning Modifications. Local Affordable Housing Bonus Projects may select up to
2 three of the following zoning modifications:

3 (A) Rear yard: The required rear yard per Section 134 or any applicable
4 special use district may be reduced to no less than 20 percent of the lot depth, or 15 feet, whichever is
5 greater. Corner properties may provide 20 percent of the lot area at the interior corner of the property
6 to meet the minimum rear yard requirement, provided that each horizontal dimension of the open area
7 is a minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing
8 midblock open space, if any, formed by the rear yards of adjacent properties.

9 (B) Dwelling Unit Exposure: The dwelling unit exposure requirements of
10 Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that
11 is no less than 25 feet in every horizontal dimension, and such open area is not required to expand in
12 every horizontal dimension at each subsequent floor.

13 (C) Off-Street Loading: Off-street loading spaces per Section 152 shall not be
14 required.

15 (D) Parking: Up to a 75% reduction in the residential and commercial parking
16 requirements Section 151 or any applicable special use district.

17 (E) Open Space: Up to a 5% reduction in common open space if provided per
18 Section 135 or any applicable special use district.

19 (F) Additional Open Space: Up to an additional 5% reduction in common open
20 space if provided per Section 135 or any applicable special use district, beyond the 5% provided in
21 subsection (E) above.

22 (e) Implementation.

23 (1) Application. The following procedures shall govern the processing of a request for
24 a project to qualify under the Local Program.

25

1 (A) An application to participate in the Local Program shall be submitted with
2 the first application for approval of a Housing Project and processed concurrently with all other
3 applications required for the Housing Project. The application shall be submitted on a form prescribed
4 by the City and shall include at least the following information:

5 (i) A full plan set, including a site plan, elevations, sections and floor
6 plans, showing total number of units, number of and location of Inclusionary Units, and Middle Income
7 Units;

8 (ii) The number of dwelling units which are on the property, or if the
9 dwelling units have been vacated or demolished in the five year period preceding the application, have
10 been and which were subject to a recorded covenant, ordinance, or law that restricts rents to levels
11 affordable to persons and families of lower or very low income; subject to any other form of rent or
12 price control through the City or other public entity's valid exercise of its police power; or occupied by
13 lower or very low income households; and

14 (iii) If the property includes a parcel or parcels in which dwelling units
15 under subsection (ii) are located or were located in the five year period preceding the application, the
16 type and size of those units, and the incomes of the persons or families occupying those units.

17 (iv) The requested development bonuses and/or zoning modifications
18 from those listed in subsection (d).

19 (B) Documentation that the applicant has provided written notification to all
20 existing commercial or residential tenants that the applicant intends to develop the property pursuant
21 to this section. Any affected commercial tenants shall be given priority processing similar to the
22 Department's Community Business Priority Processing Program, as adopted by the San Francisco
23 Commission on February 12, 2015 under Resolution Number 19323, to support relocation of such
24 business in concert with access to relevant local business support programs.

1 (2) **Procedures Manual.** The Planning Department and MOHCD shall amend the
2 Procedures Manual, authorized in Section 415, to include policies and procedures for the
3 implementation, including monitoring and enforcement, of the Middle Income units. As an amendment
4 to the Procedures Manual, such policies and procedures are subject to review and approval by the
5 Planning Commission under Section 415.

6 (3) **Notice and Hearing.** Local Projects shall comply with Section 328 for review and
7 approval.

8 (4) **Controls.** Local Projects shall comply with Section 328. Notwithstanding any other
9 provision of this Code, no conditional use authorization shall be required for a Local Project unless
10 such conditional use requirement was adopted by the voters.

11 **SEC. 206.4: THE 100 PERCENT AFFORDABLE HOUSING BONUS PROGRAM.**

12 (a) **Purpose and Findings.** This Section 206.4 describes the 100 Percent Affordable Housing
13 Bonus Program, or “100 Percent Affordable Housing Program”. In addition to the purposes
14 described in section 206.1, the purpose of the 100 Percent Affordable Housing Program is to facilitate
15 the construction and development of projects in which all of the residential units are affordable to Low
16 and Very-Low Income Households. Projects pursuing a development bonus under this 100 Percent
17 Affordable Program would exceed the City’s shared Proposition K housing goals that 50% of new
18 housing constructed or rehabilitated in the City by 2020 be within the reach of working middle class
19 San Franciscans, and at least 33% affordable for low and moderate income households.

20 (b) **Applicability.** A 100 Percent Affordable Housing Bonus Project under this Section 206.4
21 shall be a Housing Project that:

22 (1) contains three or more Residential Units, as defined in Section 102, not including
23 Density Bonus Units permitted through this Section 206 through a density bonus;

24 (2) is located in any zoning district that:

25 (A) is not designated as an RH-1 or RH-2 Zoning District; and

1 (B) allows Residential Uses;
2 (3) is not seeking and receiving a density or development bonus under the provisions of
3 California Government Code Section 65915 et seq., Planning Code Sections 207, 124(f), 304, 803.8 or
4 any other state or local program that provides development bonuses; and
5 (4) meets the definition of a “100 Percent Affordable Housing Project” in Section
6 206.2.
7 (5) demonstrates to the satisfaction of the Environmental Review Officer that the
8 Project does not:
9 (A) cause a substantial adverse change in the significance of an historic
10 resource as defined by California Code of Regulations, Title 14, Section 15064.5.
11 (B) create new shadow in a manner that substantially affects outdoor recreation
12 facilities or other public areas; and
13 (C) alter wind in a manner that substantially affects public areas.
14 (c) **Development Bonuses.** A 100 Percent Affordable Housing Bonus Project shall, at the
15 project sponsor’s request, receive any or all of the following:
16 (1) **Priority Processing.** 100 Percent Affordable Housing Bonus Projects shall receive
17 Priority Processing.
18 (2) **Form based density.** Notwithstanding any zoning designation to the contrary,
19 density of the 100 Percent Affordable Housing Bonus Project shall not be limited by lot area but rather
20 by the applicable requirements and limitations set forth elsewhere in this Code. Such requirements and
21 limitations include, but are not limited to, height, including any additional height allowed by subsection
22 (c)(2) herein, Bulk, Setbacks, Open Space, Exposure and unit mix as well as applicable design
23 guidelines, elements and area plans of the General Plan and design review, including consistency with
24 the Affordable Housing Bonus Program Design Guidelines, referenced in Section 328, as determined
25 by the Planning Department.

1 (3) **Height.** 100 Percent Affordable Housing Bonus Projects shall be allowed up to 30
2 additional feet, not including allowed exceptions per Section 260(b), above the property's height
3 district limit in order to provide three additional stories of residential use.

4 (4) **Ground Floor Ceiling Height.** In addition to the permitted height allowed under
5 subsection (c)(3), 100 Percent Affordable Housing Bonus Projects with active ground floors as defined
6 in Section 145.1(b)(2) shall receive one additional foot of height, up to a maximum of an additional five
7 feet at the ground floor, exclusively to provide a minimum 14-foot (floor to ceiling) ground floor ceiling
8 height.

9 (5) **Zoning Modifications.** 100 Percent Affordable Housing Bonus Projects may select
10 any or all of the following zoning modifications:

11 (A) **Rear Yard:** the required rear yard per Section 134 or any applicable
12 special use district may be reduced to no less than 20% of the lot depth or 15 feet, whichever is greater.
13 Corner properties may provide 20% of the lot area at the interior corner of the property to meet the
14 minimum rear yard requirement, provided that each horizontal dimension of the open area is a
15 minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing midblock
16 open space, if any, formed by the rear yards of adjacent properties.

17 (B) **Dwelling Unit Exposure:** The dwelling unit exposure requirements of
18 Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that
19 is no less than 15 feet in every horizontal dimension, and such open area is not required to expand in
20 every horizontal dimension at each subsequent floor.

21 (C) **Off Street Loading:** No off-street loading spaces per Section 152.

22 (D) **Parking:** Up to a 100% reduction in the minimum off-street residential and
23 commercial parking requirement per Article 1.5 of this Code.

24 (E) **Open Space:** Up to a 10% reduction in common open space requirements if
25 required by Section 135, but no less than 36 square feet of open space per unit.

1 **(d) Implementation.**

2 (1) Application. The following procedures shall govern the processing of a request for
3 a project to qualify as under the 100 Percent Affordable Housing Bonus Program.

4 (A) An application to participate in the 100 Percent Affordable Housing Bonus
5 Program shall be submitted with the first application for approval of a Housing Project and processed
6 concurrently with all other applications required for the Housing Project. The application shall be
7 submitted on a form prescribed by the City and shall include at least the following information:

8 (i) A full plan set including a site plan, elevations, sections and floor
9 plans, showing total number of units, unit sizes and planned affordability levels and any applicable
10 funding sources;

11 (ii) The requested development bonuses from those listed in subsection
12 (c); and,

13 (iii) Unit size and distribution of multi-bedroom units.

14 (B) Documentation that the applicant has provided written notification to all
15 existing commercial or residential tenants that the applicant intends to develop the property pursuant
16 to this section. Any affected commercial tenants shall be given priority processing similar to the
17 Department's Community Business Priority Processing Program, as adopted by the San Francisco
18 Commission on February 12, 2015 under Resolution Number 19323 to support relocation of such
19 business in concert with access to relevant local business support programs.

20 (2) Conditions. Entitlements of 100 Percent Affordable Housing Bonus Projects
21 approved under this Section shall be valid for 10 years from the date of Planning Commission or
22 Planning Department approval.

23 (3) Notice and Hearing. 100 Percent Affordable Housing Bonus Projects shall comply
24 with Section 328 for review and approval.

25

1 (4) **Controls.** Notwithstanding any other provision of this Code, no conditional use
2 authorization shall be required for a 100 Percent Affordable Housing Bonus Project, unless such
3 conditional use requirement was adopted by the voters.

4 **206.5 STATE RESIDENTIAL DENSITY BONUS PROGRAM: ANALYZED**

5 (a) **Purpose:** Sections 206.5, 206.6, and 206.7 shall be referred to as the San Francisco State
6 Residential Density Bonus Program or the State Density Bonus Program. First, the Analyzed State
7 Density Bonus Program in Section 206.5 offers an expedited process for projects that seek a density
8 bonus that is consistent with the pre-vetted menu of incentives, concessions and waivers that the
9 Planning Department and its consultants have already determined are feasible, result in actual cost
10 reductions, and do not have specific adverse impacts upon public health and safety of the physical
11 environment. Second the Individually Requested State Density Bonus Program in Section 206.6 details
12 the review, analysis and approval process for any project seeking a density bonus that is consistent
13 with State Law, but is not consistent with the requirements for the Analyzed State Density Bonus
14 Program established in Section 206.5. Third, Sections 206.7, describes density bonuses available
15 under the State code for the provision of childcare facilities.

16 This Section 206.5 implements the Analyzed State Density Bonus Program or “Analyzed State
17 Program.” The Analyzed State Program offers an expedited process for projects that seek a density
18 bonus that is consistent with, among other requirements set forth below, the pre-vetted menu of
19 incentives, waiver and concessions.

20 **(b) Applicability:**

21 (1) A Housing Project that meets all of the requirements of this subsection (b)(1) or is a
22 Senior Housing Project meeting the criteria of (b)(2) shall be an Analyzed State Density Bonus Project
23 or an “Analyzed Project” for purposes of Section 206 et seq. A Housing Project that does not meet all
24 of the requirements of this subsection (b), but seeks a density bonus under State law may apply for a
25 density bonus under Section 206.6 as an Individually Requested State Density Bonus Project. To

1 qualify for the Analyzed State Density Bonus Program a Housing Project must meet all of the
2 following:

3 (A) contain five or more residential units, as defined in Section 102, not
4 including Density Bonus Units permitted through this Section 206.5;

5 (B) is not seeking and receiving a density or development bonus under Section
6 207; the Local Affordable Housing Bonus Program, Section 206.3; the 100 Percent Affordable Housing
7 Bonus Program, Section 206.4; or any other local or State density bonus program that provides
8 development bonuses;

9 (C) is located in any zoning district that: (i) is not designated as an RH-1 or
10 RH-2 Zoning District; and (ii) establishes a maximum dwelling unit density through a ratio of number
11 of units to lot area, including but not limited to, RH-3, RM, RC, C-2, Neighborhood Commercial,
12 Named Neighborhood Commercial, Chinatown Mixed Use Districts, and Soma Mixed Use Districts; or
13 (iii) is in the Fillmore Neighborhood Commercial Transit District and Divisadero Neighborhood
14 Commercial Transit District

15 (D) is providing all Inclusionary Units as On-site Units under Section 415.6. If the Dial
16 Alternative currently proposed in an ordinance in Board of Supervisors File No. 150911 is adopted and
17 permits a project sponsor to provide more Inclusionary Units at higher AMIs than currently required
18 (referred to as “dialing up”), a project sponsor may dial up and meet the requirements of this
19 subsection (D). If the Dial Alternative of the Inclusionary Affordable Housing Program is ever
20 amended to allow a project sponsor to provide fewer Inclusionary Units at lower AMIs than currently
21 required (referred to as “dialing down”), then a Project cannot qualify for this Section 206.5 if it elects
22 to dial down;

23 (E) includes a minimum of nine foot ceilings on all residential floors;

24 (F) is seeking only Concessions or Incentives set forth in subsection (c)(4);

1 (G) is seeking height increases only in the form of a waiver as described in
 2 subsection (c)(5); and,

3 (H) provides replacement units for any units demolished or removed that are
 4 subject to the San Francisco Residential Rent Stabilization and Arbitration Ordinance, San Francisco
 5 Administrative Code Section 37, or are units qualifying for replacement as units being occupied by
 6 households of low or very low income, consistent with the requirements of Government Code section
 7 65915(c)(3).

8 (2) A Senior Housing Project, as defined in Section 102, may qualify as an Analyzed
 9 State Density Bonus Project if it follows all of the procedures and conditions set forth in Planning Code
 10 Section 202.2(f).

11 (c) **Development Bonuses.** All Analyzed State Law Density Bonus Projects shall receive, at the
 12 project sponsor's written request, any or all of the following:

13 (1) **Priority Processing.** Analyzed Projects that provide 30% or more of Units as On-
 14 site Inclusionary Housing Units or Restricted Affordable Units that meet all of the requirements of for
 15 an Inclusionary Housing Unit shall receive Priority Processing.

16 (2) **Density Bonus.** Analyzed Projects that provide On-site Inclusionary Housing Units
 17 or Restricted Affordable Units that meet all of the requirements of for an Inclusionary Housing Unit
 18 shall receive a density bonus as described in Table 206.5 A as follows:

19 Table 206.5A

20 Density Bonus Summary – Analyzed

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Restricted Affordable Units or Category</u>	<u>Minimum Percentage of Restricted Affordable Units</u>	<u>Percentage of Density Bonus Granted</u>	<u>Additional Bonus for Each 1% Increase In Restricted Affordable Units</u>	<u>Percentage of Restricted Units Required for Maximum 35% Density Bonus</u>
<u>Very Low Income</u>	<u>5%</u>	<u>20%</u>	<u>2.50%</u>	<u>11%</u>

1	<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>1.50%</u>	<u>20%</u>
2	<u>Moderate Income</u>	<u>10%</u>	<u>5%</u>	<u>1%</u>	<u>40%</u>
3	<u>Senior Citizen Housing, as</u>	<u>100%</u>	<u>50%</u>	<u>-----</u>	<u>-----</u>
4	<u>defined in § 102, and meeting</u>				
5	<u>the requirements of</u>				
6	<u>§ 202.2(f).</u>				

7 Note: A density bonus may be selected from more than one category, up to a maximum of 35% of the
8 Maximum Allowable Residential Density.

9 In calculating density bonuses under this subsection 206.5(c)(2) the following shall apply:

10 (A) When calculating the number of permitted Density Bonus Units or Restricted
11 Affordable Units, any fractions of units shall be rounded to the next highest number. Analyzed Density
12 Bonus Program projects must include the minimum percentage of Restricted Affordable Units
13 identified in Column B of Table 206.5A for at least one income category, but may combine density
14 bonuses from more than one income category, up to a maximum of 35% of the Maximum Allowable
15 Residential Density.

16 (B) An applicant may elect to receive a Density Bonus that is less than the
17 amount permitted by this Section; however, the City shall not be required to similarly reduce the
18 number of Restricted Affordable Units required to be dedicated pursuant to this Section and
19 Government Code Section 65915(b).

20 (C) In no case shall a Housing Project be entitled to a Density Bonus of more
21 than 35%, unless it is a Senior Housing Project meeting the requirements of Section 202.2(f).

22 (D) The Density Bonus Units shall not be included when determining the
23 number of Restricted Affordable Units required to qualify for a Density Bonus. Density bonuses shall
24 be calculated as a percentage of the Maximum Allowable Residential Density.

1 (E) Any Restricted Affordable Unit provided pursuant to the on-site
 2 requirements of the Inclusionary Affordable Housing Program, Section 415 et seq., shall be included
 3 when determining the number of Restricted Affordable Units required to qualify for a Development
 4 Bonus under this Section 206.5. The payment of the Affordable Housing Fee shall not qualify for a
 5 Development Bonus under this Section. The provision of Off-site Units shall not qualify the Principal
 6 Project for a Density Bonus under this Section; however an Off-site Unit may qualify as a Restricted
 7 Affordable Unit to obtain a density bonus for the Off-site Project.

8 (F) In accordance with state law, neither the granting of a Concession,
 9 Incentive, waiver, or modification, nor the granting of a Density Bonus, shall be interpreted, in and of
 10 itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

11 (3) Concessions and Incentives. Analyzed Projects shall receive concessions or
 12 incentives, in the amounts specified in Table 206.5B :

14 Table 206.5B

15 Concessions and Incentives Summary – Analyzed Projects

<u>Target Group</u>	<u>Restricted Affordable Units</u>		
<u>Very Low Income</u>	<u>5%</u>	<u>10%</u>	<u>15%</u>
<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>
<u>Moderate Income (Common Interest Development)</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>
<u>Maximum Incentive(s)/Concession(s)</u>	<u>1</u>	<u>2</u>	<u>3</u>

20 Notes: 1. Concessions or Incentives may be selected from only one category (very low, lower, or
 21 moderate) 2. Common Interest Development is defined in California Civil Code Section 4100.

22
 23 (4) Menu of Concessions and Incentives: In submitting a request for Concessions or
 24 Incentives, an applicant for an Analyzed State Density Bonus Project may request the specific
 25 Concessions and Incentives set forth below. The Planning Department, based on Department research

1 and a Residential Density Bonus Study prepared by David Baker Architects, Seifel Consulting, and the
2 San Francisco Planning Department dated August 2015, on file with the Clerk of the Board of
3 Supervisors in File No. _____, has determined that the following Concessions and Incentives are
4 generally consistent with Government Code Section 65915(d) because, in general, they: are required
5 in order to provide for affordable housing costs; will not be deemed by the Department to have a
6 specific adverse impact as defined in Government Code Section 65915(d); and are not contrary to State
7 or Federal law.

8 (A) **Rear yard:** the required rear yard per Section 134 or any applicable special
9 use district may be reduced to no less than 20% of the lot depth, or 15 feet, whichever is greater.
10 Corner properties may provide 20% of the lot area at the interior corner of the property to meet the
11 minimum rear yard requirement, provided that each horizontal dimension of the open area is a
12 minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing midblock
13 open space, if any, formed by the rear yards of adjacent properties.

14 (B) **Dwelling Unit Exposure:** the dwelling unit exposure requirements of
15 Section 140(a)(2) may be satisfied through qualifying windows facing an unobstructed open area that
16 is no less than 25 feet in every horizontal dimension, and such open area is not required to expand in
17 every horizontal dimension at each subsequent floor.

18 (C) **Off-Street Loading:** off-street loading spaces under Section 152 shall not
19 be required.

20 (D) **Parking:** up to a 50% reduction in the residential and commercial parking
21 requirement, per Section 151 or any applicable special use district.

22 (E) **Open Space:** up to a 5% reduction in required common open space per
23 Section 135, or any applicable special use district.

1 (F) Additional Open Space: up to an additional 5% reduction in required
2 common open space per Section 135 or any applicable special use district, beyond the 5% provided in
3 subsection (E) above.

4 (5) Waiver or Modification of Height Limits. Analyzed Projects may request a waiver
5 of the applicable height restrictions if the applicable height limitation will have the effect of physically
6 precluding the construction of a Housing Project at the densities or with the Concessions or Incentives
7 permitted by this subsection (c)(4). Analyzed Projects may receive a height bonus as of right of up to
8 twenty feet or two stories, excluding exceptions permitted per Section 260(b), if the applicant
9 demonstrates that it qualifies for a height waiver through the following formula:

10 **Step one: Calculate Existing and Bonus Density Limits**

11 Existing Density Limit (ED): Lot Area divided by the maximum lot area per unit
12 permitted under existing density regulation (e.g. 200, 400, 600, 800, or 1000)

13 Bonus Density Limit (BD): ED multiplied by 1.XX where XX is the density bonus
14 requested per Section 206.5 of this Code (e.g. 7%, 23%, 35%), not to exceed 1.35, the maximum density
15 bonus available by this Section.

16 **Step two: Calculate Permitted Envelope (PE).** Buildable envelope available under
17 existing height and bulk controls.

18 PE equals lot area multiplied by permitted lot coverage, where lot coverage equals .75,
19 or .8 if the developer elects to request a rear yard modification under Section 206.5(c)(4)(A), multiplied
20 by existing height limit (measured in number of stories), minus one story for projects in districts where
21 non-residential uses are required on the ground floor, and minus any square footage subject to bulk
22 limitations (for parcels that do not have an X bulk designation).

23 **Step three: Calculate Bonus Envelope (BE)** Residential envelope necessary to
24 accommodate additional density (“Bonus envelope” or “BE”)

25 BE equals Bonus Density multiplied by 1,000 gross square feet

1 Step four: Calculate Additional Residential Floors. Determine the number of stories
2 required to accommodate bonus:

3 (A) If BE is less than or equal to PE, the project is not awarded height under
4 this subsection (c)(5).

5 (B) If BE is greater than PE, the project is awarded height, as follows:

6 (i) If BE minus PE is less than the lot area multiplied by 0.75, project is
7 allowed 1 extra story; total gross square footage of building not to exceed BE;

8 (ii) If BE minus PE is greater than the lot area multiplied by 0.75 (i.e. if
9 the difference is greater than one story), project is allowed two extra stories; total gross square footage
10 of building not to exceed BE.

11 (d) Application. An application for an Analyzed State Density Bonus Project under this
12 Section 206.5 shall be submitted with the first application for approval of a Housing Project and shall
13 be processed concurrently with all other applications required for the Housing Project. The
14 application shall be on a form prescribed by the City and, in addition to any information required for
15 other applications, shall include the following information:

16 (1) A description of the proposed Housing Project, including the total number of
17 dwelling units, Restricted Affordable Units, and Density Bonus Units proposed;

18 (2) Any zoning district designation, assessor's parcel number(s) of the project site, and
19 a description of any Density Bonus, Concession or Incentive, or waiver requested;

20 (3) A list of the requested Concessions and Incentives from Section 206.5(c)(4);

21 (4) If a waiver or modification of height is requested under Section 206.5(c)(5), a
22 calculation demonstrating how the project qualifies for such waiver under the formula;

23 (5) A full plan set including site plan, elevations, sections, and floor plans, showing
24 location of market-rate units, Restricted Affordable Units, and Density Bonus units within the proposed
25 Housing Project;

1 (6) Level of affordability of the Restricted Affordable Units and a draft Regulatory
2 Agreement;

3 (7) The number of rental dwelling units which are on the property, or if the dwelling
4 units have been vacated or demolished in the five year period preceding the application, have been and
5 which were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to
6 persons and families of lower or very low income; subject to any other form of rent or price control
7 through the City or other public entity's valid exercise of its police power; or occupied by lower or very
8 low income households; and

9 (8) If the property includes a parcel or parcels in which dwelling units under subsection
10 (7) are located or were located in the five year period preceding the application, the type and size of
11 those units, and the incomes of the persons or families occupying those units.

12 (9) Documentation that the applicant has provided written notification to all existing
13 commercial or residential tenants that the applicant intends to develop the property pursuant to this
14 section. Any affected commercial tenants shall be given priority processing similar to the
15 Department's Community Business Priority Processing Program, as adopted by the San Francisco
16 Commission on February 12, 2015 under Resolution Number 19323 to support relocation of such
17 business in concert with access to relevant local business support programs.

18 (e) **Review Procedures.** An application for an Analyzed State Density Bonus Project, shall be
19 acted upon concurrently with the application for other permits related to the Housing Project.

20 (1) Before approving an application for an Analyzed Project, the Planning Department
21 or Commission shall make written findings that the Housing Project is qualified as an Analyzed State
22 Density Bonus Project.

23 (2) The review procedures for an Analyzed Project, including notice, hearings, and
24 appeal, shall be the procedures applicable to the Housing Project regardless of whether it is applying
25 for a State Density Bonus under this Section 206.5. However, any notice shall specify that the Housing

1 Project is seeking a Development Bonus and shall provide a description of the Development Bonuses
2 requested. Analyzed Projects shall also be reviewed for consistency with the Affordable Housing Bonus
3 Program Design Guidelines.

4 **SEC. 206.6 STATE DENSITY BONUS PROGRAM: INDIVIDUALLY REQUESTED.**

5 (a) Purpose and Findings: This Section 206.6 details the review, analysis and approval
6 process for any project seeking a density bonus that is consistent with State Law, Government Code
7 section 65915 et seq., but is not consistent with the pre-vetted menu of concessions, incentives or
8 waivers, or other requirements established in Section 206.5 as analyzed by the Planning Department in
9 coordination with David Baker and Seifel Consulting, and shall be known as the Individually Requested
10 State Density Bonus Program.

11 California State Density Bonus Law allows a housing developer to request parking ratios not to
12 exceed the ratios set forth in Government Code section 65915(p)(1), which may further be reduced as
13 an incentive or concession. Because in most cases San Francisco regulates parking by dwelling unit as
14 described in Article 1.5 of this Code, the minimum parking ratios set forth in the Government Code are
15 greater than those allowed in San Francisco. Given that San Francisco's parking ratios are already
16 less than the State ratios, the City finds that the State's minimum parking ratio requirement does not
17 apply.

18 (b) Applicability. A Housing Project that does not meet any one or more of the criteria of
19 Section 206.5(b) under the Analyzed State Density Bonus Program, but meets the following
20 requirements, may apply for a Development Bonus under this Section 206.6 as an "Individually
21 Requested State Density Bonus Project" or "Individually Requested Project" if it meets all of the
22 following criteria:

23 (1) contains five or more residential units, as defined in Section 102;

24 (2) is not seeking and receiving a density or development bonus under Section 207; the
25 Local Affordable Housing Bonus Program, Section 206.3; the 100 Percent Affordable Housing Bonus

1 Program, Section 206.4; Section 304, or any other local or state bonus program that provides
 2 development bonuses.

3 (3) provides Restricted Affordable Housing Units, including but not limited to
 4 Inclusionary Housing Units, at minimum levels as provided in Table 206.6A; and,

5 (4) provides replacement units for any units demolished or removed that are subject to
 6 the San Francisco Rent Stabilization and Arbitration Ordinance, San Francisco Administrative Code
 7 Section 37, or are units qualifying for replacement as units being occupied by households of low or
 8 very low income, consistent with the requirements of Government Code section 65915(c)(3).

9 (c) **Development Bonuses.** Any Individually Requested Density Bonus Project shall, at the
 10 project sponsor's request, receive any or all of the following:

11 (1) **Density Bonus.** Individually Requested Projects that provide On-site Inclusionary
 12 Housing Units or Restricted Affordable Units shall receive a density bonus as described in Table
 13 206.6A as follows:

14 Table 206.6 A

15 Density Bonus Summary – Individually Requested Project

<u>Restricted Affordable Units or Category</u>	<u>Minimum Percentage of Restricted Affordable Units</u>	<u>Percentage of Density Bonus Granted</u>	<u>Additional Bonus for Each 1% Increase In Restricted Affordable Units</u>	<u>Percentage of Restricted Units Required for Maximum 35% Density Bonus</u>
<u>Very Low Income</u>	<u>5%</u>	<u>20%</u>	<u>2.50%</u>	<u>11%</u>
<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>1.50%</u>	<u>20%</u>
<u>Moderate Income</u>	<u>10%</u>	<u>5%</u>	<u>1%</u>	<u>40%</u>
<u>Senior Citizen Housing</u>	<u>100%</u>	<u>20%</u>	<u>-----</u>	<u>-----</u>

23 Note: A density bonus may be selected from only one category up to a maximum of 35% of the
 24 Maximum Allowable Residential Density.

1 In calculating density bonuses under this subsection 206.6(c)(1) the following shall
2 apply:

3 (A) When calculating the number of permitted Density Bonus Units or Restricted
4 Affordable Units, any fractions of units shall be rounded to the next highest number.

5 (B) An applicant may elect to receive a Density Bonus that is less than the
6 amount permitted by this Section; however, the City shall not be required to similarly reduce the
7 number of Restricted Affordable Units required to be dedicated pursuant to this Section and
8 Government Code Section 65915(b).

9 (C) Each Housing Project is entitled to only one Density Bonus, which shall be
10 selected by the applicant based on the percentage of Very Low Income Restricted Affordable Units,
11 Lower Income Restricted Affordable Units, or Moderate Income Restricted Affordable Units, or the
12 Housing Project's status as a Senior Citizen Housing Development. Density bonuses from more than
13 one category may not be combined. In no case shall a Housing Project be entitled to a Density Bonus
14 of more than thirty-five percent (35%), unless it is a Senior Housing Project meeting the requirements
15 of Section 202.2(f).

16 (D) The Density Bonus Units shall not be included when determining the
17 number of Restricted Affordable Units required to qualify for a Density Bonus. Density bonuses shall
18 be calculated as a percentage of the Maximum Allowable Residential Density.

19 (E) Any Restricted Affordable Unit provided pursuant to the on-site
20 requirements of the Inclusionary Affordable Housing Program, Section 415 et seq., shall be included
21 when determining the number of Restricted Affordable Units required to qualify for a Development
22 Bonus under this Section 206.6. The payment of the Affordable Housing Fee shall not qualify for a
23 Development Bonus under this Section. The provision of Off-site Units shall not qualify the Principal
24 Project for a Density Bonus under this Section; however an Off-site Unit may qualify as a Restricted
25 Affordable Unit to obtain a density bonus for the Off-site Project.

1 (F) In accordance with state law, neither the granting of a Concession,
2 Incentive, waiver, or modification, nor the granting of a Density Bonus, shall be interpreted, in and of
3 itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

4 (G) No additional Density Bonus shall be authorized for a Senior Citizen
5 Development beyond the Density Bonus authorized by subsection (1) of this Section.

6 (H) Certain other types of development activities are specifically eligible for a
7 development bonuses pursuant to State law, including land donation under Government Code Section
8 65915(g), condominium conversions under Government Code section 65915.5 and qualifying mobile
9 home parks under Government Code section 65915(b)(1)(C). Such projects shall be considered
10 Individually Requested State Density Bonus Projects.

11 (2) Concessions and Incentives. This Section includes provisions for providing
12 Concessions or Incentives pursuant to Government Code Section 65915 et seq, as set forth in Table
13 206.6B. For purposes of this Section 206.6, Concessions and Incentives as used interchangeably shall
14 mean such regulatory concessions as specified in Government Code Section 65915(k) to include:

15 (A) A reduction of site Development Standards or architectural design
16 requirements which exceed the minimum applicable building standards approved by the State
17 Building Standards Commission pursuant to Part 2.5 (commencing with Section 18901) of Division 13
18 of the Health and Safety Code, including, but not limited to, a reduction in setback, coverage, and/or
19 parking requirements which result in identifiable, financially sufficient and actual cost reductions;

20 (B) Allowing mixed use development in conjunction with the proposed
21 residential development, if nonresidential land uses will reduce the cost of the residential project and
22 the nonresidential land uses are compatible with the residential project and existing or planned
23 development in the area where the Housing Project will be located; and

24 (C) Other regulatory incentives or concessions proposed by the developer or the
25 City that result in identifiable, financially sufficient, and actual cost reductions.

1 Table 206.6B

2 Concessions and Incentives Summary – Individually Requested Project

3

<u>Target Group</u>	<u>Restricted Affordable Units</u>		
<u>Very Low Income</u>	<u>5%</u>	<u>10%</u>	<u>15%</u>
<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>
<u>Moderate Income (Common Interest Development)</u>	<u>10%</u>	<u>20%</u>	<u>30%</u>
<u>Maximum Incentive(s)/Concession(s)</u>	<u>1</u>	<u>2</u>	<u>3</u>

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8 Notes: 1. Concessions or Incentives may be selected from only one category (very low, lower, or moderate). 2. Common Interest Development is defined in California Civil Code Section 4100.

9 (3) Request for Concessions and Incentives. In submitting a request for Concessions or
10 Incentives that are not specified in Section 206.5(c)(4), an applicant for an Individually Requested
11 Density Bonus Project must provide documentation described in subsection (d) below in its application.
12 The Planning Commission shall hold a hearing and shall approve the Concession or Incentive
13 requested unless it makes written findings, based on substantial evidence that:

14 (A) The Concession or Incentive is not required in order to provide for
15 affordable housing costs, as defined in Section 50052.5 of the California Health and Safety Code, or for
16 rents for the Restricted Affordable Units to be as specified in this Section 206.6; or

17 (B) The Concession or Incentive would have a specific adverse impact, as
18 defined in Government Code Section 65589.5(d)(2) upon public health and safety or the physical
19 environment or any real property that is listed in the California Register of Historical Resources and
20 for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact
21 without rendering the Housing Project unaffordable to low- and moderate-income households.

22 (C) The Concession or Incentive would be contrary to state or federal law.

23 (4) Waiver or Modification. An applicant may apply for a waiver or modification of
24 Development Standards that will have the effect of physically precluding the construction of a Housing
25 Project at the densities or with the Concessions or Incentives permitted by this Section 206.6. The

1 Planning Commission will not grant a waiver or modification under this Section unless it is necessary
2 to achieve the additional density or the Concessions or Incentives permitted by this Section 206.6. The
3 developer must submit sufficient information as determined by the Planning Department demonstrating
4 that Development Standards that are requested to be waived or modified will have the effect of
5 physically precluding the construction of a Housing Project meeting the criteria of this Section 206.6 at
6 the densities or with the Concessions or Incentives permitted. The Planning Commission shall hold a
7 hearing to determine if the project sponsor has demonstrated that the waiver is necessary. The
8 Planning Commission may deny a waiver if it finds on the basis of substantial evidence that:

9 (A) It is not required to permit the construction of a Housing Project meeting the
10 density permitted or with the Concessions and Incentives permitted under this Section 206.6;

11 (B) The Waiver is not required in order to provide for affordable housing costs,
12 as defined in Section 50052.5 of the California Health and Safety Code, or for rents for the Restricted
13 Affordable Units to be as specified in this Section 206.6;

14 (C) The Waiver would have a specific adverse impact, as defined in Government
15 Code Section 65589.5(d)(2) upon public health and safety or the physical environment or any real
16 property that is listed in the California Register of Historical Resources and for which there is no
17 feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the
18 Housing Project unaffordable to low- and moderate-income households; or,

19 (D) The Waiver would be contrary to state or federal law.

20 (5) Nothing in this Section shall be construed to require the provision of direct financial
21 incentives for the Project, including the provision of publicly owned land by the City or the waiver of
22 fees or dedication requirements.

23 (d) Application. An application for a Density Bonus, Incentive, Concession, or waiver under
24 this Section 206.6 shall be submitted with the first application for approval of a Housing Project and
25 shall be processed concurrently with all other applications required for the Housing Project. The

1 application shall be on a form prescribed by the City and, in addition to any information required for
2 other applications, shall include the following information:

3 (1) A description of the proposed Project, and a full plan set, including a site plan,
4 elevations, section and floor plans, with the total number and location of dwelling units, Restricted
5 Affordable Units, and Density Bonus Units proposed;

6 (2) A plan set sufficient for the Planning Department to determine the project site's
7 Base Density. The project sponsor shall submit plans for a base project that demonstrates a Code
8 complying project on the Housing Project site without use of a modification, Conditional Use
9 Authorization, Variance, Planned Unit Development, or other exception from the Planning Code. Such
10 plans shall include similar detail to the proposed Housing Project. The project sponsor shall
11 demonstrate that site constraints do not limit the Maximum Allowable Residential Density for the base
12 project in practice. If the project sponsor cannot make such a showing, the Zoning Administrator shall
13 determine whether the Maximum Allowable Residential Density shall be adjusted for purposes of this
14 Section.

15 (3) The zoning district designations, assessor's parcel number(s) of the project site, and
16 a description of any Density Bonus, Concession or Incentive, or waiver requested;

17 (4) If a Concession or Incentive is requested that is not included within the menu of
18 Incentives/Concessions set forth in subsection 206.5(c), a submittal including financial information or
19 other information providing evidence that the requested Concessions and Incentives result in
20 identifiable, financially sufficient, and actual cost reductions required in order to provide for
21 affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the
22 Restricted Affordable Units to be provided as required under this Program. The cost of reviewing any
23 required financial information, including, but not limited to, the cost to the City of hiring a consultant
24 to review the financial data, shall be borne by the applicant. The financial information shall include all
25 of the following items:

1 (A) The actual cost reduction achieved through the Concession or Incentive;
2 (B) Evidence that the cost reduction allows the applicant to provide affordable
3 rents or affordable sales prices; and

4 (C) Any other information requested by the Planning Director. The Planning
5 Director may require any financial information including information regarding capital costs, equity
6 investment, debt service, projected revenues, operating expenses, and such other information as is
7 required to evaluate the financial information;

8 (5) If a waiver or modification is requested, a submittal containing the following
9 information. The cost of reviewing any required information supporting the request for a waiver,
10 including, but not limited to, the cost to the City of hiring a consultant to review the architectural
11 information, shall be borne by the applicant.

12 (A) Why the Development Standard would physically preclude the construction
13 of the Development with the Density Bonus, Incentives, and Concessions requested.

14 (B) Any other information requested by the Planning Director as is required to
15 evaluate the request;

16 (6) Level of affordability of the Restricted Affordable Units and a draft Regulatory
17 Agreement;

18 (7) The number of residential units which are on the property, or if the residential units
19 have been vacated or demolished in the five year period preceding the application, have been and
20 which were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to
21 persons and families of lower or very low income; subject to any other form of rent or price control
22 through the City or other public entity's valid exercise of its police power; or occupied by lower or very
23 low income households;

24
25

1 (8) If the property includes a parcel or parcels in which dwelling units under (6) are
2 located or were located in the five year period preceding the application, the type and size of those
3 units, the incomes of the persons or families occupying those units.

4 (9) Documentation that the applicant has provided written notification to all existing
5 commercial or residential tenants that the applicant intends to develop the property pursuant to this
6 section. Any affected commercial tenants shall be given priority processing similar to the
7 Department's Community Business Priority Processing Program, as adopted by the San Francisco
8 Commission on February 12, 2015 under Resolution Number 19323 to support relocation of such
9 business in concert with access to relevant local business support programs.

10 (10) If a Density Bonus or Concession is requested for a land donation, the application
11 shall show the location of the land to be dedicated, provide proof of site control, and provide evidence
12 that all of the requirements and each of the findings included in Government Code Section 65915(g)
13 can be made;

14 (11) If a density bonus or Concession is requested for a Child Care Facility under
15 Section 206.7, the application shall show the location and square footage of the child care facilities
16 and provide evidence that all of the requirements and each of the findings included in Government
17 Code Section 65915(h) can be made;

18 (12) If a Density Bonus or Concession is requested for a condominium conversion, the
19 applicant shall provide evidence that all of the requirements found in Government Code Section
20 65915.5 can be met.

21 (e) **Review Procedures.** An application for a Density Bonus, Incentive, Concession, or waiver
22 shall be acted upon concurrently with the application other permits related to the Housing Project.

23 (1) Before approving an application for a Density Bonus, Incentive, Concession, or
24 waiver, for any Individually Requested Density Bonus Project, the Planning Commission shall make the
25 following findings as applicable.

1 (A) The Housing Project is eligible for the Affordable Housing Bonus Program.

2 (B) The Housing Project has demonstrated that any Concessions or Incentives
3 are required in order to provide for affordable housing costs, as defined in Section 50052.5 of the
4 California Health and Safety Code, or for rents for the targeted units, based upon the financial analysis
5 and documentation provided.

6 (C) If a waiver or modification is requested, a finding that the Development
7 Standards for which the waiver is requested would have the effect of physically precluding the
8 construction of the Housing Project with the Density Bonus or Concessions and Incentives permitted.

9 (D) If the Density Bonus is based all or in part on donation of land, a finding
10 that all the requirements included in Government Code Section 65915(g) have been met.

11 (E) If the Density Bonus, Concession or Incentive is based all or in part on the
12 inclusion of a Child Care Facility, a finding that all the requirements included in Government Code
13 Section 65915(h) have been met.

14 (F) If the Concession or Incentive includes mixed-use development, a finding
15 that all the requirements included in Government Code Section 65915(k)(2) have been met.

16 (2) If the findings required by subsection (a) of this Section cannot be made, the
17 Planning Commission may deny an application for a Concession, Incentive, waiver or modification
18 only if it makes one of the following written findings, supported by substantial evidence:

19 (A) The Concession, Incentive, waiver or modification is not required to provide
20 for the affordability levels required for Restricted Affordable Units;

21 (B) The Concession, Incentive, waiver or modification would have a specific,
22 adverse impact upon public health or safety or the physical environment or on real property listed in
23 the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate
24 or avoid the specific adverse impact without rendering the Housing Project unaffordable to Low and
25 Moderate Income households. For the purpose of this subsection, "specific adverse impact" means a

1 significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public
2 health or safety standards, policies, or conditions as they existed on the date that the application for the
3 Housing Project was deemed complete; or

4 (C) The Concession, Incentive, waiver or modification is contrary to state or
5 federal law.

6 (3) The review procedures for an Individually Requested Density Bonus Project,
7 including notice, hearings, and appeal, shall be the procedures applicable to the Housing Project
8 regardless of whether it is applying for a State Density Bonus under this Section 206.6. However, any
9 notice shall specify that the Housing Project is seeking a Development Bonus and shall provide a
10 description of the development bonuses requested. Individually Requested Projects shall also be
11 reviewed for consistency with the Affordable Housing Bonus Program Design Guidelines.

12 (4) In accordance with state law, neither the granting of a Concession, Incentive,
13 waiver, or modification, nor the granting of a Density Bonus, shall be interpreted, in and of itself, to
14 require a general plan amendment, zoning change, variance, or other discretionary approval.

15 (f) **Regulatory Agreements.** Applicants for a Density Bonus, Incentive, Concession, waiver, or
16 modification shall enter into a Regulatory Agreement with the City, as follows.

17 (1) The terms of the agreement shall be acceptable in form and content to the Planning
18 Director, the Director of MOHCD, and the City Attorney. The Planning Director shall have the
19 authority to execute such agreements.

20 (2) Following execution of the agreement by all parties, the completed Density Bonus
21 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed and
22 recorded on the Housing Project.

23 (3) The approval and recordation of the Regulatory Agreement shall take place prior to
24 the issuance of the First Construction Document. The Regulatory Agreement shall be binding to all
25 future owners and successors in interest.

1 (4) The Regulatory Agreement shall be consistent with the guidelines of the City's
2 Inclusionary Housing Program and shall include at a minimum the following:

3 (A) The total number of dwelling units approved for the Housing Project,
4 including the number of Restricted Affordable Units;

5 (B) A description of the household income group to be accommodated by the
6 Restricted Affordable Units, and the standards for determining the corresponding Affordable Rent or
7 Affordable Sales Price;

8 (C) The location, dwelling unit sizes (in square feet), and number of bedrooms
9 of the Restricted Affordable Units;

10 (D) Term of use restrictions for Restricted Affordable Units of at least 55 years
11 for Moderate Income units and at least 55 years for Low and Very Low units;

12 (E) A schedule for completion and occupancy of Restricted Affordable Units;

13 (F) A description of any Concession, Incentive, waiver, or modification, if any,
14 being provided by the City;

15 (G) A description of remedies for breach of the agreement (the City may identify
16 tenants or qualified purchasers as third party beneficiaries under the agreement); and

17 (H) Other provisions to ensure implementation and compliance with this
18 Section.

19 **SEC. 206.7 CHILD CARE FACILITIES.**

20 (a) For purposes of this Section 206.7, "Child Care Facility" means a child day care facility
21 other than a family day care home, including, but not limited to, infant centers, preschools, extended
22 day care facilities, and school age child care centers

23 (b) When an applicant proposes to construct a Housing Project that is eligible for a Density
24 Bonus under Section 206.6 and includes a Child Care Facility that will be located on the premises of,
25 as part of, or adjacent to, the Housing Project, all of the provisions of this Section 206.7 shall apply

1 and all of the provisions of Section 206.6 shall apply, except as specifically provided in this Section
2 206.7.

3 (c) When an applicant proposes to construct a Housing Project that is eligible for a Density
4 Bonus under Section 206.6 and includes a Child Care Facility that will be located on the premises of,
5 as part of, or adjacent to, the Housing Project, the City shall grant either:

6 (1) An additional density bonus that is an amount of square feet of residential space
7 that is equal to or greater than the square footage of the Child Care Facility; or

8 (2) An additional Concession or Incentive that contributes significantly to the economic
9 feasibility of the construction of the Child Care Facility.

10 (d) The City shall require, as a condition of approving the Housing Project, that the following
11 occur:

12 (1) The Child Care Facility shall remain in operation for a period of time that is as long
13 as or longer than the period of time during which the Affordable Units are required to remain
14 affordable. In the event the childcare operations cease to exist, the Zoning Administrator may approve
15 in writing an alternative community service use for the child care facility.

16 (2) Of the children who attend the Child Care Facility, the children of Very Low, Lower
17 and Moderate Income households shall equal a percentage that is equal to or greater than the
18 percentage of Restricted Affordable Units in the Housing Project that are required for Very Low,
19 Lower and Moderate Income households pursuant to Section 206.6.

20 (e) Notwithstanding subsections (a) and (b) above, the City shall not be required to provide a
21 density bonus or a Concession or Incentive for a child care facility if it finds, based upon substantial
22 evidence, that the community has adequate child care facilities.

23 **SEC. 206.8 AFFORDABLE HOUSING BONUS PROGRAM EVALUATION.**

24 (a) Within one year from the effective date of Section 206 and following, the Planning
25 Department shall provide an informational presentation to the Planning Commission, and any other

1 City agency at their request, presenting an overview of all projects that request or receive development
2 bonuses under the Local Affordable Housing Bonus Program, the 100 Percent Affordable Housing
3 Bonus Program and the Analyzed and Individually Requested State Density Bonus Program (“the
4 Bonus Programs”).

5 (b) Annual Reporting. The Planning Department shall include information on projects which
6 request and receive development bonuses under the Bonus Programs in any relevant Department
7 publications regarding the development of housing in San Francisco, including, but not limited to, the
8 Quarterly Pipeline Report, the Housing Inventory and the Housing Balance Report.

9 (c) Data Report. The Planning Department, in coordination with MOHCD, shall prepare a
10 Data Report reviewing the Bonus Programs every five years, beginning five years from the Effective
11 Date of Section 206 and following. This report shall include, but not be limited to, information on: the
12 number of projects utilizing the Bonus Programs; the number of units approved and constructed under
13 the Bonus Programs and the AMI levels of such units; the number of additional affordable units in
14 excess of that otherwise required by Section 415; and the geographic distribution of projects, including
15 the total number of units in each project, utilizing the Bonus Programs.

16 (d) Program Evaluation and Update:

17 (1) Purpose and Contents. In coordination with the Time Series Report, the
18 Department shall prepare a Program Evaluation and Update. The Program Evaluation and Update
19 shall include an analysis of the Bonus Programs effectiveness as it relates to City policy goals
20 including, but not limited to Proposition K (2014) and the Housing Element. The Program Evaluation
21 and Update shall include a review of all of the following:

22 (A) Target income levels for the Local Affordable Housing Bonus Program in
23 relation to market values and assessed affordable housing needs.

24 (B) Feasibility of the Local Affordable Housing Bonus Program, in relations to
25 housing policy goals, program production, and current market conditions.

1 (C) Requested and granted concessions and incentives, including consideration
2 of whether the menu of zoning modification or concessions and incentives set forth in Section
3 206.3(d)(4), 206.4(c)(5) and 206.5(c)(4) respond to the needs of projects seeking approvals under the
4 Bonus Programs; consideration of whether the elected zoning modifications or incentives and
5 concessions result in a residential project that responds to the surrounding neighborhood context; and
6 review and recommendation for additions or modifications to the list of zoning modifications or
7 concessions and incentives in 206.3(d)(4), 206.4(c)(5) and 206.5(c)(4).

8 (D) Geography and neighborhood specific considerations. Review and analysis
9 of where Bonus Program projects are proposed and approved, including an analysis of land values,
10 zoning, height controls and neighborhood support.

11 (2) Public Hearing: The Program Evaluation and Update shall be prepared no less
12 than every five years, beginning five years from the Effective Date of this Ordinance, and may be
13 completed as a series of reports and in coordination with ongoing monitoring of affordable housing
14 policies, or feasibility analyses. The Planning Commission shall hold a hearing on the Program
15 Evaluation and Update and any recommendations for modification to any of the Bonus Programs.

17 Section 3. The Planning Code is hereby amended by adding Sections 328, to read as
18 follows:

19 SEC. 328. LOCAL AND 100 PERCENT AFFORDABLE HOUSING BONUS PROJECT
20 AUTHORIZATION

21 (a) Purpose. The purpose of this Section is to ensure that all Local and 100 Percent Affordable
22 Housing Bonus projects under Section 206.3 or 206.4 are reviewed in coordination with priority
23 processing available for certain projects with greater levels of affordable housing. While most projects
24 in the Program will likely be somewhat larger than their surroundings in order to facilitate higher
25 levels of affordable housing, the Planning Commission shall ensure that each project is consistent with

1 the Affordable Housing Bonus Design Guidelines and any other applicable design guidelines, as
2 adopted and periodically amended by the Planning Commission, so that projects respond to their
3 surrounding context, while still meeting the City's affordable housing goals.

4 (b) Applicability. This section applies to all qualifying Local and 100 Percent Affordable
5 Housing Bonus Projects that meet the requirements described in Planning Code Sections 206.3 or
6 206.4.

7 (c) Planning Commission Design Review: The Planning Commission shall review and evaluate
8 all physical aspects of a Local or 100 Percent Affordable Housing Bonus Project at a public hearing.
9 The Planning Commission recognizes that most qualifying projects will need to be larger in height and
10 mass than surrounding buildings in order to achieve the Affordable Housing Bonus Program's
11 affordable housing goals. However, the Planning Commission may, consistent with the Affordable
12 Housing Bonus Program Design Guidelines, and any other applicable design guidelines, and upon
13 recommendation from the Planning Director, make minor modifications to a project to reduce the
14 impacts of such differences in scale.

15 Additionally, as set forth in subsection (d) below, the Planning Commission may grant minor
16 exceptions to the provisions of this Code. However, such exceptions should only be granted to allow
17 building mass to appropriately shift to respond to surrounding context, and only when such
18 modifications do not substantially reduce or increase the overall building envelope permitted by the
19 Program under Section 206.3 or 206.4. All modifications and exceptions should be consistent with the
20 Affordable Housing Bonus Program Design Guidelines and any other applicable design guidelines. In
21 case of a conflict with other applicable design guidelines, the Affordable Housing Bonus Program
22 Design Guidelines shall prevail.

23 The Planning Commission may require these or other modifications or conditions, or
24 disapprove a project, in order to achieve the objectives and policies of the Affordable Housing Bonus

25

1 Program or the purposes of this Code. This review shall limited to design issues including the
2 following:

3 (1) whether the bulk and massing of the building is consistent with the Affordable
4 Housing Bonus Design Guidelines.

5 (2) whether building design elements including, but not limited to architectural
6 treatments, façade design, and building materials, are consistent with the Affordable Housing Bonus
7 Program Design Guidelines and any other applicable design guidelines.

8 (3) whether the design of lower floors, including building setback areas, commercial
9 space, townhouses, entries, utilities, and parking and loading access is consistent with the Affordable
10 Housing Bonus Program Design Guidelines, and any other applicable design guidelines.

11 (4) whether the required streetscape and other public improvements such as tree
12 planting, street furniture, and lighting are consistent with the Better Streets Plan, and any other
13 applicable design guidelines.

14 (d) Exceptions. As a component of the review process under this Section 328, the Planning
15 Commission may grant minor exceptions to the provisions of this Code as provided for below, in
16 addition to the development bonuses granted to the project in Section 206.3(d) or 206.4(c). Such
17 exceptions, however, should only be granted to allow building mass to appropriately shift to respond to
18 surrounding context, and only when such modifications: 1) do not substantially reduce or increase the
19 overall building envelope permitted by the Program under Sections 206.3 or 206.4; and 2) are
20 consistent with the Affordable Housing Bonus Design Guidelines. These exceptions may include:

21 (1) Exception from residential usable open space requirements per Section 135, or any
22 applicable special use district.

23 (2) Exception from satisfaction of loading requirements per Section 152.1, or any
24 applicable special use district.

1 (3) Exception for rear yards, pursuant to the requirements of Section 134, or any
2 applicable special use district.

3 (4) Exception from dwelling unit exposure requirements of Section 140, or any
4 applicable special use district.

5 (5) Exception from satisfaction of accessory parking requirements per Section 152.1, or
6 any applicable special use district.

7 (6) Where not specified elsewhere in this Subsection (d), modification of other Code
8 requirements that could otherwise be modified as a Planned Unit Development (as set forth in Section
9 304), irrespective of the zoning district in which the property is located.

10 (e) Required Findings. If a Local Affordable Housing Bonus Program Project or 100 Percent
11 Affordable Housing Bonus Project otherwise requires a conditional use authorization due only to 1) a
12 specific land use, 2) use size limit, or 3) requirement adopted by the voters, then the Planning
13 Commission shall make all findings and consider all criteria required by this Code for such use or use
14 size as part of this Local and 100 Percent Affordable Housing Bonus Project Authorization.

15 (f) Hearing and Decision.

16 (1) Hearing. The Planning Commission shall hold a public hearing for all projects that
17 are subject to this Section.

18 (2) Notice of Hearing. Notice of such hearing shall be provided pursuant to the same
19 requirements for Conditional Use requests, as set forth in Section 306.3 and 306.8.

20 (3) Director's Recommendations on Modifications and Exceptions. At the hearing, the
21 Planning Director shall review for the Commission key issues related to the project based on the
22 review of the project pursuant to Subsection (c) and recommend to the Commission modifications, if
23 any, to the project and conditions for approval as necessary. The Director shall also make
24 recommendations to the Commission on any proposed exceptions pursuant to Subsection (d).

1 (4) Decision and Imposition of Conditions. The Commission, after public hearing and,
2 after making appropriate findings, may approve, disapprove or approve subject to conditions, the
3 project and any associated requests for exception. As part of its review and decision, the Planning
4 Commission may impose additional conditions, requirements, modifications, and limitations on a
5 proposed project in order to achieve the objectives, policies, and intent of the General Plan or of this
6 Code.

7 (5) Appeal. The decision of the Planning Commission may be appealed to the Board of
8 Appeals by any person aggrieved within 15 days after the date of the decision by filing a written notice
9 of appeal with that body, setting forth wherein it is alleged that there was an error in the interpretation
10 of the provisions of this Code or abuse of discretion on the part of the Planning Commission.

11 (6) Discretionary Review. No requests for discretionary review shall be accepted by the
12 Planning Department or heard by the Planning Commission for projects subject to this Section.

13 (7) Change of Conditions. Once a project is approved, authorization of a change in any
14 condition previously imposed by the Planning Commission shall require approval by the Planning
15 Commission subject to the procedures set forth in this Section.

16
17 Section 4. The Planning Code is hereby amended by amending Sections 250 and 260,
18 to read as follows:

19 **SEC. 250. HEIGHT AND BULK DISTRICTS ESTABLISHED.**

20 (a) In order to carry out further the purposes of this Code, height and bulk districts are
21 hereby established, subject to the provisions of this Article 2.5.

22 (b) No building or structure or part thereof shall be permitted to exceed, except as
23 stated in Sections 172, ~~and~~ 188, and 206 of this Code, the height and bulk limits set forth in this
24 Article for the district in which it is located, including the height limits for use districts set forth
25 in Section 261.

1 * * * *

2
3 **SEC. 260 HEIGHT LIMITS; MEASUREMENT**

4 (a) **Method of Measurement.** The limits upon the height of buildings and structures
5 shall be as specified on the Zoning Map, *except as permitted by Section 206*. In the measurement
6 of height *for purposes of such limits*, the following rules shall be applicable:

7 * * * *

8
9 Section 5. **Effective Date.** This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor's veto of the ordinance.

13
14 Section 6. **Scope of Ordinance.** In enacting this ordinance, the Board of Supervisors
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
18 additions, and Board amendment deletions in accordance with the "Note" that appears under
19 the official title of the ordinance.

20
21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 Susan Cleveland-Knowles
Deputy City Attorney

25 n:\leganas2015\1600094\01050167.docx

LEGISLATIVE DIGEST

[Planning Code - Affordable Housing Bonus Programs]

Ordinance amending the Planning Code to create the Affordable Housing Bonus Programs, consisting of the Local Affordable Housing Bonus Program, the 100 Percent Affordable Housing Bonus Program, the Analyzed State Density Bonus Program and the Individually Requested State Density Bonus Program, to provide for development bonuses and zoning modifications for affordable housing, in compliance with, and above those required by the State Density Bonus Law, Government Code, Section 65915, et seq.; to establish the procedures in which the Local Affordable Housing Bonus Program and the 100 Percent Affordable Housing Bonus Program shall be reviewed and approved; and amending the Planning Code to exempt projects from the height limits specified in the Planning Code and the Zoning Maps; and affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

In 1979, the State of California adopted the State Density Bonus Law, which requires all cities and counties to offer a density bonus and other incentives to housing developments that include a certain percentage of units available to very low, low, or moderate-income households. The Planning Code encourages increased density where project sponsors provide affordable housing through various mechanisms including through Special Use Districts, exceptions to the calculation of residential density, and the provision of additional Floor Area Ratio (FAR) in certain circumstances.

Amendments to Current Law

The Proposed Legislation creates a new program in the Planning Code by establishing the Affordable Housing Bonus Programs ("AHBP"), consisting of four separate programs to incentivize the construction of housing affordable to very low, low, moderate, and middle-income households by granting a range of development bonuses. The first two programs operate independently from State law; the second two programs, taken together, implement the State Density Bonus Law

- (1) The Local Affordable Housing Bonus Program: a local density bonus program that provides up to two additional floors and other zoning incentives to a project sponsor who provides a total of 30 percent of its units as affordable units – generally by restricting 12 percent of units under the Inclusionary Affordable Housing Program ("Inclusionary Units") and 18 percent of units restricted to middle income households,

defined as households earning not more than 140 percent of Area Median Income (“AMI”). It applies to projects of three units or more and only in certain enumerated zoning districts.

- (2) The 100 Percent Affordable Housing Project Bonus Program (the “100 Percent Program”): a local density bonus program that applies in all zoning districts that allow residential uses except for RH-1 and RH-2, and provides up to three additional floors and other incentives to projects of three units or more containing units affordable units to low, very low, or moderate incomes.
- (3) The Analyzed State Density Bonus Program: a density bonus program under State law, which provides up to a 35 percent density bonus for projects that provide 12 percent or more on-site Inclusionary Units and meet other criteria above and beyond State law requirements. Projects receive process improvements and must choose from a menu of specific incentives It applies to projects of five units or more units and only in certain enumerated zoning districts.
- (4) The Individually Requested State Density Bonus Program: a program that provides a density bonus under State law of up to 35 percent and other incentives requested by the project sponsor for projects consistent with all of the State’s requirements. It applies in all zoning districts to projects of five units or more.

The Proposed Legislation creates a new Planning Commission review process for the two Local Programs and amends the Code to allow for increased heights permitted under the Programs.

Background Information

This proposed Program is one of the tools put forward by the City to address its affordable housing goals. The local components of the AHBP were developed to go above and beyond the State Law affordability requirements. The proposed AHBP implements the 2014 Housing Element, builds on the City’s Inclusionary Housing Ordinance, and helps the City meet the housing goals mandated in Proposition K.

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TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *Edwin M. Lee* Mayor Edwin M. Lee *EL*
RE: Approval of a 90-Day Extension for Planning Commission Review of the Affordable Housing Bonus Programs (File No. 150969)
DATE: December 1, 2015

Attached for introduction to the Board of Supervisors is a resolution extending by 90 days the prescribed time within which the Planning Commission may render its decision on a Ordinance (File No. 150969) amending the San Francisco Planning Code to create the Affordable Housing Bonus Programs, consisting of the Local Affordable Housing Bonus Program, the 100 Percent Affordable Housing Bonus Program, the Analyzed State Density Bonus Program and the Individually Requested State Density Bonus Program, to provide for development bonuses and zoning modifications for affordable housing, in compliance with, and above those required by the State Density Bonus Law, Government Code Section 65915 et seq.; to establish the procedures in which the Local Affordable Housing Bonus Program and the 100 Percent Affordable Housing Bonus Program shall be reviewed and approved; and amending the Planning Code to exempt projects from the height limits specified in the Planning Code and the Zoning Maps; and affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Please note that this legislation is co-sponsored by Supervisor Katy Tang.

I respectfully request that this item be heard at the December 8, 2015 Board of Supervisors meeting on the "For Adoption without Committee Reference" section of the agenda.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.

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