

1 [Planning Code - 100% 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 the**
6 **Individually Requested State Density Bonus Program, to provide for development bonuses**
7 **and zoning modifications for 100 percent affordable housing projects, in compliance with,**
8 **and 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 Bonus**
10 **Program and the 100 Percent Affordable Housing Bonus Program projects shall be**
11 **reviewed and approved; adding a fee for applications under the Program; and**
12 **amending the Planning Code to exempt 100 Percent Affordable Housing Bonus Program**
13 **projects from the height limits specified in the Planning Code and the Zoning Maps;**
14 **and affirming the Planning Department's determination under the California**
15 **Environmental Quality Act; and making findings of consistency with the General Plan,**
16 **and the eight priority policies of Planning Code, Section 101.1.**

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

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

25

1 Section 1.

2 (a) The Planning Department has determined that the actions contemplated in this
3 ordinance comply with the California Environmental Quality Act (California Public Resources
4 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
5 Supervisors in File No. 160687 and is incorporated herein by reference. The Board affirms
6 this determination.

7 (b) On February 25, 2016, the Planning Commission, in Resolution No. 19578,
8 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
9 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
10 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
11 the Board of Supervisors in File No. 160687, and is incorporated herein by reference.

12 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
13 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
14 in Planning Commission Resolution No. 19578, and the Board incorporates such reasons
15 herein by reference.

16
17 Section 2. The Planning Code is hereby amended by adding Section 206 through
18 206.84 to read as follows:

19 **SEC. 206. THE 100 PERCENT AFFORDABLE HOUSING BONUS PROGRAMS.**

20 This section-Section 206 and Sections 206.1 through 206.4 shall be known as the
21 Affordable Housing Bonus Programs, which includes the Local Affordable Housing Bonus
22 Program, the 100 Percent Affordable Housing Bonus Program, the Analyzed State Density Bonus
23 Program and the Individually Requested State Density Bonus Program. References to
24 "Section 206" shall include Sections 206.1 through 206.4.

25 **SEC. 206.1. PURPOSE AND FINDINGS.**

1 (a) The purpose of the 100 Percent Affordable Housing Bonus Programs is to facilitate the
2 development and construction of affordable housing in San Francisco. Affordable housing is of
3 paramount statewide concern, and the California State legislature Legislature has declared that
4 local and state governments have a responsibility to use the powers vested in them to facilitate the
5 improvement and development of housing to make adequate provision for the housing needs of all
6 economic segments of the community. The State Legislature has found that local governments must
7 encourage the development of a variety of types of housing for all income levels, including multifamily
8 rental housing and assist in the development of adequate housing to meet the needs of low- and
9 moderate-income households.

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

19 (c) This The Board of Supervisors, and the voters in San Francisco, have long recognized the
20 need for the production of affordable housing. The voters, in some cases, and the or this Board in
21 others, have adopted measures to address this need, such as the establishment of the mandatory
22 Inclusionary Affordable Housing Ordinance in Planning Code section Section 415; the San
23 Francisco Housing Trust Fund, adopted in 2012, which established a fund to create, support and
24 rehabilitate affordable housing, and set aside \$20 million in its first year, with increasing allocations to
25 reach \$50 million a year for affordable housing; the adoption of Proposition K in November 2014,

1 which established as City policy that the City, by 2020, will help construct or rehabilitate at least
2 30,000 homes, with more than 50% of the housing affordable for middle-income households, and at
3 least 33% as affordable for low-and moderate income households; and the multiple programs that rely
4 on Federal, State and local funding sources as identified in the Mayor's Office of Housing and
5 Community Development Comprehensive Plan.

6 (d) Historically, in the United States and San Francisco, affordable housing requires
7 high levels of public subsidy, including public investment and reliance on public dollars. Costs
8 to subsidize an affordable housing unit vary greatly depending on a number of factors, such
9 as household income of the residents, the type of housing, and the cost to acquire land
10 acquisition. Currently, MOHCD estimates that the level of subsidy for an affordable housing
11 units is approximately \$250,000 per unit. Given this high cost per unit, San Francisco can
12 only meet its affordable housing goals through a combination of increased public dollars
13 dedicated to affordable housing and other tools that do not rely on public money.

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

21 (fd) In recognition of the City's affordable housing goals, including the need to produce
22 more affordable housing without need for public subsidies, the Planning Department contracted
23 with David Baker Architects and Seifel Consulting to determine a menu of zoning modifications and
24 development bonuses that could offset a private developer's costs of providing various levels of
25 additional on-site affordable housing. David Baker Architects and Seifel Consulting These

1 experts analyzed various parcels in San Francisco, to determine the conditions in which a zoning
2 accommodation would be necessary to achieve additional density. The analysis modeled various
3 zoning districts and lot size configurations, consistent with current market conditions and the City's
4 stated policy goals, including to achieve a mix of unit types, including larger units that can
5 accommodate larger households. These reports are on file in Board of Supervisors File No. 160687.

6 (ge) Based on these reports the results of the studies, the Planning Department developed
7 four a programs set forth in this Section 206, the Affordable Housing Bonus Programs, which
8 to provide an options by which developers of 100% affordable housing projects can include
9 additional affordable units on-site in exchange for through increased density and other zoning or
10 design modifications. These programs are the Local Affordable Housing Bonus Program, the
11 400 Percent Affordable Housing Bonus Program, the Analyzed State Density Bonus Program
12 and the Individually Requested Bonus Program. This program is the 100 Percent Affordable
13 Housing Bonus Program, which

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

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

23 (j) The Affordable Housing Bonus Program also establishes a clear local process for
24 all projects seeking the density bonuses guaranteed through the State Density Bonus Law.
25 The State Analyzed Program provides an expedited process for projects that comply with a

1 pre-determined menu of incentives, concessions and waivers of development standards that
2 the Department, in consultation with David Baker Architects and Seifel Consulting can
3 appropriately respond to neighborhood context without causing adverse impacts on public
4 health and safety, and provide affordable units through the City's already-established
5 Inclusionary Housing Program. Projects requesting density or concessions, incentives and
6 waivers outside of the City's preferred menu may seek a density bonus consistent with State
7 law in the Individually Requested Density Bonus Program.

8 **SEC. 206.2 DEFINITIONS.**

9 This Section applies to Sections 206 through 206.84. The definitions of Section 102 and
10 the definitions in Section 401 for "Area Median Income" or "AMI," "First Construction Document,"
11 "Housing Project," "Life of the Project," and "MOHCD," "On-site Unit," "Off-site Unit,"
12 "Principal Project," and "Procedures Manual," shall generally apply to Section 206. For
13 purposes of this Section 206 et seq., the The following definitions shall also apply, and shall
14 prevail if there is a conflict with other sections of the Planning Code.

15 "100 Percent Affordable Housing Project" shall be a project where all of the dwelling units
16 with the exception of the manager's unit are "Affordable Units" as that term is defined in section
17 Section 406(b).

18 "Affordable to a Household of Lower, Very Low, or Moderate Income shall mean, at a
19 minimum (1) a maximum purchase price that is affordable to a Household of Lower, Very Low,
20 or Moderate Income, adjusted for the household size, assuming an annual payment for all
21 housing costs of 33 percent of the combined household annual gross income, a down
22 payment recommended by the Mayor's Office of Housing and Community Development and
23 set forth in the Procedures Manual, and available financing; and (2) an affordable rent as
24 defined in Section 50053 of the Health and Safety Code sufficient to ensure continued
25 affordability of all very low and low-income rental units that qualified the applicant for the

1 award of the density bonus for 55 years or a longer period of time if required by the
2 construction or mortgage financing assistance program, mortgage insurance program, or
3 rental subsidy program.

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

13 “Base Density” is lot area divided by the maximum lot area per unit permitted under
14 existing density regulations (e.g. 1 unit per 200, 400, 600, 800, or 1000 square feet of lot
15 area). Calculations that result in a decimal point of 0.5 and above are rounded to the next
16 whole number. In the Fillmore Neighborhood Commercial Transit District and the Divisadero
17 Neighborhood Commercial Transit District, “Base Density” shall mean 1 unit per 600 square
18 feet of lot area.

19 “Density Bonus” means a density increase over the Maximum Allowable Residential
20 Density granted pursuant to Government Code Section 65915 and Section 206 et seq.

21 “Density Bonus Units” means those market rate dwelling units granted pursuant to the
22 provisions of this Section 206.3, 206.5 and 206.6 that exceed the otherwise Maximum
23 Allowable Residential Density for the development site.

24 “Development standard Standard” shall mean a site or construction condition, including, but
25 not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open space

1 requirement, or an accessory parking ratio that applies to a residential development pursuant to any
2 ordinance, general plan element, specific plan, charter, or other local condition, law, policy,
3 resolution or regulation.

4 "Household of Middle Income" shall mean a household whose combined annual gross
5 income for all members does not exceed 140% of AMI to qualify for ownership housing and
6 120% of AMI to qualify for rental housing.

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

10 "Lower or, Very Low, or Moderate Income" means annual income of a household that does
11 not exceed the maximum income limits for the income category, as adjusted for household size,
12 applicable to San Francisco, as published and periodically updated by the State Department of
13 Housing and Community Development pursuant to Sections 50079.5, or 50105, or 50093 of the
14 California Health and Safety Code. Very Low Income low income is currently defined in California
15 Health and Safety Code section Section 50105 as 50% of area median income. Lower Income is
16 currently defined in California Health and Safety Code section Section 50079.5 as 80% of area
17 median income. If the State law definitions of these terms change, the definitions under
18 Section 206 shall mirror the State law changes. Moderate Income is currently defined in
19 California Health and Safety Code section 50093 as 120% of area median income.

20 "Maximum Allowable Residential Density" means the maximum number of dwelling
21 units per square foot of lot area in zoning districts that have such a measurement, or, in
22 zoning districts without such a density measurement, the maximum number of dwelling units
23 that could be developed on a property while also meeting all other applicable Planning Code
24 requirements and design guidelines, and without obtaining an exception, modification,
25

1 variance, or waiver from the Zoning Administrator or Planning Commission for any Planning
2 Code requirement.

3 "Middle Income Unit" shall mean a residential unit affordable to a Household of Middle
4 Income.

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

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

12 "Restricted Affordable Unit" means a dwelling unit within a Housing Project which will
13 be Affordable to Very Low, Lower or Moderate Income Households, as defined in this Section
14 206.2 for a minimum of 55 years. Restricted Affordable Units shall meet all of the
15 requirements of Government Code 65915, except that Restricted Affordable Units that are
16 ownership units shall not be restricted using an equity sharing agreement."

17 "Senior Citizen Housing Development" has the meaning in California Civil Code section
18 51.3.

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

20 (a) Purpose. This Section sets forth the Local Affordable Housing Bonus Program.
21 The Local Affordable Housing Bonus Program or "Local Program" provides benefits to project
22 sponsors of housing projects that set aside a total of 30% of residential units onsite at below
23 market rate rent or sales price, including a percentage of units affordable to low and moderate
24 income households consistent with Section 415, the Inclusionary Housing Program, and the
25 remaining percentage affordable to a Household of Middle Income. The purpose of the Local

1 Affordable Housing Bonus Program is to expand the number of Inclusionary Units produced in
2 San Francisco and provide housing opportunities to a wider range of incomes than traditional
3 affordable housing programs, which typically provide housing only for very low, low or
4 moderate income households. The Local Program allows market rate projects to match the
5 City's shared Proposition K housing goals that 50% of new housing constructed or
6 rehabilitated in the City by 2020 be within the reach of working middle class San Franciscans,
7 and at least 33% affordable for low and moderate income households.

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

10 ——— (1) contains three or more residential units, as defined in Section 102, not
11 including any Group Housing as defined in Section 102, efficiency dwelling units with reduced
12 square footage defined in Section 318, and Density Bonus Units permitted through this
13 Section 206.3, or any other density bonus;

14 ——— (2) is located in any zoning district that: (A) is not designated as an RH-1 or
15 RH-2 Zoning Districts; and (B) establishes a maximum dwelling unit density through a ratio of
16 number of units to lot area, including RH-3, RM, RC, C-2, Neighborhood Commercial, Named
17 Neighborhood Commercial, Chinatown Mixed Use Districts, and SoMa Mixed Use Districts;
18 but only if the SoMa Mixed Use District has a density measured by a maximum number of
19 dwelling units per square foot of lot area; (C) is in the Fillmore Neighborhood Commercial
20 Transit District and Divisadero Neighborhood Commercial Transit District; and (D) is not in the
21 North of Market Residential Special Use District, Planning Code Section 249.5 until the
22 Affordable Housing Incentive Study is completed at which time the Board will review whether
23 the North of Market Residential Special Use District should continue to be excluded from this
24 Program. The Study will explore opportunities to support and encourage the provision of
25 housing at the low, moderate, and middle income range in neighborhoods where density

1 controls have been eliminated. The goal of this analysis is to incentivize increased affordable
2 housing production levels at deeper and wider ranges of AMI and larger unit sizes in these
3 areas through 100% affordable housing development as well as below market rate units within
4 market rate developments; and,

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

9 ~~———— (4) includes at least 135% of the Base Density as calculated under Planning~~
10 ~~Code Section 206.5;~~

11 ~~———— (5) in Neighborhood Commercial Districts is not a project that involves merging~~
12 ~~lots that result in more than 125 feet in lot frontage for projects located; and~~

13 ~~———— (6) consists only of new construction, and excluding any project that includes an~~
14 ~~addition to an existing structure.~~

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

18 ~~———— (1) Comply with the Inclusionary Affordable Housing Program, Section 415 of~~
19 ~~this Code, by providing the applicable number of units on-site under Section 415.6. For~~
20 ~~projects not subject to the Inclusionary Affordable Housing Program, the applicable number of~~
21 ~~on-site units under this section shall be zero. If the Dial Alternative currently proposed in an~~
22 ~~ordinance in Board of Supervisors File No. 150911 is adopted and permits a project sponsor~~
23 ~~to provide more Inclusionary Units at higher AMIs than currently required (referred to as~~
24 ~~“dialing up”), a project sponsor may dial up and meet the requirements of this subsection (D).~~
25 ~~If the Dial Alternative of the Inclusionary Affordable Housing Program is ever amended to~~

1 allow a project sponsor to provide fewer Inclusionary Units at lower AMIs than currently
2 required (referred to as “dialing down”), then a Project cannot qualify for this Section 206.5 if it
3 elects to dial down;

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

11 ———(3) Demonstrate to the satisfaction of the Environmental Review Officer that the
12 Local Project does not:

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

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

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

18 ———(4) Inclusive of Inclusionary Units and Middle Income Units, provides either (A)
19 a minimum unit mix of at least 40% of all units as two bedroom units or larger; or (B) any unit
20 mix such that 50% of all bedrooms within the Local Project are provided in units with more
21 than one bedroom. Local Projects are not eligible to modify this requirement under Planning
22 Code Section 303, 328, or any other provision of this Code; and,

23 ———(5) Provides replacement units for any units demolished or removed that are
24 subject to the San Francisco Rent Stabilization and Arbitration Ordinance, San Francisco
25 Administrative Code Section 37, or are units qualifying for replacement as units being

1 occupied by households of Low or Very Low Income, consistent with the requirements of
2 Government Code section 65915(c)(3).

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

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

13 ——— (2) ~~Height.~~ Up to 20 additional feet above the height authorized for the Local
14 Project under the Height Map of the Zoning Map. This additional height may only be used to
15 provide up to two additional 10-foot stories to the project, or one additional story of no more
16 than 10 feet in height. Building features exempted from height controls under Planning Code
17 Section 260(b) shall be measured from the roof level of the highest story provided under this
18 section.

19 ——— (3) ~~Ground Floor Ceiling Height.~~ In addition to the permitted height allowed
20 under (d)(2), Local Projects with active uses on the ground floor as defined in Section
21 445.1(b)(2) shall receive up to a maximum of 5 additional feet in height above the height limit,
22 in addition to the additional 20 feet granted in subsection (2) above. However, the additional 5
23 feet may only be applied at the ground floor to provide a 14-foot (floor to ceiling) ceiling height
24 for nonresidential uses, and to allow walk-up dwelling units to be consistent with the Ground
25

1 Floor Residential Design Guidelines. This additional 5 feet shall not be granted to projects
2 that already receive such a height increase under Planning Code Section 263.20.

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

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

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

16 ~~————— (C) Off-Street Loading: Off-street loading spaces per Section 152 shall
17 not be required.~~

18 ~~————— (D) Automobile Parking: Up to a 75% reduction in the residential and
19 commercial parking requirements in Section 151 or any applicable special use district.~~

20 ~~————— (E) Open Space: Up to a 5% reduction in common open space if
21 provided under Section 135 or any applicable special use district.~~

22 ~~————— (F) Additional Open Space: Up to an additional 5% reduction in common
23 open space if provided under Section 135 or any applicable special use district, beyond the
24 5% provided in subsection (E) above.~~

1 ~~————— (G) Inner Courts as Open Space: In order for an inner court to qualify as~~
2 ~~useable common open space, Section 135(g)(2) requires it to be at least 20 feet in every~~
3 ~~horizontal dimension, and for the height of the walls and projections above the court on at~~
4 ~~least three sides (or 75 percent of the perimeter, whichever is greater) to be no higher than~~
5 ~~one foot for each foot that such point is horizontally distant from the opposite side of the clear~~
6 ~~space in the court. Local Affordable Housing Bonus Projects may instead provide an inner~~
7 ~~court that is at least 25 feet in every horizontal dimension, with no restriction on the heights of~~
8 ~~adjacent walls. All area within such an inner court shall qualify as common open space under~~
9 ~~Section 135.~~

10 ~~(e) Implementation.~~

11 ~~———— (1) Application. The following procedures shall govern the processing of a~~
12 ~~request for a project to qualify under the Local Program.~~

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

17 ~~————— (i) A full plan set, including a site plan, elevations, sections and~~
18 ~~floor plans, showing total number of units, number of and location of Inclusionary Units, and~~
19 ~~Middle Income Units; and a draft Regulatory Agreement;~~

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

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

4 ~~——— (5) Regulatory Agreements. Recipients of a Density Bonus, Incentive,~~
5 ~~Concession, waiver, or modification shall enter into a Regulatory Agreement with the City, as~~
6 ~~follows.~~

7 ~~——— (A) The terms of the agreement shall be acceptable in form and content to the~~
8 ~~Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director~~
9 ~~shall have the authority to execute such agreements.~~

10 ~~——— (B) Following execution of the agreement by all parties, the completed Density~~
11 ~~Bonus Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions~~
12 ~~filed and recorded on the Housing Project.~~

13 ~~——— (C) The approval and recordation of the Regulatory Agreement shall take place~~
14 ~~prior to the issuance of the First Construction Document. The Regulatory Agreement shall be~~
15 ~~binding to all future owners and successors in interest.~~

16 ~~——— (D) The Regulatory Agreement shall be consistent with the guidelines of the~~
17 ~~City's Inclusionary Housing Program and shall include at a minimum the following:~~

18 ~~——— (i) The total number of dwelling units approved for the Housing Project,~~
19 ~~including the number of Restricted Affordable Units, Inclusionary Units, Middle Income Units~~
20 ~~or other restricted units;~~

21 ~~——— (ii) A description of the household income group to be accommodated by~~
22 ~~the Restricted Affordable Units, and the standards for determining the corresponding~~
23 ~~Affordable Rent or Affordable Sales Price. The project sponsor must commit to completing a~~
24 ~~market survey of the area before marketing Middle Income Units. All affordable units that are~~
25 ~~affordable to households between 120 and 140% of AMI must be marketed at a price that is~~

1 at least 20% less than the current market rate for that unit size and neighborhood, in addition
2 to any other applicable Program requirements;

3 _____ (iii) The location, dwelling unit sizes (in square feet), and number of
4 bedrooms of the Restricted Affordable Units;

5 _____ (iv) Term of use restrictions for Restricted Affordable Units of at least 55
6 years for Moderate Income units and at least 55 years for Low and Very Low units;

7 _____ (v) A schedule for completion and occupancy of Restricted Affordable
8 Units;

9 _____ (vi) A description of any Concession, Incentive, waiver, or modification, if
10 any, being provided by the City;

11 _____ (vii) A description of remedies for breach of the agreement (the City may
12 identify tenants or qualified purchasers as third party beneficiaries under the agreement);

13 and

14 _____ (viii) Other provisions to ensure implementation and compliance with this
15 Section.

16 **SEC. 206.4.206.3 THE 100 PERCENT AFFORDABLE HOUSING BONUS PROGRAM.**

17 **(a) Purpose and Findings.** *This Section 206.34 describes the 100 Percent Affordable Housing*
18 *Bonus Program, or “100 Percent Affordable Housing Program”. In addition to the purposes*
19 *described in section Section 206.1, the purpose of the 100 Percent Affordable Housing Program is to*
20 *facilitate the construction and development of projects in which all of the residential units are*
21 *affordable to Low and Very-Low Income Households. Projects pursuing a development bonus under*
22 *this 100 Percent Affordable Program would exceed the City’s shared Proposition K housing goals that*
23 *50% of new housing constructed or rehabilitated in the City by 2020 be within the reach of working*
24 *middle class San Franciscans, and at least 33% affordable for low and moderate income households.*

1 **(b) Applicability.** A 100 Percent Affordable Housing Bonus Project under this Section 206.4
2 206.3 shall be a Housing Project that:

3 (1) contains three or more Residential Units, as defined in Section 102, not including
4 Density Bonus Units any additional units permitted though this Section 206 through a density
5 bonus;

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

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

8 (B) allows Residential Uses;

9 (3) is not seeking and receiving a density or development bonus under the provisions of
10 California Government Code Sections 65915 et seq., Planning Code Sections 207, 124(f), 304, 803.8
11 or any other state or local program that provides development bonuses; and

12 (4) meets the definition of a “100 Percent Affordable Housing Project” in Section
13 206.2;

14 (5) demonstrates to the satisfaction of the Environmental Review Officer that the
15 Project does not:

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

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

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

21 (6) does not demolish, remove, or convert any residential units and does not
22 include any other parcel that has any residential units that would be demolished, removed, or
23 converted as part of the project; and-

1 (7) includes, at the ground floor, neighborhood serving uses, including but not
2 limited to general and specialty grocery, health service, institutional, and public facilities, all as
3 defined in Section 102; and,

4 (8) is not located within the boundaries of the Northeastern Waterfront Area Plan
5 south of the centerline of Broadway.

6 (c) **Development Bonuses.** A 100 Percent Affordable Housing Bonus Project shall, at the
7 project sponsor's request, receive any or all of the following:

8 (1) **Priority Processing.** 100 Percent Affordable Housing Bonus Projects shall receive
9 Priority Processing.

10 (2) **Form based density.** Notwithstanding any zoning designation to the contrary,
11 density of the 100 Percent Affordable Housing Bonus Project shall not be limited by lot area but rather
12 by the applicable requirements and limitations set forth elsewhere in this Code. Such requirements and
13 limitations include, but are not limited to, height, including any additional height allowed by subsection
14 (c)(23) herein, Bulk, Setbacks, Open Space, Exposure and unit mix as well as applicable design
15 guidelines, elements and area plans of the General Plan and design review, including consistency with
16 the Affordable Housing Bonus Program Design Guidelines, referenced in Section 328, as determined
17 by the Planning Department.

18 (3) **Height.** 100 Percent Affordable Housing Bonus Projects shall be allowed up to 30
19 additional feet, not including allowed exceptions per Section 260(b), above the property's height
20 district limit in order to provide three additional stories of residential use. This additional height may
21 only be used to provide up to three additional 10-foot stories to the project, or one additional story of
22 not more than 10 feet in height

23 (4) **Ground Floor Ceiling Height.** In addition to the permitted height allowed under
24 subsection (c)(3), 100 Percent Affordable Housing Bonus Projects with active ground floors as defined
25 in Section 145.1(b)(2) shall receive one additional foot of height, up to a maximum of an additional five

1 feet at the ground floor, exclusively to provide a minimum 14-foot (floor to ceiling) ground floor ceiling
2 height.

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

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

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

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

16 (D) **Automobile Parking:** Up to a 100% reduction in the minimum off-street
17 residential and commercial automobile parking requirement under Article 1.5 of this Code.

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

20 (F) **Inner Courts as Open Space:** In order for an inner court to qualify as
21 useable common open space, Section 135(g)(2) requires it to be at least 20 feet in every horizontal
22 dimension, and for the height of the walls and projections above the court on at least three sides (or
23 75% percent of the perimeter, whichever is greater) to be no higher than one foot for each foot that
24 such point is horizontally distant from the opposite side of the clear space in the court. 100 Percent%
25 Affordable Housing Bonus Projects may instead provide an inner court that is at least 25 feet in every

1 horizontal dimension, with no restriction on the heights of adjacent walls. All area within such an
2 inner court shall qualify as common open space under Section 135.

3 **(d) Implementation.**

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

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

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

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

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

16 (B) Documentation that the applicant has provided written notification to all
17 existing commercial or residential tenants that the applicant intends to develop the property pursuant
18 to this section 206.3. Any affected commercial tenants shall be given priority processing similar to the
19 Department's Community Business Priority Processing Program, as adopted by the San Francisco
20 Planning Commission on February 12, 2015 under Resolution Number 19323 to support relocation of
21 such business in concert with access to relevant local business support programs. In no case may an
22 applicant receive a site permit or any demolition permit prior to 18 months from the date of
23 written notification required by this subsection 206.3(d)(1)(B).

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

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

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

9 ~~206.5. STATE RESIDENTIAL DENSITY BONUS PROGRAM: ANALYZED~~

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

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

1 (b) ~~Applicability:~~

2 ~~———— (1) A Housing Project that meets all of the requirements of this subsection (b)(1)~~
3 ~~or is a Senior Housing Project meeting the criteria of (b)(2) shall be an Analyzed State Density~~
4 ~~Bonus Project or an “Analyzed Project” for purposes of Section 206 et seq. A Housing Project~~
5 ~~that does not meet all of the requirements of this subsection (b), but seeks a density bonus~~
6 ~~under State law may apply for a density bonus under Section 206.6 as an Individually~~
7 ~~Requested State Density Bonus Project. To qualify for the Analyzed State Density Bonus~~
8 ~~Program a Housing Project must meet all of the following:~~

9 ~~———— (A) contain five or more residential units, as defined in Section 102, not~~
10 ~~including any Group Housing as defined in Section 102, efficiency dwelling units with reduced~~
11 ~~square footage defined in Section 318, and Density Bonus Units permitted through this~~
12 ~~Section 206.5 or other density program;~~

13 ~~———— (B) is not seeking and receiving a density or development bonus under~~
14 ~~Section 207; the Local Affordable Housing Bonus Program, Section 206.3; the 100 Percent~~
15 ~~Affordable Housing Bonus Program, Section 206.4; or any other local or State density bonus~~
16 ~~program that provides development bonuses;~~

17 ~~———— (C) for projects located in Neighborhood Commercial Districts is not~~
18 ~~seeking to merge lots that result in more than 125 in lot frontage on any one street;~~

19 ~~———— (D) is located in any zoning district that: (i) is not designated as an RH-1~~
20 ~~or RH-2 Zoning District; (ii) establishes a maximum dwelling unit density through a ratio of~~
21 ~~number of units to lot area, including but not limited to, RH-3, RM, RC, C-2, Neighborhood~~
22 ~~Commercial, Named Neighborhood Commercial, Chinatown Mixed Use Districts, and SoMa~~
23 ~~Mixed Use Districts, but only if the SoMa Mixed Use District has a density measured by a~~
24 ~~maximum number of dwelling units per square foot of lot area; (iii) is in the Fillmore~~
25 ~~Neighborhood Commercial Transit District and Divisadero Neighborhood Commercial Transit~~

1 District; and (D) is not in the North of Market Residential Special Use District, Planning Code
2 Section 249.5 until the Affordable Housing Incentive Study is completed at which time the
3 Board will review whether the North of Market Residential Special Use District should continue
4 to be excluded from this Program. The Study will explore opportunities to support and
5 encourage the provision of housing at the low, moderate, and middle income range in
6 neighborhoods where density controls have been eliminated. The goal of this analysis is to
7 incentivize increased affordable housing production levels at deeper and wider ranges of AMI
8 and larger unit sizes in these areas through 100% affordable housing development as well as
9 below market rate units within market rate developments; and

10 ——— (E) is providing all Inclusionary Units as On-site Units under Section
11 415.6. If the Dial Alternative currently proposed in an ordinance in Board of Supervisors File
12 No. 150911 is adopted and permits a project sponsor to provide more Inclusionary Units at
13 higher AMIs than currently required (referred to as “dialing up”), a project sponsor may dial up
14 and meet the requirements of this subsection (D). If the Dial Alternative of the Inclusionary
15 Affordable Housing Program is ever amended to allow a project sponsor to provide fewer
16 Inclusionary Units at lower AMIs than currently required (referred to as “dialing down”), then a
17 Project cannot qualify for this Section 206.5 if it elects to dial down;

18 ——— (F) includes a minimum of nine foot ceilings on all residential floors;

19 ——— (G) is seeking only Concessions or Incentives set forth in subsection
20 (e)(4);

21 ——— (H) is seeking height increases only in the form of a waiver as described
22 in subsection (c)(5); and,

23 ——— (I) provides replacement units for any units demolished or removed that
24 are subject to the San Francisco Residential Rent Stabilization and Arbitration Ordinance, San
25 Francisco Administrative Code Section 37, or are units qualifying for replacement as units

1 being occupied by households of low or very low income, consistent with the requirements of
 2 Government Code section 65915(c)(3).

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

6 ~~(c) Development Bonuses. All Analyzed State Law Density Bonus Projects shall~~
 7 ~~receive, at the project sponsor’s written request, any or all of the following:~~

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

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

14 Table 206.5A

15 Density Bonus Summary — Analyzed

A Restricted Affordable Units or Category	B Minimum Percentage of Restricted Affordable Units	C Percentage of Density Bonus Granted	D Additional Bonus for Each 1% Increase In Restricted Affordable Units	E Percentage of Restricted Units Required for Maximum 35% Density Bonus
Very Low Income	5%	20%	2.50%	11%
Lower Income	10%	20%	1.50%	20%
Moderate Income	10%	5%	1%	40%

1	Senior Citizen Housing, as	100%	50%	-----	-----
2	defined in § 102, and				
3	meeting the requirements				
4	of § 202.2(f).				

5 Note: A density bonus may be selected from more than one category, up to a maximum of
6 35% of the Maximum Allowable Residential Density.

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

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

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

19 (C) In no case shall a Housing Project be entitled to a Density Bonus of
20 more than 35%, unless it is a Senior Housing Project meeting the requirements of Section
21 202.2(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
24 bonuses shall be calculated as a percentage of the Maximum Allowable Residential Density.

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

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

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

23 (C) ~~Off-Street Loading: off-street loading spaces under Section 152 shall~~
24 ~~not be required.~~

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

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

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

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

15 Step one: ~~Calculate Base Density and Bonus Density Limits~~

16 ~~Calculate Base Density (BD), as defined in Section 206.2.~~

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

20 Step two: ~~Calculate Permitted Envelope (PE). Buildable envelope available~~
21 ~~under existing height and bulk controls.~~

22 ~~PE equals lot area multiplied by permitted lot coverage, where lot coverage~~
23 ~~equals .75, or .8 if the developer elects to request a rear yard modification under Section~~
24 ~~206.5(c)(4)(A), multiplied by existing height limit (measured in number of stories), minus one~~
25 ~~story for projects in districts where non-residential uses are required on the ground floor, and~~

1 minus any square footage subject to bulk limitations (for parcels that do not have an X bulk
2 designation).

3 Step three: Calculate Bonus Envelope (BE) Residential envelope necessary to
4 accommodate additional density ("Bonus envelope" or "BE")

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

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

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

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

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

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

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

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

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

- 1 ~~—— (3) A list of the requested Concessions and Incentives from Section 206.5(c)(4);~~
- 2 ~~—— (4) If a waiver or modification of height is requested under Section 206.5(c)(5),~~
3 ~~a calculation demonstrating how the project qualifies for such waiver under the formula;~~
- 4 ~~—— (5) A full plan set including site plan, elevations, sections, and floor plans,~~
5 ~~number of market rate units, Restricted Affordable Units, and Density Bonus units within the~~
6 ~~proposed Housing Project. The location of all units must be approved by the Planning~~
7 ~~Department before the issuance of the building permit;~~
- 8 ~~—— (6) Level of affordability of the Restricted Affordable Units and a draft~~
9 ~~Regulatory Agreement;~~
- 10 ~~—— (7) The number of rental dwelling units which are on the property, or if the~~
11 ~~dwelling units have been vacated or demolished in the five year period preceding the~~
12 ~~application, have been and which were subject to a recorded covenant, ordinance, or law that~~
13 ~~restricts rents to levels affordable to persons and families of lower or very low income; subject~~
14 ~~to any other form of rent or price control through the City or other public entity's valid exercise~~
15 ~~of its police power; or occupied by lower or very low income households; and~~
- 16 ~~—— (8) If the property includes a parcel or parcels in which dwelling units under~~
17 ~~subsection (7) are located or were located in the five year period preceding the application,~~
18 ~~the type and size of those units, and the incomes of the persons or families occupying those~~
19 ~~units.~~
- 20 ~~—— (9) Documentation that the applicant has provided written notification to all~~
21 ~~existing commercial or residential tenants that the applicant intends to develop the property~~
22 ~~pursuant to this section. Any affected commercial tenants shall be given priority processing~~
23 ~~similar to the Department's Community Business Priority Processing Program, as adopted by~~
24 ~~the San Francisco Commission on February 12, 2015 under Resolution Number 19323 to~~
25

1 support relocation of such business in concert with access to relevant local business support
2 programs.

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

6 ~~———— (1) Before approving an application for an Analyzed Project, the Planning~~
7 ~~Department or Commission shall make written findings that the Housing Project is qualified as~~
8 ~~an Analyzed State Density Bonus Project.~~

9 ~~———— (2) The review procedures for an Analyzed Project, including notice, hearings,~~
10 ~~and appeal, shall be the procedures applicable to the Housing Project regardless of whether it~~
11 ~~is applying for a State Density Bonus under this Section 206.5. However, any notice shall~~
12 ~~specify that the Housing Project is seeking a Development Bonus and shall provide a~~
13 ~~description of the Development Bonuses requested. Analyzed Projects shall also be reviewed~~
14 ~~for consistency with the Affordable Housing Bonus Program Design Guidelines.~~

15 (f) ~~Regulatory Agreements.~~ Recipients of a Density Bonus, Incentive, Concession,
16 waiver, or 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~~
18 ~~Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director~~
19 ~~shall have the authority to execute such agreements.~~

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

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

1 ~~_____ (4) The Regulatory Agreement shall be consistent with the guidelines of the~~
2 ~~City's 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, Inclusionary Units, Middle Income Units~~
5 ~~or other restricted units;~~

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

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

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

13 ~~_____ (E) A schedule for completion and occupancy of Restricted Affordable~~
14 ~~Units;~~

15 ~~_____ (F) A description of any Concession, Incentive, waiver, or modification, if~~
16 ~~any, being provided by the City;~~

17 ~~_____ (G) A description of remedies for breach of the agreement (the City may~~
18 ~~identify tenants or qualified purchasers as third party beneficiaries under the agreement);~~

19 ~~and~~

20 ~~_____ (H) Other provisions to ensure implementation and compliance with this~~
21 ~~Section.~~

22 ~~SEC. 206.6. STATE DENSITY BONUS PROGRAM: INDIVIDUALLY REQUESTED.~~

23 ~~(a) Purpose and Findings: This Section 206.6 details the review, analysis and~~
24 ~~approval process for any project seeking a density bonus that is consistent with State Law,~~
25 ~~Government Code section 65915 et seq., but is not consistent with the pre-vetted menu of~~

1 concessions, incentives or waivers, or other requirements established in Section 206.5 as
2 analyzed by the Planning Department in coordination with David Baker and Seifel Consulting,
3 and shall be known as the Individually Requested State Density Bonus Program.

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

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

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

17 ——— (2) is not seeking and receiving a density or development bonus under Section
18 207; the Local Affordable Housing Bonus Program, Section 206.3; the 100 Percent Affordable
19 Housing Bonus Program, Section 206.4; Section 304, or any other local or state bonus
20 program that provides development bonuses.

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

23 ——— (4) provides replacement units for any units demolished or removed that are
24 subject to the San Francisco Rent Stabilization and Arbitration Ordinance, San Francisco
25 Administrative Code Section 37, or are units qualifying for replacement as units being

1 occupied by households of low or very low income, consistent with the requirements of
 2 Government Code section 65915(c)(3).

3 ~~———— (5) Is in any zoning district except for RH-1 or RH-2, unless the Code permits~~
 4 ~~the development of a project of 5 units or more on a site or sites.~~

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

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

10 Table 206.6 A

11 Density Bonus Summary—Individually Requested Project

12 Restricted Affordable Units or Category	13 Minimum Percentage of Restricted Affordable Units	14 Percentage of Density Bonus Granted	15 Additional Bonus for Each 1% Increase In Restricted Affordable Units	16 Percentage of Restricted Units Required for Maximum 35% Density Bonus
17 Very Low Income	5%	20%	2.50%	11%
18 Lower Income	10%	20%	1.50%	20%
19 Moderate Income	10%	5%	1%	40%
20 Senior Citizen Housing	100%	20%	-----	-----

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

23 ~~———— In calculating density bonuses under this subsection 206.6(c)(1) the following~~
 24 ~~shall apply:~~

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

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

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

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

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

23 (F) ~~In accordance with state law, neither the granting of a Concession,~~
24 ~~Incentive, waiver, or modification, nor the granting of a Density Bonus, shall be interpreted, in~~

1 and of itself, to require a general plan amendment, zoning change, variance, or other
2 discretionary approval.

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

5 ~~————— (H) Certain other types of development activities are specifically eligible
6 for a development bonuses pursuant to State law, including land donation under
7 Government Code Section 65915(g), condominium conversions under Government Code
8 section 65915.5 and qualifying mobile home parks under Government Code section
9 65915(b)(1)(C). Such projects shall be considered Individually Requested State Density
10 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
13 in Table 206.6B. For purposes of this Section 206.6, Concessions and Incentives as used
14 interchangeably shall mean such regulatory concessions as specified in Government Code
15 Section 65915(k) to include:~~

16 ~~————— (A) A reduction of site Development Standards or architectural design
17 requirements which exceed the minimum applicable building standards approved by the
18 State Building Standards Commission pursuant to Part 2.5 (commencing with Section
19 48901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction
20 in setback, coverage, and/or parking requirements which result in identifiable, financially
21 sufficient and actual cost reductions;~~

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

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

4 _____ Table 206.6B

5 **Concessions and Incentives Summary—Individually Requested Project**

Target Group	Restricted Affordable Units		
Very Low Income	5%	10%	15%
Lower Income	10%	20%	30%
Moderate Income (Common Interest Development)	10%	20%	30%
Maximum Incentive(s)/Concession(s)	4	2	3

6
7
8
9
10
11 Notes: 1. Concessions or Incentives may be selected from only one category (very low,
12 lower, or moderate). 2. Common Interest Development is defined in California Civil Code
13 Section 4100.

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

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

23 or

24 _____ (B) The Concession or Incentive would have a specific adverse impact,
25 as defined in Government Code Section 65589.5(d)(2) upon public health and safety or the
physical environment or any real property that is listed in the California Register of Historical

1 Resources and for which there is no feasible method to satisfactorily mitigate or avoid the
2 specific adverse impact without rendering the Housing Project unaffordable to low- and
3 moderate-income households.

4 _____ (C) The Concession or Incentive would be contrary to state or federal
5 law.

6 _____ (4) Waiver or Modification. An applicant may apply for a waiver or modification
7 of Development Standards that will have the effect of physically precluding the construction of
8 a Housing Project at the densities or with the Concessions or Incentives permitted by this
9 Section 206.6. The Planning Commission will not grant a waiver or modification under this
10 Section unless it is necessary to achieve the additional density or the Concessions or
11 Incentives permitted by this Section 206.6. The developer must submit sufficient information
12 as determined by the Planning Department demonstrating that Development Standards that
13 are requested to be waived or modified will have the effect of physically precluding the
14 construction of a Housing Project meeting the criteria of this Section 206.6 at the densities or
15 with the Concessions or Incentives permitted. The Planning Commission shall hold a hearing
16 to determine if the project sponsor has demonstrated that the waiver is necessary. The
17 Planning Commission may deny a waiver if it finds on the basis of substantial evidence that:

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

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

24 _____ (C) The Waiver would have a specific adverse impact, as defined in
25 Government Code Section 65589.5(d)(2) upon public health and safety or the physical

1 environment or any real property that is listed in the California Register of Historical
2 Resources and for which there is no feasible method to satisfactorily mitigate or avoid the
3 specific adverse impact without rendering the Housing Project unaffordable to low- and
4 moderate-income households; or,

5 ~~————— (D) The Waiver would be contrary to state or federal law.~~

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

9 (d) Application. An application for a Density Bonus, Incentive, Concession, or waiver
10 under this Section 206.6 shall be submitted with the first application for approval of a Housing
11 Project and shall be processed concurrently with all other applications required for the
12 Housing Project. The application shall be on a form prescribed by the City and, in addition to
13 any information required for other applications, shall include the following information:

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

17 ~~———— (2) A plan set sufficient for the Planning Department to determine the project~~
18 ~~site's Maximum Allowable Residential Density. The project sponsor shall submit plans for a~~
19 ~~base project that demonstrates a Code-complying project on the Housing Project site without~~
20 ~~use of a modification, Conditional Use Authorization, Variance, Planned Unit Development, or~~
21 ~~other exception from the Planning Code. Such plans shall include similar detail to the~~
22 ~~proposed Housing Project. The project sponsor shall demonstrate that site constraints do not~~
23 ~~limit the Maximum Allowable Residential Density for the base project in practice. If the project~~
24 ~~sponsor cannot make such a showing, the Zoning Administrator shall determine whether the~~
25 ~~Maximum Allowable Residential Density shall be adjusted for purposes of this Section.~~

1 ~~——— (3) The zoning district designations, Maximum Allowable Residential Density,~~
2 ~~assessor's parcel number(s) of the project site, and a description of any Density Bonus,~~
3 ~~Concession or Incentive, or waiver requested;~~

4 ~~——— (4) If a Concession or Incentive is requested that is not included within the~~
5 ~~menu of Incentives/Concessions set forth in subsection 206.5(c), a submittal including~~
6 ~~financial information or other information providing evidence that the requested Concessions~~
7 ~~and Incentives result in identifiable, financially sufficient, and actual cost reductions required in~~
8 ~~order to provide for affordable housing costs as defined in Health and Safety Code Section~~
9 ~~50052.5, or for rents for the Restricted Affordable Units to be provided as required under this~~
10 ~~Program. The cost of reviewing any required financial information, including, but not limited~~
11 ~~to, the cost to the City of hiring a consultant to review the financial data, shall be borne by the~~
12 ~~applicant. The financial information shall include all of the following items:~~

13 ~~——— (A) The actual cost reduction achieved through the Concession or~~
14 ~~Incentive;~~

15 ~~——— (B) Evidence that the cost reduction allows the applicant to provide~~
16 ~~affordable rents or affordable sales prices; and~~

17 ~~——— (C) Any other information requested by the Planning Director. The~~
18 ~~Planning Director may require any financial information including information regarding capital~~
19 ~~costs, equity investment, debt service, projected revenues, operating expenses, and such~~
20 ~~other information as is required to evaluate the financial information;~~

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

1 ~~_____ (A) Why the Development Standard would physically preclude the~~
2 ~~construction of the Development with the Density Bonus, Incentives, and Concessions~~
3 ~~requested.~~

4 ~~_____ (B) Any other information requested by the Planning Director as is~~
5 ~~required to evaluate the request;~~

6 ~~_____ (6) Level of affordability of the Restricted Affordable Units and a draft~~
7 ~~Regulatory Agreement;~~

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

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

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

24 ~~_____ (10) If a Density Bonus or Concession is requested for a land donation under~~
25 ~~Government Code Section 65915(g), the application shall show the location of the land to be~~

1 dedicated, provide proof of site control, and provide evidence that all of the requirements and
2 each of the findings included in Government Code Section 65915(g) can be made;

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

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

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

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

16 ——— (A) The Housing Project is eligible for the Affordable Housing Bonus
17 Program.

18 ——— (B) The Housing Project has demonstrated that any Concessions or
19 Incentives are required in order to provide for affordable housing costs, as defined in Section
20 50052.5 of the California Health and Safety Code, or for rents for the targeted units, based
21 upon the financial analysis and documentation provided.

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

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

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

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

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

14 ~~————— (A) The Concession, Incentive, waiver or modification is not required to~~
15 ~~provide for the affordability levels required for Restricted Affordable Units;~~

16 ~~————— (B) The Concession, Incentive, waiver or modification would have a~~
17 ~~specific, adverse impact upon public health or safety or the physical environment or on real~~
18 ~~property listed in the California Register of Historic Resources, and there is no feasible~~
19 ~~method to satisfactorily mitigate or avoid the specific adverse impact without rendering the~~
20 ~~Housing Project unaffordable to Low and Moderate Income households. For the purpose of~~
21 ~~this subsection, "specific adverse impact" means a significant, quantifiable, direct, and~~
22 ~~unavoidable impact, based on objective, identified, written public health or safety standards,~~
23 ~~policies, or conditions as they existed on the date that the application for the Housing Project~~
24 ~~was deemed complete; or~~

1 ~~————— (C) The Concession, Incentive, waiver or modification is contrary to state~~
2 ~~or federal law.~~

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

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

14 ~~(f) Regulatory Agreements. Recipients of a Density Bonus, Incentive, Concession,~~
15 ~~waiver, or modification shall enter into a Regulatory Agreement with the City, as follows.~~

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

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

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

1 ~~_____ (4) The Regulatory Agreement shall be consistent with the guidelines of the~~
2 ~~City's 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, Inclusionary Units, Middle Income Units~~
5 ~~or other restricted units;~~

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

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

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

13 ~~_____ (E) A schedule for completion and occupancy of Restricted Affordable~~
14 ~~Units;~~

15 ~~_____ (F) A description of any Concession, Incentive, waiver, or modification, if~~
16 ~~any, being provided by the City;~~

17 ~~_____ (G) A description of remedies for breach of the agreement (the City may~~
18 ~~identify tenants or qualified purchasers as third party beneficiaries under the agreement);~~

19 ~~and~~

20 ~~_____ (H) Other provisions to ensure implementation and compliance with this~~
21 ~~Section.~~

22 ~~SEC. 206.7. CHILD CARE FACILITIES.~~

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

1 (b) ~~When an applicant proposes to construct a Housing Project that is eligible for a~~
2 ~~Density Bonus under Section 206.6 and includes a Child Care Facility that will be located on~~
3 ~~the premises of, as part of, or adjacent to, the Housing Project, all of the provisions of this~~
4 ~~Section 206.7 shall apply and all of the provisions of Section 206.6 shall apply, except as~~
5 ~~specifically provided in this Section 206.7.~~

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

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

11 ~~—— (2) An additional Concession or Incentive that contributes significantly to the~~
12 ~~economic feasibility of the construction of the Child Care Facility.~~

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

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

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

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

4 **SEC. 206.8206.4. 100 PERCENT AFFORDABLE HOUSING BONUS PROGRAM**

5 **EVALUATION.**

6 (a) Within one year from the effective date of Section 206 and following, the Planning
7 Department shall provide an informational presentation to the Planning Commission, and any other
8 City agency at their request, presenting an overview of all projects that request or receive development
9 bonuses under the Local Affordable Housing Bonus Program, the 100 Percent Affordable Housing
10 Bonus Program and the Analyzed and Individually Requested State Density Bonus Program
11 (“the Bonus Programs”).

12 (b) Annual Reporting. The Planning Department, in coordination with MOHCD, shall
13 include information on projects which request and receive development bonuses under the Bonus
14 Programs in any relevant Department publications regarding the development of housing in
15 San Francisco, including, but not limited to, the Quarterly Pipeline Report, the Housing
16 Inventory and the Housing Balance Report.

17 - (c) Data Report Report Contents. The Housing Inventory Planning Department, in
18 coordination with MOHCD, shall prepare a Data Report reviewing the Bonus Programs every
19 five years, beginning five years from the Effective Date of Section 206 and following. This
20 report shall include, but not be limited to, information on the:

21 - (1) number of projects utilizing the Bonus Programs;

22 - (2) number of units approved and constructed under the Bonus Programs and the AMI
23 levels of such units;

24 - (3) number of additional affordable units in excess of that otherwise required by
25 Section 415;

- 1 - (43) geographic distribution of projects, including the total number of units in each
- 2 project, utilizing the Bonus Programs;
- 3 - (54) number of larger unit types, including the number of 3-bedroom units;
- 4 - (65) square feet of units by bedroom count;
- 5 - (76) number of projects with 9 nine or fewer units that participate; and
- 6 - (87) Number of appeals of projects in the Bonus Program and stated reason for appeal.

7 (d) Program Evaluation and Update.:

8 (1) Purpose and Contents. In coordination with the Data Report, Every five years,

9 beginning five years from the Effective-effective Datedate of Section 206, the Department shall

10 prepare a Program Evaluation and Update. The Program Evaluation and Update shall include an

11 analysis of the Bonus Programs Program's effectiveness as it relates to City policy goals including,

12 but not limited to Proposition K (November 2014) and the Housing Element. The Program

13 Evaluation and Update shall include a review of all of the following:

14 (A) Target income levels for the Local Affordable Housing Bonus

15 Program in relation to market values and assessed affordable housing needs.

16 (B) Feasibility of the Local Affordable Housing Bonus Program, in

17 relations to housing policy goals, program production, and current market conditions.

18 (CA) Requested and granted concessions and incentives, including

19 consideration of whether the menu of zoning modification or concessions and incentives set forth in

20 Section 206.3(c)(5)(d)(4), 206.4(e)(5) and 206.5(e)(4) respond to the needs of projects seeking

21 approvals under the Bonus Programs; consideration of whether the elected zoning modifications or

22 incentives and concessions result in a residential project that responds to the surrounding

23 neighborhood context; and review and recommendation for additions or modifications to the list of

24 zoning modifications or concessions and incentives in 206.3(d)(4)(c)(5), 206.4(e)(5) and

25 206.5(e)(4).

1 (DB) Geography and neighborhood specific considerations. Review and
2 analysis of where Bonus Program projects are proposed and approved, including an analysis of land
3 values, zoning, height controls, and neighborhood support.

4 (EC) Review of the process for considering projects under the Bonus Program,
5 including a review of Section 328, the appeal process, and other relevant process considerations.

6 (2) Public Hearing: The Program Evaluation and Update shall be prepared no less
7 than every five years, beginning five years from the ~~Effective Date~~ effective date of this
8 Ordinance Section 206, and may be completed as a series of reports and in coordination with
9 ongoing monitoring of affordable housing policies, or feasibility analyses. The Planning Commission
10 shall hold a hearing on the Program Evaluation and Update and any recommendations for
11 modification to any of the Bonus Programs.

12 (e) Program Expansion Report. The Board of Supervisors directs the Planning
13 Department and MOHCD to research, analyze and provide recommendations for further
14 density and development bonuses for 100% affordable or mixed-income developments. The
15 Program Expansion Report shall be published within one year of the effective date of Section
16 206.

17 (f) By January 1, 2017, the Planning Department, in consultation with the Office of
18 Economic and Workforce Development, the Office of Small Business, and the Mayor's Office
19 of Housing and Community Development, non-profit housing developers, and the small
20 business community, shall report on best practices around small business relocation,
21 including but not limited to developing a small business relocation fee or program to provide
22 relocation services and support for all projects entitled under the 100 Percent Affordable
23 Housing Bonus Program.

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

1 **SEC. 328. LOCAL AND 100 PERCENT AFFORDABLE HOUSING BONUS PROJECT**

2 **AUTHORIZATION**

3 *(a) Purpose. The purpose of this Section 328 is to ensure that all Local and 100 Percent*
4 *Affordable Housing Bonus projects under Section 206.3 or 206.4 are reviewed in coordination with*
5 *priority processing available for certain projects with greater levels of 100 Percent% affordable*
6 *housing. While most projects in the 100 Percent Affordable Housing Bonus Program will likely be*
7 *somewhat larger than their surroundings in order to facilitate higher levels of affordable housing, the*
8 *Planning Commission and Department shall ensure that each project is consistent with the Affordable*
9 *Housing Bonus Design Guidelines and any other applicable design guidelines, as adopted and*
10 *periodically amended by the Planning Commission, so that projects respond to their surrounding*
11 *context, while still meeting the City's affordable housing goals.*

12 *(b) Applicability. This section Section 328 applies to all qualifying Local and 100 Percent*
13 *Affordable Housing Bonus Projects that meet the requirements described in Planning Code Sections*
14 *206.3 or 206.4.*

15 *(c) Planning Commission Design Review: The Planning Commission shall review and*
16 *evaluate all physical aspects of a Local or 100 Percent Affordable Housing Bonus Project at a public*
17 *hearing. The Planning Commission recognizes that most qualifying projects will need to be larger in*
18 *height and mass than surrounding buildings in order to achieve the 100% Affordable Housing Bonus*
19 *Program's affordable housing goals. However, the Planning Commission may, consistent with the*
20 *100% Affordable Housing Bonus Program Design Guidelines, and any other applicable design*
21 *guidelines, and upon recommendation from the Planning Director, make minor modifications to a*
22 *project to reduce the impacts of such differences in scale.*

23 *Additionally, as set forth in subsection (d) below, the Planning Commission may grant minor*
24 *exceptions to the provisions of this Code. However, such exceptions should only be granted to allow*
25 *building mass to appropriately shift to respond to surrounding context, and only when such*

1 modifications do not substantially reduce or increase the overall building envelope permitted by the
2 Program under Section 206.3 ~~or 206.4~~. All modifications and exceptions should be consistent with the
3 100% Affordable Housing Bonus Program Design Guidelines and any other applicable design
4 guidelines. In case of a conflict with other applicable design guidelines, the 100% Affordable Housing
5 Bonus Program Design Guidelines shall prevail.

6 The Planning Commission may require these or other modifications or conditions, or
7 disapprove a project, in order to achieve the objectives and policies of the 100% Affordable Housing
8 Bonus Program or the purposes of this Code. This review shall limited to design issues including the
9 following:

10 (1) whether the bulk and massing of the building is consistent with the 100%
11 Affordable Housing Bonus Design Guidelines.

12 (2) whether building design elements including, but not limited to architectural
13 treatments, façade design, and building materials, are consistent with the 100% Affordable Housing
14 Bonus Program Design Guidelines and any other applicable design guidelines.

15 (3) whether the design of lower floors, including building setback areas, commercial
16 space, townhouses, entries, utilities, and parking and loading access is consistent with the 100%
17 Affordable Housing Bonus Program Design Guidelines, and any other applicable design guidelines.

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

21 (d) **Exceptions.** As a component of the review process under this Section 328, the Planning
22 Commission may grant minor exceptions to the provisions of this Code as provided for below, in
23 addition to the development bonuses granted to the project in Section 206.3(c)(d) ~~or 206.4(c)~~. Such
24 exceptions, however, should only be granted to allow building mass to appropriately shift to respond to
25 surrounding context, and only when the Planning Commission finds that such modifications: 4) do not

1 substantially reduce or increase the overall building envelope permitted by the Program under Sections
2 206.3, or 206.4; and 2) also are consistent with the 100 Percent% Affordable Housing Bonus Design
3 Guidelines. These exceptions may include:

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

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

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

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

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

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

17 (e) **Required Findings.** In its review of any project pursuant to this Section 328, the
18 Planning Commission shall make the following findings:

19 (1) the use as proposed will comply with the applicable provisions of this Code and is
20 consistent with the General Plan;

21 (2) the use as proposed will provide development that is in conformity with the stated
22 purpose of the applicable Use District; and,

23 (3) the use as proposed will contribute to the City's affordable housing goals as stated
24 in the General Plan.

1 (f) If a ~~Local Affordable Housing Bonus Program Project~~ or 100 Percent Affordable

2 Housing Bonus Project otherwise requires a conditional use authorization due only to (1) a specific

3 land use, (2) use size limit, or (3) requirement adopted by the voters, then the Planning Commission

4 shall make all findings and consider all criteria required by this Code for such use or use size as part

5 of this ~~Local and~~ 100 Percent Affordable Housing Bonus Project Authorization.

6 (fg) Hearing and Decision.

7 (1) **Hearing.** The Planning Commission shall hold a public hearing for all projects that

8 are subject to this Section ~~328~~.

9 (2) **Notice of Hearing.** Notice of such hearing shall be provided pursuant to the same

10 requirements for Conditional Use requests, as set forth in Section 306.3 and 306.8.

11 (3) **Director's Recommendations on Modifications and Exceptions.** At the hearing,

12 the Planning Director shall review for the Commission key issues related to the project based on the

13 review of the project pursuant to ~~Subsection~~subsection (c) and recommend to the Commission

14 modifications, if any, to the project and conditions for approval as necessary. The Director shall also

15 make recommendations to the Commission on any proposed exceptions pursuant to ~~Subsection~~

16 subsection (d).

17 (4) **Decision and Imposition of Conditions.** The Commission, after public hearing and,

18 after making appropriate findings, may approve, disapprove or approve subject to conditions, the

19 project and any associated requests for exception. As part of its review and decision, the Planning

20 Commission may impose additional conditions, requirements, modifications, and limitations on a

21 proposed project in order to achieve the objectives, policies, and intent of the General Plan or of this

22 Code.

23 (5) **Appeal.** The decision of the Planning Commission may be appealed to the Board of

24 Appeals ~~Supervisors~~ by any person aggrieved within ~~15~~ 30 days after the date of the decision by

25 filing a written notice of appeal with ~~that body~~ the Board of Supervisors, setting forth wherein it is

1 alleged that there was an error in the interpretation of the provisions of this Code Section or abuse of
2 discretion on the part of the Planning Commission. The procedures and requirements for
3 conditional use appeals in Section 308.1(b) and (c) shall apply to appeals to the Board of
4 Supervisors under this Section 328.

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

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

10
11 Section 4. The Planning Code is hereby amended by ~~amending~~ revising Sections 250,
12 260, and 352 to read as follows:

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

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

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

20 * * * *

21
22 **SEC. 260. HEIGHT LIMITS; MEASUREMENT.**

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

* * * *

SEC. 352. COMMISSION AND ZONING ADMINISTRATOR HEARING

APPLICATIONS.

* * * *

(o) 100% Affordable Housing Bonus Program (Section 206 and following). The initial fee amount is not to exceed 50% of the construction cost. A \$120 surcharge shall be added to the fees for a conditional use or planned unit development to compensate the City for the costs of appeals to the Board of Supervisors.

<u>Estimated Construction Cost</u>	<u>Initial Fee</u>
<u>No construction cost, excluding extension of hours</u>	<u>\$1,012.00</u>
<u>No construction cost, extension of hours</u>	<u>\$724.00</u>
<u>Wireless Telecommunications Services (WTS)</u>	<u>\$5,061.00</u>
<u>\$1.00 to \$9,999.00</u>	<u>\$724.00</u>
<u>\$10,000.00 to \$999,999.00</u>	<u>\$724.00 plus 0.328% of cost over \$10,000.00</u>
<u>\$1,000,000.00 to \$4,999,999.00</u>	<u>\$4,033.00 plus 0.391% of cost over \$1,000,000.00</u>
<u>\$5,000,000.00 to \$9,999,999.00</u>	<u>\$19,986.00 plus 0.328% of cost over \$5,000,000.00</u>
<u>\$10,000,000.00 to \$19,999,999.00</u>	<u>\$36,701.00 plus 0.171% of cost over \$10,000,000.00</u>
<u>\$20,000,000.00 or more</u>	<u>\$54,120.00</u>

Section 5. Effective Date and Operative Effect. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance. This ordinance applies to projects that the Planning Department or Planning Commission have not approved as of the effective date. For projects that have not yet submitted applications to the Planning Department or other City entity, all of the provisions of the ordinance apply. The Planning Department shall develop a policy to apply the provisions of this ordinance to projects that

1 have already submitted applications, but have not obtained approvals, to permit such projects
2 to amend their applications.

3
4 Section 6. Scope of Ordinance; Codification Status.

5 (a) In enacting this ordinance, the Board of Supervisors intends to amend only
6 those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation
7 marks, charts, diagrams, or any other constituent parts of the Municipal Code that are
8 explicitly shown in this ordinance as additions, deletions, Board amendment additions, and
9 Board amendment deletions in accordance with the “Note” that appears under the official title
10 of the ordinance.

11 (b) If the City enacts the ordinance in Board of Supervisors File No. 160632,
12 subsection (o) shall not be added to Section 352 of the Planning Code, but the fees stated in
13 subsection (o) shall be the base fees for Planning Department services, subject to annual
14 adjustment by the Controller pursuant to Planning Code Section 350 and Administrative Code
15 Sections 31.22 and 31.23.1. In accordance with those provisions, the fees stated in
16 subsection (o) shall be included in the Planning Department Fee Schedule.

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

20 By: _____
21 Audrey Williams Pearson
22 Deputy City Attorney

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24
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