

1 [Planning Code - 100% Affordable Housing Bonus Programs]

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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 ~~strikethrough Arial font~~.
22 **Asterisks (* * * *)** indicate the omission of unchanged Code
23 subsections or parts of tables.

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

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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) The Planning Commission, on February 25, 2016 by Resolution No. 19578, and on
8 June 30, 2016 by Resolution No. 19686, adopted findings that the actions contemplated in
9 this ordinance are consistent, on balance, with the City's General Plan and eight priority
10 policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy
11 of said Resolutions are on file with the Clerk of the Board of Supervisors in File No. 160687,
12 and is incorporated herein by reference.

13 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
14 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
15 in Planning Commission Resolution Nos. 19578 and 19686, and the Board incorporates such
16 reasons herein by reference.

17
18 Section 2. The Planning Code is hereby amended by adding Section 206 through
19 206.84 to read as follows:

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

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

1 **SEC. 206.1. PURPOSE AND FINDINGS.**

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

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

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

1 reach \$50 million a year for affordable housing; the adoption of Proposition K in November 2014,
2 which established as City policy that the City, by 2020, will help construct or rehabilitate at least
3 30,000 homes, with more than 50% of the housing affordable for middle-income households, and at
4 least 33% as affordable for low-and moderate income households; and the multiple programs that rely
5 on Federal, State and local funding sources as identified in the Mayor's Office of Housing and
6 Community Development Comprehensive Plan.

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

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

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

1 ~~additional on-site affordable housing. David Baker Architects and Seifel Consulting. These~~
2 ~~experts analyzed various parcels in San Francisco, to determine the conditions in which a zoning~~
3 ~~accommodation would be necessary to achieve additional density. The analysis modeled various~~
4 ~~zoning districts and lot size configurations, consistent with current market conditions and the City's~~
5 ~~stated policy goals, including to achieve a mix of unit types, including larger units that can~~
6 ~~accommodate larger households. These reports are on file in Board of Supervisors File No.~~
7 ~~160687.~~

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

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

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

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

11 **SEC. 206.2 DEFINITIONS.**

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

18 "100 Percent Affordable Housing Project" shall be a project where all of the dwelling units
19 with the exception of the manager's unit are "Affordable Units" as that term is defined in section
20 Section 406(b).

21 ~~"Affordable to a Household of Lower, Very Low, or Moderate Income shall mean, at a~~
22 ~~minimum (1) a maximum purchase price that is affordable to a Household of Lower, Very Low,~~
23 ~~or Moderate Income, adjusted for the household size, assuming an annual payment for all~~
24 ~~housing costs of 33 percent of the combined household annual gross income, a down~~
25 ~~payment recommended by the Mayor's Office of Housing and Community Development and~~

1 set forth in the Procedures Manual, and available financing; and (2) an affordable rent as
2 defined in Section 50053 of the Health and Safety Code sufficient to ensure continued
3 affordability of all very low and low-income rental units that qualified the applicant for the
4 award of the density bonus for 55 years or a longer period of time if required by the
5 construction or mortgage financing assistance program, mortgage insurance program, or
6 rental subsidy program.

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

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

22 "Density Bonus" means a density increase over the Maximum Allowable Residential
23 Density granted pursuant to Government Code Section 65915 and Section 206 et seq.
24
25

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

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

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

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

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

1 ——— "Maximum Allowable Residential Density" means the maximum number of dwelling
2 units per square foot of lot area in zoning districts that have such a measurement, or, in
3 zoning districts without such a density measurement, the maximum number of dwelling units
4 that could be developed on a property while also meeting all other applicable Planning Code
5 requirements and design guidelines, and without obtaining an exception, modification,
6 variance, or waiver from the Zoning Administrator or Planning Commission for any Planning
7 Code requirement.

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

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

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

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

22 "Senior Citizen Housing Development" has the meaning in California Civil Code section
23 51.3.

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

25

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

14 (b) Applicability. A Local Affordable Housing Bonus Project or “Local Project” under
15 this Section 206.3 shall be a project that:

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

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

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

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

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

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

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

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

24 ——— (1) Comply with the Inclusionary Affordable Housing Program, Section 415 of
25 this Code, by providing the applicable number of units on-site under Section 415.6. For

1 projects not subject to the Inclusionary Affordable Housing Program, the applicable number of
2 on-site units under this section shall be zero. If the Dial Alternative currently proposed in an
3 ordinance in Board of Supervisors File No. 150911 is adopted and permits a project sponsor
4 to provide more Inclusionary Units at higher AMIs than currently required (referred to as
5 “dialing up”), a project sponsor may dial up and meet the requirements of this subsection (D).
6 If the Dial Alternative of the Inclusionary Affordable Housing Program is ever amended to
7 allow a project sponsor to provide fewer Inclusionary Units at lower AMIs than currently
8 required (referred to as “dialing down”), then a Project cannot qualify for this Section 206.5 if it
9 elects to dial down;

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

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

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

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

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

24 (4) Inclusive of Inclusionary Units and Middle Income Units, provides either (A)
25 a minimum unit mix of at least 40% of all units as two bedroom units or larger; or (B) any unit

1 mix such that 50% of all bedrooms within the Local Project are provided in units with more
2 than one bedroom. Local Projects are not eligible to modify this requirement under Planning
3 Code Section 303, 328, or any other provision of this Code; and,

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

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

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

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

1 ~~———— (3) Ground Floor Ceiling Height. In addition to the permitted height allowed~~
2 ~~under (d)(2), Local Projects with active uses on the ground floor as defined in Section~~
3 ~~145.1(b)(2) shall receive up to a maximum of 5 additional feet in height above the height limit,~~
4 ~~in addition to the additional 20 feet granted in subsection (2) above. However, the additional 5~~
5 ~~feet may only be applied at the ground floor to provide a 14-foot (floor to ceiling) ceiling height~~
6 ~~for nonresidential uses, and to allow walk-up dwelling units to be consistent with the Ground~~
7 ~~Floor Residential Design Guidelines. This additional 5 feet shall not be granted to projects~~
8 ~~that already receive such a height increase under Planning Code Section 263.20.~~

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

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

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

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

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

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

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

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

15 ~~(e) Implementation.~~

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

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

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

1 survey of the area before marketing Middle Income Units. All affordable units that are
2 affordable to households between 120 and 140% of AMI must be marketed at a price that is at
3 least 20% less than the current market rate for that unit size and neighborhood, in addition to
4 any other applicable Program requirements.

5 ~~———— (3) Notice and Hearing. Local Projects shall comply with Section 328 for review
6 and approval.~~

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

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

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

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

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

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

1 _____ (i) The total number of dwelling units approved for the Housing Project,
2 including the number of Restricted Affordable Units, Inclusionary Units, Middle Income Units
3 or other restricted units;

4 _____ (ii) A description of the household income group to be accommodated by
5 the Restricted Affordable Units, and the standards for determining the corresponding
6 Affordable Rent or Affordable Sales Price. The project sponsor must commit to completing a
7 market survey of the area before marketing Middle Income Units. All affordable units that are
8 affordable to households between 120 and 140% of AMI must be marketed at a price that is
9 at least 20% less than the current market rate for that unit size and neighborhood, in addition
10 to any other applicable Program requirements;

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

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

15 _____ (v) A schedule for completion and occupancy of Restricted Affordable
16 Units;

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

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

21 and

22 _____ (viii) Other provisions to ensure implementation and compliance with this

23 Section.

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

25

1 (a) Purpose and Findings. This Section 206.34 describes the 100 Percent Affordable Housing
2 Bonus Program, or “100 Percent Affordable Housing Program”. In addition to the purposes
3 described in section Section 206.1, the purpose of the 100 Percent Affordable Housing Program is to
4 facilitate the construction and development of projects in which all of the residential units are
5 affordable to Low and Very-Low Income Households. Projects pursuing a development bonus under
6 this 100 Percent Affordable Program would exceed the City’s shared Proposition K housing goals that
7 50% of new housing constructed or rehabilitated in the City by 2020 be within the reach of working
8 middle class San Franciscans, and at least 33% affordable for low and moderate income households.

9 (b) Applicability. A 100 Percent Affordable Housing Bonus Project under this Section 206.4
10 206.3 shall be a Housing Project that:

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

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

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

16 (B) allows Residential Uses;

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

20 (4) meets the definition of a “100 Percent Affordable Housing Project” in Section
21 206.2;

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

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

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

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

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

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

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

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

14 (1) **Priority Processing.** 100 Percent Affordable Housing Bonus Projects shall receive
15 Priority Processing.

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

24 (3) **Height.** 100 Percent Affordable Housing Bonus Projects shall be allowed up to 30
25 additional feet, not including allowed exceptions per Section 260(b), above the property's height

1 district limit in order to provide three additional stories of residential use. This additional height may
2 only be used to provide up to three additional 10-foot stories to the project, or one additional story of
3 not more than 10 feet in height

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

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

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

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

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

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

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

1 (F) 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 horizontal
3 dimension, and for the height of the walls and projections above the court on at least three sides (or
4 75% percent of the perimeter, whichever is greater) to be no higher than one foot for each foot that
5 such point is horizontally distant from the opposite side of the clear space in the court. 100 Percent%
6 Affordable Housing Bonus Projects may instead provide an inner court that is at least 25 feet in every
7 horizontal dimension, with no restriction on the heights of adjacent walls. All area within such an
8 inner court shall qualify as common open space under Section 135.

9 (d) Implementation.

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

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

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

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

21 (iii) Unit size and distribution of multi-bedroom units; -

22 (B) (iv) Documentation that the applicant has provided written notification
23 to all existing commercial or residential tenants that the applicant intends to develop the property
24 pursuant to this section 206.3. Any affected commercial tenants shall be given priority processing
25 similar to the Department's Community Business Priority Processing Program, as adopted by the San

1 Francisco Planning Commission on February 12, 2015 under Resolution Number 19323 to support
2 relocation of such business in concert with access to relevant local business support programs. In no
3 case may an applicant receive a site permit or any demolition permit prior to 18 months from
4 the date of written notification required by this subsection 206.3(d)(1)(B); and-

5 (v) Documentation that the applicant shall comply with any
6 applicable provisions of the State Relocation Law or Federal Uniform Relocation Act when a
7 parcel includes existing commercial tenants.

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

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

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

16 ~~206.5. STATE RESIDENTIAL DENSITY BONUS PROGRAM: ANALYZED~~

17 ~~(a) Purpose: Sections 206.5, 206.6, and 206.7 shall be referred to as the San~~
18 ~~Francisco State Residential Density Bonus Program or the State Density Bonus Program.~~
19 ~~First, the Analyzed State Density Bonus Program in Section 206.5 offers an expedited~~
20 ~~process for projects that seek a density bonus that is consistent with the pre-vetted menu of~~
21 ~~incentives, concessions and waivers that the Planning Department and its consultants have~~
22 ~~already determined are feasible, result in actual cost reductions, and do not have specific~~
23 ~~adverse impacts upon public health and safety of the physical environment. Second the~~
24 ~~Individually Requested State Density Bonus Program in Section 206.6 details the review,~~
25 ~~analysis and approval process for any project seeking a density bonus that is consistent with~~

1 State Law, but is not consistent with the requirements for the Analyzed State Density Bonus
2 Program established in Section 206.5. Third, Sections 206.7, describes density bonuses
3 available under the State code for the provision of childcare facilities.

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

8 (b) Applicability:

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

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

20 ——— (B) is not seeking and receiving a density or development bonus under
21 Section 207; the Local Affordable Housing Bonus Program, Section 206.3; the 100-Percent
22 Affordable Housing Bonus Program, Section 206.4; or any other local or State density bonus
23 program that provides development bonuses;

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

1 ~~_____ (D) is located in any zoning district that: (i) is not designated as an RH-1~~
2 ~~or RH-2 Zoning District; (ii) establishes a maximum dwelling unit density through a ratio of~~
3 ~~number of units to lot area, including but not limited to, RH-3, RM, RC, C-2, Neighborhood~~
4 ~~Commercial, Named Neighborhood Commercial, Chinatown Mixed Use Districts, and SoMa~~
5 ~~Mixed Use Districts, but only if the SoMa Mixed Use District has a density measured by a~~
6 ~~maximum number of dwelling units per square foot of lot area; (iii) is in the Fillmore~~
7 ~~Neighborhood Commercial Transit District and Divisadero Neighborhood Commercial Transit~~
8 ~~District; and (D) is not in the North of Market Residential Special Use District, Planning Code~~
9 ~~Section 249.5 until the Affordable Housing Incentive Study is completed at which time the~~
10 ~~Board will review whether the North of Market Residential Special Use District should continue~~
11 ~~to be excluded from this Program. The Study will explore opportunities to support and~~
12 ~~encourage the provision of housing at the low, moderate, and middle income range in~~
13 ~~neighborhoods where density controls have been eliminated. The goal of this analysis is to~~
14 ~~incentivize increased affordable housing production levels at deeper and wider ranges of AMI~~
15 ~~and larger unit sizes in these areas through 100% affordable housing development as well as~~
16 ~~below market rate units within market rate developments; and~~

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

25 ~~_____ (F) includes a minimum of nine foot ceilings on all residential floors;~~

1 ~~_____ (G) is seeking only Concessions or Incentives set forth in subsection~~
2 ~~(e)(4);~~

3 ~~_____ (H) is seeking height increases only in the form of a waiver as described~~
4 ~~in subsection (c)(5); and,~~

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

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

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

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

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

21 ~~Table 206.5A~~

22 ~~Density Bonus Summary — Analyzed~~

A	B	C	D	E
Restricted Affordable Units or Category	Minimum Percentage of Restricted	Percentage of Density Bonus Granted	Additional Bonus for Each 1% Increase In Restricted	Percentage of Restricted Units Required for Maximum

	Affordable Units		Affordable Units	35% Density Bonus
Very Low Income	5%	20%	2.50%	11%
Lower Income	10%	20%	1.50%	20%
Moderate Income	10%	5%	1%	40%
Senior Citizen Housing, as defined in § 102, and meeting the requirements of § 202.2(f).	100%	50%	-----	-----

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

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

(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. Analyzed Density Bonus Program projects must include the minimum percentage of Restricted Affordable Units identified in Column B of Table 206.5A for at least one income category, but may combine density bonuses from more than one income category, up to a maximum of 35% of the Maximum Allowable Residential Density.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 ~~PE equals lot area multiplied by permitted lot coverage, where lot coverage~~
25 ~~equals .75, or .8 if the developer elects to request a rear yard modification under Section~~

1 206.5(c)(4)(A), multiplied by existing height limit (measured in number of stories), minus one
2 story for projects in districts where non-residential uses are required on the ground floor, and
3 minus any square footage subject to bulk limitations (for parcels that do not have an X bulk
4 designation).

5 Step three: Calculate Bonus Envelope (BE) Residential envelope necessary to
6 accommodate additional density (“Bonus envelope” or “BE”)

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

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

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

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

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

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

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

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

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

1 similar to the Department's Community Business Priority Processing Program, as adopted by
2 the San Francisco Commission on February 12, 2015 under Resolution Number 19323 to
3 support relocation of such business in concert with access to relevant local business support
4 programs.

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

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

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

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

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

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

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

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

6 ~~_____ (A) The total number of dwelling units approved for the Housing Project,~~
7 ~~including the number of Restricted Affordable Units, Inclusionary Units, Middle Income Units~~
8 ~~or other restricted units;~~

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

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

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

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

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

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

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

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

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

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

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

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

20 — (2) is not seeking and receiving a density or development bonus under Section
21 207; the Local Affordable Housing Bonus Program, Section 206.3; the 100 Percent Affordable
22 Housing Bonus Program, Section 206.4; Section 304, or any other local or state bonus
23 program that provides development bonuses.

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

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

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

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

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

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

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

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

7 ~~—————(H) Certain other types of development activities are specifically eligible~~
8 ~~for a development bonuses pursuant to State law, including land donation under~~
9 ~~Government Code Section 65915(g), condominium conversions under Government Code~~
10 ~~section 65915.5 and qualifying mobile home parks under Government Code section~~
11 ~~65915(b)(1)(C). Such projects shall be considered Individually Requested State Density~~
12 ~~Bonus Projects.~~

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

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

24 ~~—————(B) Allowing mixed use development in conjunction with the proposed~~
25 ~~residential development, if nonresidential land uses will reduce the cost of the residential~~

project and the nonresidential land uses are compatible with the residential project and existing or planned development in the area where the Housing Project will be located; and
 _____ (C) Other regulatory incentives or concessions proposed by the developer or the City that result in identifiable, financially sufficient, and actual cost reductions.

_____ Table 206.6B

Concessions and Incentives Summary—Individually Requested Project

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

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

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

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

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

7 ~~_____ (C) The Concession or Incentive would be contrary to state or federal~~
8 ~~law.~~

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

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

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

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

10 ~~_____ (D) The Waiver would be contrary to state or federal law.~~

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

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

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

22 ~~_____ (2) A plan set sufficient for the Planning Department to determine the project~~
23 ~~site's Maximum Allowable Residential Density. The project sponsor shall submit plans for a~~
24 ~~base project that demonstrates a Code-complying project on the Housing Project site without~~
25 ~~use of a modification, Conditional Use Authorization, Variance, Planned Unit Development, or~~

1 other exception from the Planning Code. Such plans shall include similar detail to the
2 proposed Housing Project. The project sponsor shall demonstrate that site constraints do not
3 limit the Maximum Allowable Residential Density for the base project in practice. If the project
4 sponsor cannot make such a showing, the Zoning Administrator shall determine whether the
5 Maximum Allowable Residential Density shall be adjusted for purposes of this Section.

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

9 ——— (4) If a Concession or Incentive is requested that is not included within the
10 menu of Incentives/Concessions set forth in subsection 206.5(c), a submittal including
11 financial information or other information providing evidence that the requested Concessions
12 and Incentives result in identifiable, financially sufficient, and actual cost reductions required in
13 order to provide for affordable housing costs as defined in Health and Safety Code Section
14 50052.5, or for rents for the Restricted Affordable Units to be provided as required under this
15 Program. The cost of reviewing any required financial information, including, but not limited
16 to, the cost to the City of hiring a consultant to review the financial data, shall be borne by the
17 applicant. The financial information shall include all of the following items:

18 ——— (A) The actual cost reduction achieved through the Concession or
19 Incentive;

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

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

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

5 ~~————— (A) Why the Development Standard would physically preclude the~~
6 ~~construction of the Development with the Density Bonus, Incentives, and Concessions~~
7 ~~requested.~~

8 ~~————— (B) Any other information requested by the Planning Director as is~~
9 ~~required to evaluate the request;~~

10 ~~——— (6) Level of affordability of the Restricted Affordable Units and a draft~~
11 ~~Regulatory Agreement;~~

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

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

21 ~~——— (9) Documentation that the applicant has provided written notification to all~~
22 ~~existing commercial or residential tenants that the applicant intends to develop the property~~
23 ~~pursuant to this section. Any affected commercial tenants shall be given priority processing~~
24 ~~similar to the Department's Community Business Priority Processing Program, as adopted by~~
25 ~~the San Francisco Commission on February 12, 2015 under Resolution Number 19323 to~~

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

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

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

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

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

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

20 ~~—— (A) The Housing Project is eligible for the Affordable Housing Bonus
21 Program.~~

22 ~~—— (B) The Housing Project has demonstrated that any Concessions or
23 Incentives are required in order to provide for affordable housing costs, as defined in Section
24 50052.5 of the California Health and Safety Code, or for rents for the targeted units, based
25 upon the financial analysis and documentation provided.~~

1 ~~_____ (C) If a waiver or modification is requested, a finding that the~~
2 ~~Development Standards for which the waiver is requested would have the effect of physically~~
3 ~~precluding the construction of the Housing Project with the Density Bonus or Concessions and~~
4 ~~Incentives permitted.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 ~~_____ (A) The total number of dwelling units approved for the Housing Project,~~
7 ~~including the number of Restricted Affordable Units, Inclusionary Units, Middle Income Units~~
8 ~~or other restricted units;~~

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

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

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

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

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

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

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

25 ~~SEC. 206.7. CHILD CARE FACILITIES.~~

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

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

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

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

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

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

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

23 — (2) Of the children who attend the Child Care Facility, the children of Very Low,
24 Lower and Moderate Income households shall equal a percentage that is equal to or greater
25

1 than the percentage of Restricted Affordable Units in the Housing Project that are required for
2 Very Low, Lower and Moderate Income households pursuant to Section 206.6.

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

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

7 **EVALUATION.**

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

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

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

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

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

- 1 - ~~(3) number of additional affordable units in excess of that otherwise required by~~
- 2 ~~Section 415;~~
- 3 - ~~(43) geographic distribution of projects, including the total number of units in each~~
- 4 ~~project, utilizing the Bonus Programs;~~
- 5 - ~~(54) number of larger unit types, including the number of 3-bedroom units;~~
- 6 - ~~(65) square feet of units by bedroom count;~~
- 7 - ~~(76) number of projects with 9 nine or fewer units that participate; and~~
- 8 - ~~(87) Number of appeals of projects in the Bonus Program and stated reason for appeal.~~

9 (d) Program Evaluation and Update.:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 zoning modifications or concessions and incentives in 206.3(d)(4)(c)(5), 206.4(e)(5) and
2 206.5(e)(4).

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

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

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

14 (e) Program Expansion Report. The Board of Supervisors directs the Planning
15 Department and MOHCD to research, analyze and provide recommendations for further
16 density and development bonuses for 100% affordable or mixed-income developments. The
17 Program Expansion Report shall be published within one year of the effective date of Section
18 206.

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

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

3 **SEC. 328. LOCAL AND 100 PERCENT AFFORDABLE HOUSING BONUS PROJECT**
4 **AUTHORIZATION**

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

14 *(b) Applicability. This ~~section~~ Section 328 applies to all qualifying Local and 100 Percent
15 Affordable Housing Bonus Projects that meet the requirements described in Planning Code Sections
16 206.3 or 206.4.*

17 *(c) Planning Commission Design Review: The Planning Commission shall review and
18 evaluate all physical aspects of a Local or 100 Percent Affordable Housing Bonus Project at a public
19 hearing. The Planning Commission recognizes that most qualifying projects will need to be larger in
20 height and mass than surrounding buildings in order to achieve the 100% Affordable Housing Bonus
21 Program's affordable housing goals. However, the Planning Commission may, consistent with the
22 100% Affordable Housing Bonus Program Design Guidelines, and any other applicable design
23 guidelines, and upon recommendation from the Planning Director, make minor modifications to a
24 project to reduce the impacts of such differences in scale. The Planning Commission, upon
25 recommendation of the Planning Director, may also apply the standards of Section 261.1 to*

1 bonus floors for all projects on narrow streets and alleys in order to ensure that these streets
2 do not become overshadowed, including potential upper story setbacks, and special
3 consideration for the southern side of East-West streets, and Mid-block passages, as long as
4 such setbacks do not result in a smaller number of residential units.

5 Additionally, as set forth in subsection (d) below, the Planning Commission may grant minor
6 exceptions to the provisions of this Code. However, such exceptions should only be granted to allow
7 building mass to appropriately shift to respond to surrounding context, and only when such
8 modifications do not substantially reduce or increase the overall building envelope permitted by the
9 Program under Section 206.3 ~~or 206.4~~. All modifications and exceptions should be consistent with the
10 100% Affordable Housing Bonus Program Design Guidelines and any other applicable design
11 guidelines. In case of a conflict with other applicable design guidelines, the 100% Affordable Housing
12 Bonus Program Design Guidelines shall prevail.

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

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

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

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

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

4 (d) **Exceptions.** As a component of the review process under this Section 328, the Planning
5 Commission may grant minor exceptions to the provisions of this Code as provided for below, in
6 addition to the development bonuses granted to the project in Section 206.3(c)(d) or 206.4(e). Such
7 exceptions, however, should only be granted to allow building mass to appropriately shift to respond to
8 surrounding context, and only when the Planning Commission finds that such modifications: 1) do not
9 substantially reduce or increase the overall building envelope permitted by the Program under Sections
10 206.3, or 206.4; and 2) also are consistent with the 100Percent% Affordable Housing Bonus Design
11 Guidelines. These exceptions may include:

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

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

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

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

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

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

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

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

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

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

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

14 (fg) **Hearing and Decision.**

15 (1) **Hearing.** The Planning Commission shall hold a public hearing for all projects that
16 are subject to this Section 328.

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

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

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

7 (5) Appeal. *The decision of the Planning Commission may be appealed to the Board of*
8 *Appeals Supervisors by any person aggrieved within ~~15~~ 30 days after the date of the decision by*
9 *filing a written notice of appeal with ~~that body~~ the Board of Supervisors, setting forth wherein it is*
10 *alleged that there was an error in the interpretation of the provisions of this ~~Code~~ Section or abuse of*
11 *discretion on the part of the Planning Commission. The procedures and requirements for*
12 *conditional use appeals in Section 308.1(b) and (c) shall apply to appeals to the Board of*
13 *Supervisors under this Section 328.*

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

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

19
20 Section 4. The Planning Code is hereby amended by amending revising Sections 250,
21 260, and 352 to read as follows:

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

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

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

* * * *

SEC. 260. HEIGHT LIMITS; MEASUREMENT.

(a) **Method of Measurement.** The limits upon the height of buildings and structures shall be as specified on the Zoning Map, except as permitted by Section 206. In the measurement 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>

1 | \$20,000,000.00 or more

2 | \$54,120.00

3 Section 5. Effective Date and Operative Effect. This ordinance shall become effective
4 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor
5 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,
6 or the Board of Supervisors overrides the Mayor's veto of the ordinance. This ordinance
7 applies to projects that the Planning Department or Planning Commission have not approved
8 as of the effective date. For projects that have not yet submitted applications to the Planning
9 Department or other City entity, all of the provisions of the ordinance apply. The Planning
10 Department shall develop a policy to apply the provisions of this ordinance to projects that
11 have already submitted applications, but have not obtained approvals, to permit such projects
12 to amend their applications.

13 Section 6. Scope of Ordinance; Codification Status.

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

20 (b) If the City enacts the ordinance in Board of Supervisors File No. 160632,
21 subsection (o) shall not be added to Section 352 of the Planning Code, but the fees stated in
22 subsection (o) shall be the base fees for Planning Department services, subject to annual
23 adjustment by the Controller pursuant to Planning Code Section 350 and Administrative Code
24

1 Sections 31.22 and 31.23.1. In accordance with those provisions, the fees stated in
2 subsection (o) shall be included in the Planning Department Fee Schedule.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____
7 Audrey Williams Pearson
8 Deputy City Attorney

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