

1 [Planning Code - Inclusionary Housing Small Sites Program]

2

3 **Ordinance amending the Planning Code to create an alternative for project sponsors of**
4 **smaller market rate projects to direct the Affordable Housing Fee to Small Sites**
5 **Projects; affirming the Planning Department's determination under the California**
6 **Environmental Quality Act; making findings of consistency with the General Plan, the**
7 **eight priority policies of Planning Code, Section 101.1; and making a finding of public**
8 **necessity, convenience, and welfare under Planning Code, Section 302.**

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

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

17

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 161157 and is incorporated herein by reference. The Board affirms
23 this determination.

24 (b) On November 17, 2016, the Planning Commission, in Resolution No. 19778,
25 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. 161157, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that the
4 proposed Planning Code amendments will serve the public necessity, convenience, and
5 welfare for the reasons set forth in Planning Commission Resolution No. 19778, and the
6 Board incorporates such reasons herein by reference.
7

8 Section 2. The Planning Code is hereby amended by revising Section 415.2 and 415.5
9 and adding Section 415.7-1, to read as follows:

10 **SEC. 415.2. DEFINITIONS.**

11 See Section 401 of this Article. For purposes of Sections 415.3et seq., "low income"
12 households shall be defined as households whose total household income does not exceed
13 55% of Area Median Income for purposes of renting an affordable unit, or 80% of Area
14 Median Income for purposes of purchasing an affordable unit, and "moderate income" and
15 "middle income" households shall mean households whose total household income does not
16 exceed 100% of Area Median Income for purposes of renting an affordable unit, or 120% of
17 Area Median Income for purposes of purchasing an affordable unit. The Small Sites Fund,
18 defined in Section 415.5(f)(2), and the Small Sites Program, including any program established
19 pursuant to Section 415.7-1, may use Affordable Housing Fees to acquire sites and buildings
20 consistent with the income parameters of the Programs, as periodically updated and
21 administered by MOHCD.
22

23 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

24 The fees set forth in this Section 415.5 will be reviewed when the City completes an
25 Economic Feasibility Study. Except as provided in Section 415.5(g), all development projects

1 subject to this Program shall be required to pay an Affordable Housing Fee subject to the
2 following requirements:

3 * * * *

4 (f) **Use of Fees.** All monies contributed pursuant to the Inclusionary Affordable
5 Housing Program shall be deposited in the Citywide Affordable Housing Fund ("the Fund"),
6 established in Administrative Code Section 10.100-49. The Mayor's Office of Housing and
7 Community Development ("MOHCD") shall use the funds collected under this Section 415.5 in
8 the following manner:

9 * * * *

10 (2) **"Small Sites Funds."**

11 (A) **Designation of Funds.** MOHCD shall designate and separately
12 account for 10% ~~percent~~ of all fees that it receives under Section 415.1 et seq. that are
13 deposited into the Citywide Affordable Housing Fund, established in Administrative Code
14 Section 10.100-49, excluding fees that are geographically targeted such as those referred to
15 in Sections 415.5(b)(1) and 827(b)(1), to support acquisition and rehabilitation of Small Sites
16 ("Small Sites Funds"). MOHCD shall continue to divert 10% ~~percent~~ of all fees for this purpose
17 until the Small Sites Funds reach a total of \$15 million at which point, MOHCD will stop
18 designating funds for this purpose. At such time as designated Small Sites Funds are
19 expended and dip below \$15 million, MOHCD shall start designating funds again for this
20 purpose, such that at no time the Small Sites Funds shall exceed \$15 million. When the total
21 amount of fees paid to the City under Section 415.1 et seq. totals less than \$10 million over
22 the preceding 12-month period, MOHCD is authorized to temporarily divert funds from the
23 Small Sites Fund for other purposes. MOHCD must keep track of the diverted funds, however,
24 such that when the amount of fees paid to the City under Section 415.1 et seq. meets or
25 exceeds \$10 million over the preceding 12-month period, MOHCD shall commit all of the

1 previously diverted funds and ~~10% percent~~ of any new funds, subject to the cap above, to the
2 Small Sites Fund.

3 (B) **Use of Small Sites Funds.** The funds shall be used exclusively to
4 acquire or rehabilitate "Small Sites" defined as properties consisting of 2-25 units. Units
5 supported by monies from the fund shall be designated as housing affordable to qualified
6 households as set forth in Section 415.2 for no less than 55 years. Properties supported by
7 the Small Sites Funds must be:

- 8 (i) rental properties that will be maintained as rental properties;
- 9 (ii) vacant properties that were formerly rental properties as long
10 as those properties have been vacant for a minimum of two years prior to the effective date of
11 this legislation;
- 12 (iii) properties that have been the subject of foreclosure; or
- 13 (iv) a Limited Equity Housing Cooperative as defined in
14 Subdivision Code Sections 1399.1 et seq. or a property owned or leased by a non-profit entity
15 modeled as a Community Land Trust.

16 * * * *

17 (E) **Intent.** In establishing guidelines for Small Sites Funds, the Board of
18 Supervisors does not intend to preclude MOHCD from expending other eligible sources of
19 funding on Small Sites as described in this Section 415.5, or from allocating or expending
20 more than \$15 million of other eligible funds on Small Sites.

21 * * * *

22 (g) **Alternatives to Payment of Affordable Housing Fee.**

23 (1) **Eligibility:** A project sponsor must pay the Affordable Housing Fee unless it
24 qualifies for and chooses to meet the requirements of the Program through an Alternative
25

1 provided in this ~~S~~subsection (g). The project sponsor may choose one of the following
2 Alternatives:

3 (A) **Alternative #1:** On-Site Units. Project sponsors may elect to
4 construct units affordable to qualifying households on-site of the principal project pursuant to
5 the requirements of Section 415.6.

6 (B) **Alternative #2:** Off-Site Units. Project sponsors may elect to
7 construct units affordable to qualifying households at an alternative site within the City and
8 County of San Francisco pursuant to the requirements of Section 415.7.

9 (C) Alternative #3: Small Sites. Qualifying project sponsors may elect to fund
10 buildings as set forth in Section 415.7-1.

11 (D) Alternative #4: Combination. Project sponsors may elect any
12 combination of payment of the Affordable Housing Fee as provided in Section 415.5,
13 construction of on-site units as provided in Section 415.6, or construction of off-site units as
14 provided in Section 415.7, provided that the project applicant constructs or pays the fee at the
15 appropriate percentage or fee level required for that option.

16 * * * *

17
18 **SEC. 415.7-1. SMALL SITES AFFORDABLE HOUSING ALTERNATIVE.**

19 A project sponsor of a principal project comprised of up to 24 or fewer residential units may
20 elect under Section 415.5(g) to meet its Inclusionary Affordable Housing requirement by designating its
21 payment of the Affordable Housing Fee due under Section 415.5 for a Small Sites program that
22 MOHCD shall establish for this purpose. Affordable Housing Fees designated for this program shall
23 not be considered part of the designated funds specified by Section 415.5(f). MOHCD shall expend the
24 program funds from a principal project on a Small Sites Project that meets the requirements set forth
25 in Section 415.5(f)(2)(B) and that is within the same neighborhood as the principal project. The

1 neighborhood of the principal project shall be determined by the Planning Department's
2 Neighborhood Groups Map~~the geographic area described in Section 415.7. If MOHCD is~~
3 unable to identify a qualifying Small Sites Project and apply the fee to a qualifying Small Sites
4 Project within the geographic area required in Section 415.7 same neighborhood as the
5 principal project within two years of the payment of the fee, such fee shall be released into the
6 Affordable Housing Fund to fund other qualifying Small Sites Projects in San Francisco.
7

8 Section 3. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.
12

13 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.
19

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

23 By: _____
24 VICTORIA WONG
25 Deputy City Attorney

n:\legana\as2016\1700199\01154909.docx