

1 [Planning Code - Affordable Housing Bonus Programs]

2

3 **Ordinance amending Planning Code, Section 206, to amend the 100 Percent Affordable**  
4 **Housing Bonus Program to add the Local Affordable Housing Bonus Program, the**  
5 **Analyzed State Density Bonus Program, and the Individually Requested State Density**  
6 **Bonus Program, to provide for development bonuses and zoning modifications for**  
7 **affordable housing, in compliance with, and above those required by the State Density**  
8 **Bonus Law, Government Code, Section 65915, et seq.; to establish the procedures in**  
9 **which the Local Affordable Housing Bonus Program shall be reviewed and approved;**  
10 **adding a fee for applications under the Program; affirming the Planning Department’s**  
11 **determination under the California Environmental Quality Act; and making findings of**  
12 **consistency with the General Plan, and the eight priority policies of Planning Code,**  
13 **Section 101.1.**

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

18

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

20 Section 1.

21 (a) The Planning Department has determined that the actions contemplated in this  
22 ordinance comply with the California Environmental Quality Act (California Public Resources  
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
24 Supervisors in File No. 150969 and is incorporated herein by reference. The Board affirms  
25 this determination.

1 (b) On February 25, 2016 and June 30, 2016, the Planning Commission, in Resolution  
2 No. 19578 and 19686, adopted findings that the actions contemplated in this ordinance are  
3 consistent, on balance, with the City's General Plan and eight priority policies of Planning  
4 Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution  
5 is on file with the Clerk of the Board of Supervisors in File No. 150969, and is incorporated  
6 herein by reference.

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

11 Section 2. The Planning Code is hereby amended by revising Section 206, to read as  
12 follows:

13 **SEC. 206. THE ~~100 PERCENT~~ AFFORDABLE HOUSING BONUS PROGRAMS.**

14 *~~This Section 206 and Sections 206.1 through 206.4 shall be known as the 100 Percent~~*  
15 *~~Affordable Housing Bonus Program. References to "Section 206" shall include Sections 206.1 through~~*  
16 *~~206.4. This section shall be known as the Affordable Housing Bonus Programs, which include the~~*  
17 *~~Local Affordable Housing Bonus Program, the 100 Percent Affordable Housing Bonus Program, the~~*  
18 *~~Analyzed State Density Bonus Program and the Individually Requested State Density Bonus Program.~~*

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

20 (a) The purpose of the ~~100 Percent~~ Affordable Housing Bonus Program~~s~~ is to facilitate  
21 the development and construction of affordable housing in San Francisco. Affordable housing  
22 is of paramount statewide concern, and the Legislature has declared that local and state  
23 governments have a responsibility to use the powers vested in them to facilitate the  
24 improvement and development of housing to make adequate provision for the housing needs  
25 of all economic segments of the community. The Legislature has found that local governments

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

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

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

25

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

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

15           (~~f~~) In recognition of the City's affordable housing goals, including the need to produce  
16 more affordable housing without the need for public subsidies, the Planning Department contracted  
17 with David Baker Architects and Seifel Consulting to determine a menu of zoning  
18 modifications and development bonuses that could offset a private developer's costs of  
19 providing various levels of additional on-site affordable housing. These experts analyzed various  
20 parcels in San Francisco, to determine the conditions in which a zoning accommodation  
21 would be necessary to achieve additional density. The analysis modeled various zoning  
22 districts and lot size configurations, consistent with current market conditions and the City's  
23 stated policy goals, including to achieve a mix of unit types, including larger units that can  
24 accommodate larger households. These reports are on file in Board of Supervisors File No.  
25 160687.

1 (eg) Based on these reports, the Planning Department developed ~~a~~ four programs to  
2 provide ~~an~~ options by which developers ~~of 100% affordable housing projects~~ can include  
3 additional affordable units on-site ~~in~~ through increased density and other zoning or design  
4 modifications. These programs are the Local Affordable Housing Bonus Program, the 100 Percent  
5 Affordable Housing Bonus Program, the Analyzed State Density Bonus Program and the Individually  
6 Requested Bonus Program. This program is the 100 Percent Affordable Housing Bonus Program,  
7 which provides additional incentives for developers of 100% affordable housing projects, thereby  
8 reducing the overall cost of such developments on a per unit basis.

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

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

18 (j) The Affordable Housing Bonus Program also establishes a clear local process for all  
19 projects seeking the density bonuses guaranteed through the State Density Bonus Law. The State  
20 Analyzed Program provides an expedited process for projects that comply with a pre-determined menu  
21 of incentives, concessions and waivers of development standards that the Department, in consultation  
22 with David Baker Architects and Seifel Consulting can appropriately respond to neighborhood context  
23 without causing adverse impacts on public health and safety, and provide affordable units through the  
24 City's already-established Inclusionary Housing Program. Projects requesting density or concessions,  
25

1 incentives and waivers outside of the City's preferred menu may seek a density bonus consistent with  
2 State law in the Individually Requested Density Bonus Program.

3 (k) San Francisco's small business community is an integral part of San Francisco's  
4 neighborhood commercial corridors, local economy, and rich culture. San Francisco is  
5 committed to maintaining small businesses in its neighborhoods. For this reason, the  
6 Affordable Housing Bonus Program acknowledges the need for general assistance and  
7 support for any business that might be impacted. Developments using the Affordable Housing  
8 Bonus Program will generally produce additional commercial spaces which may enhance  
9 existing commercial corridors. The Office of Economic and Workforce Development, in  
10 coordination with the Office of Small Business, currently coordinate on referrals to and  
11 deployment of a range of services to small businesses including but not limited to; small  
12 business consulting, lease negotiation assistance, small business loans, ADA Certified  
13 Access Specialists (CASp) inspection services, legacy business registry, façade improvement  
14 assistance, commercial corridor management, grants and assessments, relocation and broker  
15 services for production, distribution and repair (PDR) businesses, business permit assistance,  
16 and coordination with city agencies.

17 (l) In fiscal year 2016 - 2017 the Mayor's Office of Economic and Workforce  
18 Development and Office of Small Business will initiate and coordinate the implementation of a  
19 citywide small business retention and relocation program. This program will provide additional  
20 small business consulting and case management, real estate readiness assessment,  
21 relocation assistance, broker services, real estate acquisition assistance, succession  
22 planning, legacy business grants and technical assistance, and restaurant sector permit  
23 coordination and assistance.

24 **SEC. 206.2. DEFINITIONS.**

1 The definitions of Section 102 and the definitions in Section 401 for “Area Median  
2 Income” or “AMI,” "First Construction Document," "Housing Project," “Life of the Project,” and  
3 “MOHCD,” "On-site Unit," “Off-site Unit,” “Principal Project,” and “Procedures Manual” shall  
4 generally apply to Section 206. The following definitions shall also apply, and shall prevail if  
5 there is a conflict with other sections of the Planning Code.

6 "100 Percent Affordable Housing Project" shall be a project where all of the dwelling  
7 units with the exception of the manager's unit are "Affordable Units" as that term is defined in  
8 Section 406(b).

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

19 “Affordable to a Household of Middle Income” shall mean, at a minimum, (1) a maximum  
20 purchase price that is affordable to a Household of Middle Income at 140% of Area Median Income,  
21 adjusted for the household size, assuming an annual payment for all housing costs of 33 percent of the  
22 combined household annual gross income, a down payment recommended by the Mayor’s Office of  
23 Housing and Community Development and set forth in the Procedures Manual, and available  
24 financing; and (2) the maximum annual rent for an affordable housing unit shall be no more than 30%  
25

1 of the annual gross income for a Household of Middle Income at an Area Median Income of 120%, as  
2 adjusted for the household size, as of the first date of the tenancy.

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

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

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

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

18 “Household of Middle Income” shall mean a household whose combined annual gross income  
19 for all members does not exceed 140% of AMI to qualify for ownership housing and 120% of AMI to  
20 qualify for rental housing.

21 “Inclusionary Units” shall mean on-site income-restricted residential units provided within a  
22 development that meet the requirements of the Inclusionary Affordable Housing Program, Planning  
23 Code Section 415 et seq.

24 "Lower, ~~or~~ Very Low, or Moderate Income" means annual income of a household that  
25 does not exceed the maximum income limits for the income category, as adjusted for



1 household size, applicable to San Francisco, as published and periodically updated by the  
2 State Department of Housing and Community Development pursuant to Sections 50079.5, ~~or~~  
3 50105 or 50093 of the California Health and Safety Code. Very Low Income is currently  
4 defined in California Health and Safety Code Section 50105 as 50% of area median income.  
5 Lower Income is currently defined in California Health and Safety Code Section 50079.5 as  
6 80% of area median income. Moderate Income is currently defined in California Health and Safety  
7 Code Section 50093 as 120% of area median income. If the State law definitions of these terms  
8 change, the definitions under Section 206 shall mirror the State law changes.

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

15 "Middle Income Unit" shall mean a residential unit affordable to a Household of Middle  
16 Income.

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

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

23 "Restricted Affordable Unit" means a dwelling unit within a Housing Project which will be  
24 Affordable to Very Low, Lower or Moderate Income Households, as defined in this Section 206.2 for a  
25 minimum of 55 years. Restricted Affordable Units shall meet all of the requirements of Government

1 Code 65915, except that Restricted Affordable Units that are ownership units shall not be restricted  
2 using an equity sharing agreement."

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

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

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

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

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

23 (2) is located in any zoning district that: (A) is not designated as an RH-1 or RH-2  
24 Zoning Districts; and (B) establishes a maximum dwelling unit density through a ratio of number of  
25 units to lot area, including RH-3, RM, RC, C-2, Neighborhood Commercial, Named Neighborhood

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

13 (3) is not seeking and receiving a density or development bonus under the provisions of  
14 California Government Code Section 65915 et seq, Planning Code Section 207, Section 124(f), Section  
15 202.2(f), 304, or any other State or local program that provides development bonuses;

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

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

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

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

1                   (1) Comply with the Inclusionary Affordable Housing Program, Section 415 of this  
2 Code, by providing the applicable number of units on-site under Section 415.6. For projects not subject  
3 to the Inclusionary Affordable Housing Program, the applicable number of on-site units under this  
4 section shall be zero. If the Dial Alternative currently proposed in an ordinance in Board of  
5 Supervisors File No. 150911 is adopted and permits a project sponsor to provide more Inclusionary  
6 Units at higher AMIs than currently required (referred to as “dialing up”), a project sponsor may dial  
7 up and meet the requirements of this subsection (D). If the Dial Alternative of the Inclusionary  
8 Affordable Housing Program is ever amended to allow a project sponsor to provide fewer Inclusionary  
9 Units at lower AMIs than currently required (referred to as “dialing down”), then a Project cannot  
10 qualify for this Section 206.5 if it elects to dial down;

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

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

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

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

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

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

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

11                    (5) Does not demolish, remove or convert any residential units.

12                    (6) Includes at the ground floor level active uses, as defined in Section 145.1, at  
13 the same square footages as any neighborhood commercial uses demolished or removed,  
14 unless the Planning Commission has granted an exception under Section 303(s)(G).

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

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

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

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

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

16                   (A) **Rear yard:** The required rear yard per Section 134 or any applicable  
17 special use district may be reduced to no less than 20 percent of the lot depth, or 15 feet, whichever is  
18 greater. Corner properties may provide 20 percent of the lot area at the interior corner of the property  
19 to meet the minimum rear yard requirement, provided that each horizontal dimension of the open area  
20 is a minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing  
21 midblock open space, if any, formed by the rear yards of adjacent 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 area that  
24 is no less than 25 feet in every horizontal dimension, and such open area is not required to expand in  
25 every horizontal dimension at each subsequent floor.

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

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

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

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

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

18                                   (e) **Implementation.**

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

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

1 (i) A full plan set, including a site plan, elevations, sections and floor  
2 plans, showing total number of units, number of and location of Inclusionary Units, and Middle Income  
3 Units; and a draft Regulatory Agreement;

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

10 ~~\_\_\_\_\_ (iii) If the property includes a parcel or parcels in which dwelling~~  
11 ~~units under subsection (ii) are located or were located in the five year period preceding the~~  
12 ~~application, the type and size of those units, and the incomes of the persons or families~~  
13 ~~occupying those units.~~

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

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

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



1 Planning Commission under Section 415. Amendments to the Procedures Manual shall include a  
2 requirement that project sponsors complete a market survey of the area before marketing Middle  
3 Income Units. All affordable units that are affordable to households between 120 and 140% of AMI  
4 must be marketed at a price that is at least 20% less than the current market rate for that unit size and  
5 neighborhood, in addition to any other applicable Program requirements.

6 (3) **Notice and Hearing.** Local Projects shall comply with Section ~~328~~ 306 for review  
7 and approval.

8 (4) **Controls.** Local Projects shall be governed by the conditional use procedures  
9 of Section ~~303~~. ~~comply with Section 328.~~ Notwithstanding any other provision of this Code, no  
10 conditional use authorization shall be required for a Local Project unless such conditional use  
11 requirement was adopted by the voters.

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

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

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

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

23 (D) The Regulatory Agreement shall be consistent with the guidelines of the  
24 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 or  
3 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 Affordable Rent  
6 or Affordable Sales Price. The project sponsor must commit to completing a market survey of the  
7 area before marketing Middle Income Units. All affordable units that are affordable to households  
8 between 120 and 140% of AMI must be marketed at a price that is at least 20% less than the current  
9 market rate for that unit size and neighborhood, in addition to any other applicable Program  
10 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,  
18 if 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); and

21 (viii) Other provisions to ensure implementation and compliance with  
22 this Section.

23  
24 **SEC. ~~206.3~~206.4. THE 100 PERCENT AFFORDABLE HOUSING BONUS**  
25 **PROGRAM.**

1           \*\*\* \*\*

2           **206.5. STATE RESIDENTIAL DENSITY BONUS PROGRAM: ANALYZED**

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

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

18           (b) Applicability:

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

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

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

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

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

1 (E) is providing all Inclusionary Units as On-site Units under Section 415.6. If  
2 the Dial Alternative currently proposed in an ordinance in Board of Supervisors File No. 150911 is  
3 adopted and permits a project sponsor to provide more Inclusionary Units at higher AMIs than  
4 currently required (referred to as “dialing up”), a project sponsor may dial up and meet the  
5 requirements of this subsection (D). If the Dial Alternative of the Inclusionary Affordable Housing  
6 Program is ever amended to allow a project sponsor to provide fewer Inclusionary Units at lower AMIs  
7 than currently required (referred to as “dialing down”), then a Project cannot qualify for this Section  
8 206.5 if it elects to dial down;

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

10 (G) is seeking only Concessions or Incentives set forth in subsection (c)(4);

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

13 (I) Does not demolish, remove, or convert any residential units. ~~provides~~  
14 replacement units for any units demolished or removed that are subject to the San Francisco  
15 Residential Rent Stabilization and Arbitration Ordinance, San Francisco Administrative Code  
16 Section 37, or are units qualifying for replacement as units being occupied by households of  
17 low or very low income, consistent with the requirements of Government Code section  
18 65915(c)(3).

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

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

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

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

Table 206.5A

Density Bonus Summary – Analyzed

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Restricted Affordable Units or Category</u>	<u>Minimum Percentage of Restricted Affordable Units</u>	<u>Percentage of Density Bonus Granted</u>	<u>Additional Bonus for Each 1% Increase In Restricted Affordable Units</u>	<u>Percentage of Restricted Units Required for Maximum 35% Density Bonus</u>
<u>Very Low Income</u>	<u>5%</u>	<u>20%</u>	<u>2.50%</u>	<u>11%</u>
<u>Lower Income</u>	<u>10%</u>	<u>20%</u>	<u>1.50%</u>	<u>20%</u>
<u>Moderate Income</u>	<u>10%</u>	<u>5%</u>	<u>1%</u>	<u>40%</u>
<u>Senior Citizen Housing, as defined in § 102, and meeting the requirements of § 202.2(f).</u>	<u>100%</u>	<u>50%</u>	<u>-----</u>	<u>-----</u>

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

1 identified in Column B of Table 206.5A for at least one income category, but may combine density  
2 bonuses from more than one income category, up to a maximum of 35% of the Maximum Allowable  
3 Residential Density.

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

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

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

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

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

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

1 Table 206.5B

2 Concessions and Incentives Summary – Analyzed Projects

3

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

4

5

6

7

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

9

10 (4) Menu of Concessions and Incentives: In submitting a request for Concessions or  
11 Incentives, an applicant for an Analyzed State Density Bonus Project may request the specific  
12 Concessions and Incentives set forth below. The Planning Department, based on Department research  
13 and a Residential Density Bonus Study prepared by David Baker Architects, Seifel Consulting, and the  
14 San Francisco Planning Department dated August 2015, on file with the Clerk of the Board of  
15 Supervisors in File No. 150969, has determined that the following Concessions and Incentives are  
16 generally consistent with Government Code Section 65915(d) because, in general, they: are required  
17 in order to provide for affordable housing costs; will not be deemed by the Department to have a  
18 specific adverse impact as defined in Government Code Section 65915(d); and are not contrary to State  
19 or Federal law.

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



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

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

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

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

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

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

20                    **Step one: Calculate Base Density and Bonus Density Limits**

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

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

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

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

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

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

11 **Step four: Calculate Additional Residential Floors.** Determine the number of stories  
12 required to accommodate bonus:

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

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

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

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

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

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

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

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

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

8                    (5) A full plan set including site plan, elevations, sections, and floor plans, number of  
9 market-rate units, Restricted Affordable Units, and Density Bonus units within the proposed Housing  
10 Project. The location of all units must be approved by the Planning Department before the issuance of  
11 the building permit;

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

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

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

24                    (97) Documentation that the applicant has provided written notification to all existing  
25 commercial or residential tenants that the applicant intends to develop the property pursuant to this

1 section. Any affected commercial tenants shall be given priority processing similar to the  
2 Department's Community Business Priority Processing Program, as adopted by the San Francisco  
3 Commission on February 12, 2015 under Resolution Number 19323 to support relocation of such  
4 business in concert with access to relevant local business support programs. In no case may a  
5 project receive a site permit or any demolition permit prior to 18 months from the date of  
6 written notification required by this Section 206.5(d)(7).

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

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

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

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

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

23 (2) Following execution of the agreement by all parties, the completed Density  
24 Bonus Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed and  
25 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 binding  
3 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: (4) The  
6 Regulatory Agreement shall be consistent with the guidelines of the City's Inclusionary Housing  
7 Program and shall include at a minimum the following:

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

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

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

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

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

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

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

24                                   (H) Other provisions to ensure implementation and compliance with this  
25 Section.

1  
2 **SEC. 206.6. STATE DENSITY BONUS PROGRAM: INDIVIDUALLY REQUESTED**

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

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

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

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

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

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

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

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

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

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

Table 206.6 A

Density Bonus Summary – Individually Requested Project

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

1 Table 206.6B

2 Concessions and Incentives Summary – Individually Requested Project

3

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

4

5

6

7

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

9 (3) Request for Concessions and Incentives. In submitting a request for Concessions or

10 Incentives that are not specified in Section 206.5(c)(4), an applicant for an Individually Requested

11 Density Bonus Project must provide documentation described in subsection (d) below in its application.

12 The Planning Commission shall hold a hearing and shall approve the Concession or Incentive

13 requested unless it makes written findings, based on substantial evidence that:

14 (A) The Concession or Incentive is not required in order to provide for

15 affordable housing costs, as defined in Section 50052.5 of the California Health and Safety Code, or for

16 rents for the Restricted Affordable Units to be as specified in this Section 206.6; or

17 (B) The Concession or Incentive would have a specific adverse impact, as

18 defined in Government Code Section 65589.5(d)(2) upon public health and safety or the physical

19 environment or any real property that is listed in the California Register of Historical Resources and

20 for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact

21 without rendering the Housing Project unaffordable to low- and moderate-income households.

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

23 (4) Waiver or Modification. An applicant may apply for a waiver or modification of

24 Development Standards that will have the effect of physically precluding the construction of a Housing

25 Project at the densities or with the Concessions or Incentives permitted by this Section 206.6. The

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

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

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

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

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

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

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

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

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

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

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

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

1 to review the financial data, shall be borne by the applicant. The financial information shall include all  
2 of the following items:

3 (A) The actual cost reduction achieved through the Concession or Incentive;

4 (B) Evidence that the cost reduction allows the applicant to provide affordable  
5 rents or affordable sales prices; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

3                   (A) The total number of dwelling units approved for the Housing Project,  
4 including the number of Restricted Affordable Units, Inclusionary Units, Middle Income Units or  
5 other restricted units;

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

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

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

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

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

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

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

20                   **SEC. 206.7. CHILD CARE FACILITIES.**

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

24                   (b) When an applicant proposes to construct a Housing Project that is eligible for a Density  
25 Bonus under Section 206.6 and includes a Child Care Facility that will be located on the premises of,

1 as part of, or adjacent to, the Housing Project, all of the provisions of this Section 206.7 shall apply  
2 and all of the provisions of Section 206.6 shall apply, except as specifically provided in this Section  
3 206.7.

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

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

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

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

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

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

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

1 **SEC. ~~206.4~~ 206.8. ~~100 PERCENT~~ AFFORDABLE HOUSING BONUS PROGRAM**

2 **EVALUATION.**

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

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

14 (c) Report Contents. The Housing Inventory shall include, but not be limited to,  
15 information on the:

16 (1) number of projects utilizing the Bonus Programs;

17 (2) number of units approved and constructed under the Bonus Programs and  
18 the AMI levels of such units;

19 (3) number of additional affordable units in excess of that otherwise required by Section  
20 415;

21 (34) geographic distribution of projects, including the total number of units in  
22 each project, utilizing the Bonus Programs;

23 (45) number of larger unit types, including the number of 3-bedroom units;

24 (56) square feet of units by bedroom count;

25 (67) number of projects with nine or fewer units that participate; and

1                   (78) Number of appeals of projects in the Bonus Program and stated reason for  
2 appeal.

3                   (d) Program Evaluation and Update.

4                   (1) Purpose and Contents. Every five years, beginning five years from the  
5 effective date of Section 206, the Department shall prepare a Program Evaluation and  
6 Update. The Program Evaluation and Update shall include an analysis of the Bonus  
7 Program's effectiveness as it relates to City policy goals including, but not limited to  
8 Proposition K (November 2014) and the Housing Element. The Program Evaluation and  
9 Update shall include a review of all of the following:

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

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

14                                   (AC) Requested and granted concessions and incentives, including  
15 consideration of whether the menu of zoning modification or concessions and incentives set  
16 forth in Section 206.3(c)(5), 206.4(c)(5) and 206.5(c)(4) respond to the needs of projects  
17 seeking approvals under the Bonus Program; consideration of whether the elected zoning  
18 modifications or incentives and concessions result in a residential project that responds to the  
19 surrounding neighborhood context; and review and recommendation for additions or  
20 modifications to the list of zoning modifications or concessions and incentives in 206.3(c)(5),  
21 206.4(c)(5) and 206.5(c)(4).

22                                   (BD) Geography and neighborhood specific considerations. Review and  
23 analysis of where Bonus Program projects are proposed and approved, including an analysis  
24 of land values, zoning, height controls, and neighborhood support.

1                               (~~EE~~) Review of the process for considering projects under the Bonus  
2 Program, including a review of Section 328, the appeal process, Section 303(st) and other  
3 relevant process considerations.

4                               (F) Review and recommendations for additional provisions regarding the  
5 protection of neighborhood-serving small businesses, including feasibility of providing  
6 relocation assistance and requiring rights of first refusal to displaced tenants.

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

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

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

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

3 **SEC. 328. 100 PERCENT AFFORDABLE HOUSING BONUS PROJECT**

4 **AUTHORIZATION**

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

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

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

1 Director, may also apply the standards of Section 261.1 to bonus floors for all projects on  
2 narrow streets and alleys in order to ensure that these streets do not become overshadowed,  
3 including potential upper story setbacks, and special consideration for the southern side of  
4 East-West streets, and Mid-block passages, as long as such setbacks do not result in a  
5 smaller number of residential units.

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

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

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

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

24 (3) whether the design of lower floors, including building setback areas,  
25 commercial space, townhouses, entries, utilities, and parking and loading access is consistent

1 with the 100% Affordable Housing Bonus Program Design Guidelines, and any other  
2 applicable design guidelines.

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

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

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

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

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

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

22 (5) Exception from satisfaction of accessory parking requirements per Section  
23 152.1, or any applicable special use district.



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

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

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

8 (2) the use as proposed will provide development that is in conformity with the  
9 stated purposes of the applicable Use District; and,

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

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

17 (g) **Hearing and Decision.**

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

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

22 (3) **Director's Recommendations on Modifications and Exceptions.** At the  
23 hearing, the Planning Director shall review for the Commission key issues related to the  
24 project based on the review of the project pursuant to subsection (c) and recommend to the  
25 Commission modifications, if any, to the project and conditions for approval as necessary. The

1 Director shall also make recommendations to the Commission on any proposed exceptions  
2 pursuant to subsection (d).

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

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

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

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

22  
23 Section 4. The Planning Code is hereby amended by amending Section 303, to read  
24 as follows:

25 SEC. 303. CONDITIONAL USES.

1                   \*\*\* \*\*

2                   (t) Local Affordable Housing Bonus Projects. The purpose of this Section is to ensure  
3 that all Local Affordable Housing Bonus Projects under Section 206.3 are reviewed in  
4 coordination with priority processing available for certain projects with greater levels of  
5 affordable housing. While most projects in the Program will likely be somewhat larger than  
6 their surroundings in order to facilitate higher levels of affordable housing, the Planning  
7 Commission and Department shall ensure that each project is consistent with the Affordable  
8 Housing Bonus Design Guidelines and any other applicable design guidelines, as adopted  
9 and periodically amended by the Planning Commission, so that projects respond to their  
10 surrounding context, while still meeting the City's affordable housing goals.

11                   (1) Planning Commission Design Review: The Planning Commission shall  
12 review and evaluate all physical aspects of a Local Affordable Housing Bonus Project at a  
13 public hearing. The Planning Commission recognizes that most qualifying projects will need to  
14 be larger in height and mass than surrounding buildings in order to achieve the Affordable  
15 Housing Bonus Program's affordable housing goals. However, the Planning Commission  
16 may, consistent with the Affordable Housing Bonus Program Design Guidelines, and any  
17 other applicable design guidelines, and upon recommendation from the Planning Director,  
18 make minor modifications to a project to reduce the impacts of such differences in scale.  
19 Additionally, as set forth in subsection (2) below, the Planning Commission may grant minor  
20 exceptions to the provisions of this Code. However, such exceptions should only be granted  
21 to allow building mass to appropriately shift to respond to surrounding context, and only when  
22 such modifications do not substantially reduce or increase the overall building envelope  
23 permitted by the Program under Section 206.3. All modifications and exceptions should be  
24 consistent with the Affordable Housing Bonus Program Design Guidelines and any other  
25 applicable design guidelines. In case of a conflict with other applicable design guidelines, the

1 Affordable Housing Bonus Program Design Guidelines shall prevail. The Planning  
2 Commission may require these or other modifications or conditions, or disapprove a project, in  
3 order to achieve the objectives and policies of the Affordable Housing Bonus Program or the  
4 purposes of this Code. This review shall be limited to design issues including the following:

5 (A) whether the bulk and massing of the building is consistent with the  
6 Affordable Housing Bonus Design Guidelines.

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

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

14 (D) whether the required streetscape and other public improvements such as  
15 tree planting, street furniture, and lighting are consistent with the Better Streets Plan, and any  
16 other applicable design guidelines.

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

1                   (A) Exception from residential usable open space requirements per Section  
2 135, or any applicable special use district.

3                   (B) Exception from satisfaction of loading requirements per Section 152.1, or  
4 any applicable special use district.

5                   (C) Exception for rear yards, pursuant to the requirements of Section 134, or  
6 any applicable special use district.

7                   (D) Exception from dwelling unit exposure requirements of Section 140, or any  
8 applicable special use district.

9                   (E) Exception from satisfaction of accessory parking requirements per Section  
10 152.1, or any applicable special use district.

11                   (F) Where not specified elsewhere in this Subsection (2), modification of other  
12 Code requirements that could otherwise be modified as a Planned Unit Development (as set  
13 forth in Section 304), irrespective of the zoning district in which the property is located.

14                   (G) Exception from active ground floor use requirements under 145.1(c)(3).

15                   (3) In no case may a project receive a site permit or any demolition permit prior to  
16 18 months from the date of written notification required by 206.3(e)(1)(B).

17  
18                   Section 5. This section is uncodified.

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

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

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

Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
3 additions, and Board amendment deletions in accordance with the “Note” that appears under  
4 the official title of the ordinance.

5

6

7 APPROVED AS TO FORM:  
8 DENNIS J. HERRERA, City Attorney

9

9 By: \_\_\_\_\_  
10 AUDREY PEARSON  
10 Deputy City Attorney

11

12 n:\legana\as2017\1600094\01169221.docx

13

14

15

16

17

18

19

20

21

22

23

24

25