

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

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

22 Section 1.

23 (a) The Planning Department has determined that the actions contemplated in this
24 ordinance comply with the California Environmental Quality Act (California Public Resources
25 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. 150969 and is incorporated herein by reference. The Board affirms
2 this determination.

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

9 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
10 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
11 in Planning Commission Resolution No. 19578 and 19686, and the Board incorporates such
12 reasons herein by reference.

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

16 SEC. 206. THE ~~100 PERCENT~~ AFFORDABLE HOUSING BONUS PROGRAMS.

17 ~~This Section 206 and Sections 206.1 through 206.4 shall be known as the 100 Percent~~
18 ~~Affordable Housing Bonus Program. References to "Section 206" shall include Sections 206.1 through~~
19 ~~206.4. This section shall be known as the Affordable Housing Bonus Programs, which include the~~
20 ~~Local Affordable Housing Bonus HOME-SF Program, the 100 Percent Affordable Housing Bonus~~
21 ~~Program, the Analyzed State Density Bonus Program and the Individually Requested State Density~~
22 ~~Bonus Program.~~

23 SEC. 206.1. PURPOSE AND FINDINGS.

24 (a) The purpose of the ~~100 Percent~~ Affordable Housing Bonus Program~~s~~ is to facilitate
25 the development and construction of affordable housing in San Francisco. Affordable housing

1 is of paramount statewide concern, and the Legislature has declared that local and state
2 governments have a responsibility to use the powers vested in them to facilitate the
3 improvement and development of housing to make adequate provision for the housing needs
4 of all economic segments of the community, especially families. The Legislature has found
5 that local governments must encourage the development of a variety of types of housing for
6 all income levels, including multifamily rental housing and assist in the development of
7 adequate housing to meet the needs of low-and moderate-income households.

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

17 (c) The Board of Supervisors, and the voters in San Francisco, have long recognized
18 the need for the production of affordable housing. The voters, in some cases, and the Board
19 in others, have adopted measures to address this need, such as mandatory Inclusionary
20 Affordable Housing Ordinance in Planning Code Section 415; the San Francisco Housing
21 Trust Fund, adopted in 2012, which established a fund to create, support and rehabilitate
22 affordable housing, and set aside \$20 million in its first year, with increasing allocations to
23 reach \$50 million a year for affordable housing; the adoption of Proposition K in November
24 2014, which established as City policy that the City, by 2020, will help construct or rehabilitate
25 at least 30,000 homes, with more than 50% of the housing affordable for middle-income

1 households, and at least 33% as affordable for low-and moderate income households; and
2 the multiple programs that rely on Federal, State and local funding sources as identified in the
3 Mayor's Office of Housing and Community Development Comprehensive Plan. These
4 programs enable the City to work towards the voter-mandated affordable housing goals.

5 (d) Historically, in the United States and San Francisco, affordable housing requires high
6 levels of public subsidy, including public investment and reliance on public dollars. Costs to subsidize
7 an affordable housing unit vary greatly depending on a number of factors, such as household income of
8 the residents, the type of housing, and the cost to acquire land acquisition. Currently, MOHCD
9 estimates that the level of subsidy for an affordable housing units is approximately \$~~250~~350,000 per
10 unit. Given this high cost per unit, San Francisco can only meet its affordable housing goals through a
11 combination of increased public dollars dedicated to affordable housing and other tools that do not
12 rely on public money.

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

19 (#f) In recognition of the City's affordable housing goals, including the need to produce
20 more affordable housing without the need for public subsidies, the Planning Department contracted
21 with David Baker Architects and Seifel Consulting to determine a menu of zoning
22 modifications and development bonuses that could offset a private developer's costs of
23 providing various levels of additional on-site affordable housing. These experts analyzed various
24 parcels in San Francisco, to determine the conditions in which a zoning accommodation
25 would be necessary to achieve additional density. The analysis modeled various zoning

1 districts and lot size configurations, consistent with current market conditions and the City's
2 stated policy goals, including to achieve a mix of unit types, including larger units that can
3 accommodate larger households. These reports are on file in Board of Supervisors File No.
4 160687.

5 (eg) Based on these reports, the Planning Department developed ~~a~~ four programs to
6 provide ~~an~~ options by which developers ~~of 100% affordable housing projects~~ can include
7 additional affordable units on-site ~~in~~ through increased density and other zoning or design
8 modifications. These programs are the Local Affordable Housing Bonus HOME- SF Program, the
9 100 Percent Affordable Housing Bonus Program, the Analyzed State Density Bonus Program and the
10 Individually Requested Bonus Program. This program is the 100 Percent Affordable Housing Bonus
11 Program, which provides additional incentives for developers of 100% affordable housing projects,
12 thereby reducing the overall cost of such developments on a per unit basis.

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

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

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

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

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

22 (l) In fiscal year 2016 - 2017 the Mayor's Office of Economic and Workforce
23 Development OEWD and the Office of Small Business will initiate and coordinate the
24 implementation of a citywide small business retention and relocation program. This program
25 will provide additional small business consulting and case management, real estate readiness

1 assessment, relocation assistance, broker services, real estate acquisition assistance,
2 succession planning, legacy business grants and technical assistance, and restaurant sector
3 permit coordination and assistance.

4 SEC. 206.2. DEFINITIONS.

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

10 "100 Percent Affordable Housing Project" shall be a project where all of the dwelling
11 units with the exception of the manager's unit are "Affordable Units" as that term is defined in
12 Section 406(b).

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

23 ~~“Affordable to a Household of Middle Income” shall mean, at a minimum, (1) a~~
24 ~~maximum purchase price that is affordable to a Household of Middle Income at 140% of Area~~
25 ~~Median Income, adjusted for the household size, assuming an annual payment for all housing~~

1 costs of 33 percent of the combined household annual gross income, a down payment
2 recommended by the Mayor's Office of Housing and Community Development and set forth in
3 the Procedures Manual, and available financing; and (2) the maximum annual rent for an
4 affordable housing unit shall be no more than 30% of the annual gross income for a
5 Household of Middle Income at an Area Median Income of 120%, as adjusted for the
6 household size, as of the first date of the tenancy.

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

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

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

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

22 "HOME-SF Unit" shall mean on-site income restricted residential unit provided within a
23 HOME-SF project a meet the requirements set forth in Planning Code Section 206.3.

1 "Household of Middle Income" shall mean a household whose combined annual gross
2 income for all members does not exceed 140% of AMI to qualify for ownership housing and
3 120% of AMI to qualify for rental housing.

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

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

17 "Maximum Allowable Gross Residential Density" means the maximum number of dwelling
18 units per square foot of lot area in zoning districts that have such a measurement, or, in zoning
19 districts without such a density measurement, the maximum number of dwelling units that could be
20 developed on a property while also meting all other applicable Planning Code requirements and
21 design guidelines, ~~and without obtaining an exception, modification, variance, or waiver from~~
22 ~~the Zoning Administrator or Planning Commission for any Planning Code requirement.~~

23 "Middle Income Unit" shall mean a residential unit affordable to a Household of Middle
24 Income.

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

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

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

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

13 **SEC. 206.3. Housing Opportunities Mean Equity – San Francisco LOCAL**
14 **AFFORDABLE HOUSING BONUS PROGRAM.**

15 (a) Purpose. This Section sets forth the HOME-SF Local Affordable Housing Bonus
16 Program. The Local Affordable Housing Bonus HOME-SF Program or "HOME-SF" "Local
17 Program" provides benefits to project sponsors of housing projects that set aside a total of 30% of
18 residential units onsite at below market rate rent or sales price, including a percentage of units
19 affordable to low and moderate income households consistent with Section 415, the Inclusionary
20 Housing Program, and the remaining percentage affordable to a range of incomes as described in
21 Section 206.3(c)(2). Household of Middle Income. The purpose of the Local Affordable
22 Housing Bonus Program HOME-SF is to expand the number of Inclusionary Units produced in San
23 Francisco and provide housing opportunities to a wider range of incomes than traditional affordable
24 housing programs, which typically provide housing only for very low, low or moderate income
25 households. The Local Program HOME-SF allows market-rate projects to match the City's shared

1 Proposition K housing goals that 50% of new housing constructed or rehabilitated in the City by 2020
2 be within the reach of working middle class San Franciscans, and at least 33% affordable for low and
3 moderate income households.

4 (b) Applicability. A ~~Local Affordable Housing Bonus HOME-SF Project~~ or “Local
5 Project” under this Section 206.3 shall be a project that:

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

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

1 Plan south of the centerline of Broadway; and (F) is not located on property under the
2 jurisdiction of the Port of San Francisco; and,

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

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

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

10 (6) consists only of new construction, and excluding any project that includes an
11 addition to an existing structure;

12 (7) is not located within the boundaries of the Northeastern Waterfront Area
13 Plan south of the centerline of Broadway.

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

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

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

3 (2) Provide an additional percentage of affordable units in the Local HOME-SF
4 Project as Middle Income HOME-SF Units, as defined herein, such that the total percentage of
5 Inclusionary Units and Middle Income HOME-SF Units equals 30%. The Middle Income HOME-
6 SF Units shall be restricted for the Life of the Project and shall comply with all of the requirements of
7 the Procedures Manual authorized in Section 415. Any unit required to satisfy requirements of
8 Section 415 shall be affordable to a household in the income categories specified in Section
9 415. Additional HOME-SF Units that are Owned Units shall have an average affordable
10 purchase price set at 120% of Area Median Income, with units equally distributed at 90% of
11 Area Median Income, 120% of Area Median Income and 140% of Area Median Income.
12 Additional HOME-SF Units that are Rental Units shall have an average affordable rent set at
13 80% or less of Area Median Income, with units equally distributed among households earning
14 55% of Area Median Income, 80% of Area Median Income, and 110% of Area Median
15 Income. As provided for in subsection (e), the Planning Department and MOHCD shall amend the
16 Procedures Manual to provide policies and procedures for the implementation, including monitoring
17 and enforcement, of the Middle Income units HOME-SF 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;
25

1 (4) Inclusive of Inclusionary Units and ~~Middle Income Units~~ HOME-SF Units,
2 provides either (A) a minimum unit mix of at least 40% of all units as two bedroom units or larger; or
3 (B) any unit mix which includes some three bedroom or larger units such that 50% of all
4 bedrooms within the Local HOME-SF Project are provided in units with more than one bedroom.
5 Larger units should be distributed on all floors, and prioritized in spaces adjacent to open
6 spaces or play yards. Project that include three bedroom units are encouraged to incorporate
7 family friendly amenities. Family friendly amenities shall include, but are not limited to,
8 bathtubs, dedicated cargo bicycle parking, dedicated stroller storage, open space and yards
9 designed for use by children. Local HOME-SF Projects are not eligible to modify this requirement
10 under Planning Code Section 303(t), ~~328~~, or any other provision of this Code; and,

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

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

17 (6) Includes at the ground floor level active uses, as defined in Section 145.1, at
18 the same square footages as any neighborhood commercial uses demolished or removed,
19 unless the Planning Commission has granted an exception under Section 303(st)(2)(G).

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

22 (1) **Form based density.** Notwithstanding any zoning designation to the contrary,
23 density of a Local HOME-SF Project shall not be limited by lot area but rather by the applicable
24 requirements and limitations set forth elsewhere in this Code. Such requirements and limitations
25 include, but are not limited to, height, including any additional height allowed by subsection (d)(2),

1 Bulk, Setbacks, Required Open Space, Exposure and unit mix as well as applicable design guidelines,
2 elements and area plans of the General Plan and design review, including consistency with the
3 Affordable Housing Bonus Program Design Guidelines, referenced in Section 328, as determined by
4 the Planning Department.

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

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

18 (4) **Zoning Modifications.** HOME-SF ~~Local Affordable Housing Bonus~~ Projects
19 may select up to three of the following zoning modifications:

20 (A) **Rear yard:** The required rear yard per Section 134 or any applicable
21 special use district may be reduced to no less than 20 percent of the lot depth, or 15 feet, whichever is
22 greater. Corner properties may provide 20 percent of the lot area at the interior corner of the property
23 to meet the minimum rear yard requirement, provided that each horizontal dimension of the open area
24 is a minimum of 15 feet; and that the open area is wholly or partially contiguous to the existing
25 midblock 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 per Section 152 shall not be
6 required.

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

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

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

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

22 (e) Implementation.

23 (1) Application. The following procedures shall govern the processing of a
24 request for a project to qualify under the Local Program.
25

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

5 ~~(iA)~~ A full plan set, including a site plan, elevations, sections and floor
6 plans, showing total number of units, number of and location of Inclusionary Units, and Middle
7 Income HOME-SF Units; and a draft Regulatory Agreement;

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

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

18 ~~(ivB)~~ The requested development bonuses and/or zoning modifications
19 from those listed in subsection (d).

20 (C) A list of all on-site family friendly amenities. Family friendly
21 amenities shall include, but are not limited to, dedicated cargo bicycle parking, dedicated
22 stroller storage, open space and yards designed for use by children.

23 ~~(BD)~~ Documentation that the applicant has provided written notification to all
24 existing commercial or residential tenants that the applicant intends to develop the property pursuant
25 to this section and has provided any existing commercial tenants with a copy of the Mayor's

1 Office of Economic and Workforce Development's Guide to Small Business Retention and
2 Relocation Support. Any affected commercial tenants shall be given priority processing similar to the
3 Department's Community Business Priority Processing Program, as adopted by the San Francisco
4 Commission on February 12, 2015 under Resolution Number 19323, to support relocation of such
5 business in concert with access to relevant local business support programs.

6 (2) **Procedures Manual.** The Planning Department and MOHCD shall amend the
7 Procedures Manual, authorized in Section 415, to include policies and procedures for the
8 implementation, including monitoring and enforcement, of the HOME-SF Units. ~~Middle Income~~
9 ~~units.~~ As an amendment to the Procedures Manual, such policies and procedures are subject to review
10 and approval by the Planning Commission under Section 415. Amendments to the Procedures Manual
11 shall include a requirement that project sponsors in specified areas complete a market survey of the
12 area before marketing ~~Middle Income Units~~ HOME-SF Units. All HOME-SF Units affordable
13 units that are affordable to households between 120 and 140% of AMI must be marketed at a
14 price that is at least 20% less than the current market rate for that unit size and neighborhood, in
15 addition to any other applicable Program requirements and MOHCD may reduce the Area Median
16 Income levels set forth in subsection (c)(2) in order maintain such pricing.

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

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

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

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

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

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

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

12 (i) The total number of dwelling units approved for the Housing Project,
13 including the number of ~~Restricted Affordable Units~~, Inclusionary Units, HOME-SF Units ~~Middle~~
14 ~~Income Units~~ or other restricted units;

15 (ii) A description of the household income group to be accommodated by
16 the ~~Restricted Affordable Units~~ Inclusionary Units and HOME-SF Units, and the standards for
17 determining the corresponding Affordable Rent or Affordable Sales Price. If required by the
18 Procedures Manual, the ~~The~~ project sponsor must commit to completing a market survey of the
19 area before marketing ~~Middle Income~~ HOME-SF Units. All ~~affordable units that are affordable to~~
20 ~~households between 120 and 140% of AMI~~ HOME-SF Units must be marketed at a price that is
21 at least 20% less than the current market rate for that unit size and neighborhood, in addition to any
22 other applicable Program requirements and MOHCD may reduce the Area Median Income
23 levels set forth in subsection (c)(2) in order maintain such pricing;

24 (iii) The location, dwelling unit sizes (in square feet), and number of
25 bedrooms of the Inclusionary Units and HOME-SF Units ~~Restricted Affordable Units~~;

1 (iv) Term of use restrictions for the life of the project. Restricted
2 Affordable Units of at least 55 years for Moderate Income units and at least 55 years for Low
3 and Very Low units;

4 (v) A schedule for completion and occupancy of Inclusionary Units and
5 HOME-SF Units Restricted Affordable Units;

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

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

10 (viii) Other provisions to ensure implementation and compliance with
11 this Section.

12
13 **SEC. ~~206.3~~206.4. THE 100 PERCENT AFFORDABLE HOUSING BONUS**
14 **PROGRAM.**

15 *** **

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

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

1 Program established in Section 206.5. Third, Section 206.7, describes density bonuses available
2 under the State code for the provision of childcare facilities.

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

7 **(b) Applicability:**

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

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

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

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

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

18 (E) is providing all Inclusionary Units as On-site Units under Section 415.6. If
19 the Dial Alternative currently proposed in an ordinance in Board of Supervisors File No.
20 450911 is adopted and permits a project sponsor to provide more Inclusionary Units at higher
21 AMIs than currently required (referred to as “dialing up”), a project sponsor may dial up and
22 meet the requirements of this subsection (D). If the Dial Alternative of the Inclusionary
23 Affordable Housing Program is ever amended to allow a project sponsor to provide fewer
24 Inclusionary Units at lower AMIs than currently required (referred to as “dialing down”), then a
25 Project cannot qualify for this Section 206.5 if it elects to dial down;

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

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

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

5 (I) Does not demolish, remove, or convert any residential units; and.

6 ~~provides replacement units for any units demolished or removed that are subject to the San~~
7 ~~Francisco Residential 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 (J) consists only of new construction, and excluding any project that
12 includes an addition to an existing structure.

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

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

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

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

24 Table 206.5A

25 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 Gross Residential Density.

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

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

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

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

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

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

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

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

18
19 Table 206.5B

20 Concessions and Incentives Summary – Analyzed Projects

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (9) Documentation that the applicant has provided written notification to all existing
18 commercial or residential tenants that the applicant intends to develop the property pursuant to this
19 section. Any affected commercial tenants shall be given priority processing similar to the
20 Department's Community Business Priority Processing Program, as adopted by the San Francisco
21 Commission on February 12, 2015 under Resolution Number 19323 to support relocation of such
22 business in concert with access to relevant local business support programs. In no case may a
23 project receive a site permit or any demolition permit prior to 18 months from the date of
24 written notification required by this Section 206.5(d)(7).

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

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

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

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

14 (1) 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 (2) 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 (3) 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 (4) 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: (4) The
25

1 Regulatory Agreement shall be consistent with the guidelines of the City's Inclusionary Housing
2 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, ~~HOME-SF Units~~ ~~Middle~~
5 ~~Income Units~~ or other restricted units;

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

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

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

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

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

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

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

21
22 **SEC. 206.6. STATE DENSITY BONUS PROGRAM: INDIVIDUALLY REQUESTED**

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

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

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

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

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

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

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

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

1 Section 37, or are units qualifying for replacement as units being occupied by households of low or
 2 very low income, consistent with the requirements of Government Code section 65915(c)(3).

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

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

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

10 Table 206.6 A

11 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> |

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

14 In calculating density bonuses under this subsection 206.6(c)(1) the following shall

15 apply:

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

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

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

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

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

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

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

3 (H) Certain other types of development activities are specifically eligible for a
4 development bonuses pursuant to State law, including land donation under Government Code Section
5 65915(g), condominium conversions under Government Code section 65915.5 and qualifying mobile
6 home parks under Government Code section 65915(b)(1)(C). Such projects shall be considered
7 Individually Requested State Density Bonus Projects.

8 (2) **Concessions and Incentives.** This Section includes provisions for providing
9 Concessions or Incentives pursuant to Government Code Section 65915 et seq, as set forth in Table
10 206.6B. For purposes of this Section 206.6, Concessions and Incentives as used interchangeably shall
11 mean such regulatory concessions as specified in Government Code Section 65915(k) to include:

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

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

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

23 Table 206.6B

24 Concessions and Incentives Summary – Individually Requested Project

| | |
|---------------------|------------------------------------|
| <u>Target Group</u> | <u>Restricted Affordable Units</u> |
|---------------------|------------------------------------|

| | | | | |
|---|--|------------|------------|------------|
| 1 | <u>Very Low Income</u> | <u>5%</u> | <u>10%</u> | <u>15%</u> |
| 2 | <u>Lower Income</u> | <u>10%</u> | <u>20%</u> | <u>30%</u> |
| 3 | <u>Moderate Income (Common Interest Development)</u> | <u>10%</u> | <u>20%</u> | <u>30%</u> |
| 4 | <u>Maximum Incentive(s)/Concession(s)</u> | <u>1</u> | <u>2</u> | <u>3</u> |

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

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

12 (A) The Concession or Incentive does not result in identifiable and actual
13 cost reductions, consistent with Government Code section 65915(k) is not required in order to
14 provide for affordable housing costs, as defined in Section 50052.5 of the California Health
15 and Safety Code, or for rents for the Restricted Affordable Units to be as specified in this
16 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
Planning Commission will not grant a waiver or modification under this Section unless it is necessary

1 to achieve the additional density or the Concessions or Incentives permitted by this Section 206.6. The
2 developer must submit sufficient information as determined by the Planning Department demonstrating
3 that Development Standards that are requested to be waived or modified will have the effect of
4 physically precluding the construction of a Housing Project meeting the criteria of this Section 206.6 at
5 the densities or with the Concessions or Incentives permitted. The Planning Commission shall hold a
6 hearing to determine if the project sponsor has demonstrated that the waiver is necessary. The
7 Planning Commission may deny a waiver if it finds on the basis of substantial evidence that:

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

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

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

18 (~~C~~) The Waiver would be contrary to state or federal law.

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

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

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

15 (3) The zoning district designations, Maximum Allowable Gross 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

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

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

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

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

11 (5) If a waiver or modification is requested, information sufficient to demonstrate
12 why a Development Standard would physically preclude the construction of the Development
13 with the Density Bonus, Incentives, and Concessions requested. a submittal containing the
14 following information. The cost of reviewing any required information supporting the request for a
15 waiver, including, but not limited to, the cost to the City of hiring a consultant to review the
16 architectural information, shall be borne by the applicant.

17 ~~(A) Why the Development Standard would physically preclude the~~
18 ~~construction of the Development with the Density Bonus, Incentives, and Concessions~~
19 ~~requested.~~

20 ~~(B) Any other information requested by the Planning Director as is~~
21 ~~required to evaluate the request;~~

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

24 (7) The number of residential units which are on the property, or if the residential units
25 have been vacated or demolished in the five year period preceding the application, have been and

1 which were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to
2 persons and families of lower or very low income; subject to any other form of rent or price control
3 through the City or other public entity's valid exercise of its police power; or occupied by lower or very
4 low income households;

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

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

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

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

22 (12) If a Density Bonus or Concession is requested for a condominium conversion, the
23 applicant shall provide evidence that all of the requirements found in Government Code Section
24 65915.5 can be met.

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

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

6 (A) The Housing Project is eligible for the Individually Requested Density
7 Bonus Program Affordable Housing Bonus Program.

8 (B) The Housing Project has demonstrated that any Concessions or Incentives
9 are required in order to provide for affordable reduce actual housing costs, as defined in Section
10 50052.5 of the California Health and Safety Code, or for rents for the targeted units, based upon the
11 financial analysis and documentation provided.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (A) The total number of dwelling units approved for the Housing Project,
13 including the number of Restricted Affordable Units, Inclusionary Units, ~~Middle Income~~HOME-SF
14 Units or other restricted units;

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

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

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

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

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

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

3 (H) Other provisions to ensure implementation and compliance with this
4 Section.

5 **SEC. 206.7. CHILD CARE FACILITIES.**

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

9 (b) When an applicant proposes to construct a Housing Project that is eligible for a Density
10 Bonus under Section 206.6 and includes a Child Care Facility that will be located on the premises of,
11 as part of, or adjacent to, the Housing Project, all of the provisions of this Section 206.7 shall apply
12 and all of the provisions of Section 206.6 shall apply, except as specifically provided in this Section
13 206.7.

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

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

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

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

23 (1) The Child Care Facility shall remain in operation for a period of time that is as long
24 as or longer than the period of time during which the Affordable Units are required to remain
25

1 affordable. In the event the childcare operations cease to exist, the Zoning Administrator may approve
2 in writing an alternative community service use for the child care facility.

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

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

10
11 SEC. ~~206.4~~ 206.8. ~~100 PERCENT~~ AFFORDABLE HOUSING BONUS PROGRAM
12 EVALUATION.

13 (a) Within one year from the effective date of Section 206, the Planning Department
14 shall provide an informational presentation to the Planning Commission, and any other City
15 agency at their request, presenting an overview of all projects that request or receive
16 development bonuses under the HOME-SF Local Affordable Housing Bonus Program, the 100
17 Percent Affordable Housing Bonus Program and the Analyzed and Individually Requested State
18 Density Bonus Program ("the Bonus Programs").

19 (b) Annual Reporting. The Planning Department, in coordination with MOHCD, shall
20 include information on projects which request and receive development bonuses under the
21 Bonus Programs, in the Housing Inventory Report.

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

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

1 (2) number of units approved and constructed under the Bonus Program~~s~~ and
2 the AMI levels of such units;

3 (3) number of additional affordable units in excess of that otherwise required by Section
4 415;

5 (~~34~~) geographic distribution of projects, including the total number of units in
6 each project, utilizing the Bonus Program~~s~~;

7 (~~45~~) number of larger unit types, including the number of 3-bedroom units;

8 (~~56~~) square feet of units by bedroom count;

9 (~~67~~) number of projects with nine or fewer units that participate; and

10 (~~78~~) Number of appeals of projects in the Bonus Program and stated reason for
11 appeal.

12 (d) Program Evaluation and Update.

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

19 (A) Target income levels for the ~~Local Affordable Housing Bonus~~ HOME-SF
20 Program in relation to market values and assessed affordable housing needs.

21 (B) Feasibility of the ~~Local Affordable Housing Bonus~~ HOME-SF Program,
22 in relation to housing policy goals, program production, and current market conditions.

23 (~~AC~~) Requested and granted concessions and incentives, including
24 consideration of whether the menu of zoning modification or concessions and incentives set
25 forth in Section 206.3(c)(5), 206.4(c)(5) and 206.5(c)(4) respond to the needs of projects

1 seeking approvals under the Bonus Program; consideration of whether the elected zoning
2 modifications or incentives and concessions result in a residential project that responds to the
3 surrounding neighborhood context; and review and recommendation for additions or
4 modifications to the list of zoning modifications or concessions and incentives in 206.3(c)(5),
5 206.4(c)(5) and 206.5(c)(4).

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

9 (EE) Review of the process for considering projects under the Bonus
10 Program, including a review of Section 328, the appeal process, Section 303(t) and other
11 relevant process considerations.

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

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

21 (e) Program Expansion Report. The Board of Supervisors directs the Planning
22 Department and MOHCD to research, analyze and provide recommendations for further
23 density and development bonuses for 100% affordable or mixed-income developments. The
24 Program Expansion Report shall be published within one year of the effective date of Section
25 206.

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

8
9 Section 3. The Planning Code is hereby amended by adding revising Sections 328, to
10 read as follows:

11 SEC. 328. 100 PERCENT AFFORDABLE HOUSING BONUS PROJECT
12 AUTHORIZATION

13 (a) Purpose. The purpose of this Section 328 is to ensure that all 100 Percent
14 Affordable Housing Bonus projects under Section ~~206.3~~ 206.4 are reviewed in coordination
15 with priority processing available for certain projects with 100 Percent affordable housing.
16 While most projects in the 100 Percent Affordable Housing Program will likely be somewhat
17 larger than their surroundings in order to facilitate higher levels of affordable housing, the
18 Planning Commission and Department shall ensure that each project is consistent with the
19 Affordable Housing Bonus Design Guidelines and any other applicable design guidelines, as
20 adopted and periodically amended by the Planning Commission, so that projects respond to
21 their surrounding context, while still meeting the City's affordable housing goals.

22 (b) Applicability. This section 328 applies to all qualifying 100 Percent Affordable
23 Housing Bonus Projects that meet the requirements described in Planning Code Section ~~206.3~~
24 206.4.

1 (c) Planning Commission Design Review: The Planning Commission shall review and
2 evaluate all physical aspects of a 100 Percent Affordable Housing Bonus Project at a public
3 hearing. The Planning Commission recognizes that most qualifying projects will need to be
4 larger in height and mass than surrounding buildings in order to achieve the 100% Affordable
5 Housing Bonus Program's affordable housing goals. However, the Planning Commission
6 may, consistent with the ~~100%~~ Affordable Housing Bonus Program Design Guidelines, and
7 any other applicable design guidelines, and upon recommendation from the Planning Director,
8 make minor modifications to a project to reduce the impacts of such differences in scale. The
9 Planning Commission, upon recommendation of the Planning Director, may also apply the
10 standards of Section 261.1 to bonus floors for all projects on narrow streets and alleys in
11 order to ensure that these streets do not become overshadowed, including potential upper
12 story setbacks, and special consideration for the southern side of East-West streets, and Mid-
13 block passages, as long as such setbacks do not result in a smaller number of residential
14 units.

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

24 The Planning Commission may require these or other modifications or conditions, or
25 disapprove a project, in order to achieve the objectives and policies of the 100 Affordable

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

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

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

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

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

15 (d) Exceptions. As a component of the review process under this Section 328, the
16 Planning Commission may grant minor exceptions to the provisions of this Code as provided
17 for below, in addition to the development bonuses granted to the project in Section ~~206.3(e)~~
18 206.4(c). Such exceptions, however, should only be granted to allow building mass to
19 appropriately shift to respond to surrounding context, and only when the Planning
20 Commission finds that such modifications do not substantially reduce or increase the overall
21 building envelope permitted by the Program under Sections ~~206.3~~206.4 and also are consistent
22 with the ~~100%~~ Affordable Housing Bonus Design Guidelines. These exceptions may include:

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

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

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

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

7 (5) Exception from satisfaction of accessory parking requirements per Section
8 152.1, or any applicable special use district.

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

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

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

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

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

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

25 (g) Hearing and Decision.

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

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

5 (3) Director's Recommendations on Modifications and Exceptions. At the
6 hearing, the Planning Director shall review for the Commission key issues related to the
7 project based on the review of the project pursuant to subsection (c) and recommend to the
8 Commission modifications, if any, to the project and conditions for approval as necessary. The
9 Director shall also make recommendations to the Commission on any proposed exceptions
10 pursuant to subsection (d).

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

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

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

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

7
8 Section 4. The Planning Code is hereby amended by amending Section 303, to read as
9 follows:

10 SEC. 303. CONDITIONAL USES.

11 *** **

12 (t) Local Affordable Housing Bonus Projects. The purpose of this Section is to ensure
13 that all ~~Local Affordable Housing Bonus~~ HOME-SF Projects under Section 206.3 are reviewed
14 in coordination with priority processing available for certain projects with greater levels of
15 affordable housing. While most projects in the Program will likely be somewhat larger than
16 their surroundings in order to facilitate higher levels of affordable housing, the Planning
17 Commission and Department shall ensure that each project is consistent with the Affordable
18 Housing Bonus Design Guidelines and any other applicable design guidelines, as adopted
19 and periodically amended by the Planning Commission, so that projects respond to their
20 surrounding context, while still meeting the City's affordable housing goals.

21 (1) Planning Commission Design Review: The Planning Commission shall
22 review and evaluate all physical aspects of a ~~Local Affordable Housing Bonus~~ HOME-SF
23 Project at a public hearing. The Planning Commission recognizes that most qualifying projects
24 will need to be larger in height and mass than surrounding buildings in order to achieve the
25 Affordable Housing Bonus Program's affordable housing goals. However, the Planning

1 Commission may, consistent with the Affordable Housing Bonus Program Design Guidelines,
2 and any other applicable design guidelines, and upon recommendation from the Planning
3 Director, make minor modifications to a project to reduce the impacts of such differences in
4 scale. Additionally, as set forth in subsection (2) below, the Planning Commission may grant
5 minor exceptions to the provisions of this Code. However, such exceptions should only be
6 granted to allow building mass to appropriately shift to respond to surrounding context, and
7 only when such modifications do not substantially reduce or increase the overall building
8 envelope permitted by the Program under Section 206.3. All modifications and exceptions
9 should be consistent with the Affordable Housing Bonus Program Design Guidelines and any
10 other applicable design guidelines. In case of a conflict with other applicable design
11 guidelines, the Affordable Housing Bonus Program Design Guidelines shall prevail. The
12 Planning Commission may require these or other modifications or conditions, or disapprove a
13 project, in order to achieve the objectives and policies of the Affordable Housing Bonus
14 Program or the purposes of this Code. This review shall be limited to design issues including
15 the following:

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

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

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

25

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

4 (2) Exceptions. As a component of the review process under this Section 328303(t),
5 the Planning Commission may grant minor exceptions to the provisions of this Code as
6 provided for below, in addition to the development bonuses granted to the project in Section
7 206.3(d). Such exceptions, however, should only be granted to allow building mass to
8 appropriately shift to respond to surrounding context, and only when the Planning
9 Commission finds that such modifications: 1) do not substantially reduce or increase the
10 overall building envelope permitted by the Program under Sections 206.3; and 2) are
11 consistent with the Affordable Housing Bonus Design Guidelines. These exceptions may
12 include:

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

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

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

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

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

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

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

2 (3) Additional Criteria. In addition to the criteria set forth in (c)(2), the Planning
3 Commission shall consider the extent to which the following criteria are met:

4 (A) whether the project would require the demolition of an existing building;

5 (B) whether the project would remove existing commercial or retail uses;

6 (C) If the project would remove existing commercial or retail uses, how recently
7 the commercial or retail uses were occupied by a tenant or tenants;

8 (D) whether the project includes commercial or retail uses;

9 (E) whether there is an adverse impact on the public health, safety, and general
10 welfare due to the loss of commercial or retail uses in the district where the project is located.

11 (34) In no case may a project receive a site permit or any demolition permit prior to
12 18 months from the date of written notification required by 206.3(e)(1)(B).

13

14 Section 5. This section is uncodified.

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

19

| 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 |

25

| | | |
|---|------------------------------------|--|
| 1 | \$5,000,000.00 to \$9,999,999.00 | \$19,986.00 plus 0.328% of cost over \$5,000,000.00 |
| 2 | \$10,000,000.00 to \$19,999,999.00 | \$36,701.00 plus 0.171% of cost over \$10,000,000.00 |
| 3 | \$20,000,000.00 or more | \$54,120.00 |

4

5 Section 6. Effective Date. This ordinance shall become effective 30 days after

6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board

8 of Supervisors overrides the Mayor’s veto of the ordinance. This ordinance applies to projects

9 that the Planning Department or Planning Commission have not approved as of the effective

10 date. For projects that have not yet submitted applications to the Planning Department or

11 other City entity, all of the provisions of the ordinance apply. The Planning Department shall

12 develop a policy to apply the provisions of this ordinance to projects that have already

13 submitted applications, but have not obtained approvals, to permit such projects to amend

14 their applications.

15

16 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors

17 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

18 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

19 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

20 //

21 //

22 //

23 //

24 //

25 //

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3

4

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

7

8 By: _____
9 AUDREY PEARSON
10 Deputy City Attorney

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