

1 [Planning Code - Inclusionary Housing Fee]

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3 **Ordinance amending the Planning Code to require all projects using the State Density**
4 **Bonus law, regardless of environmental evaluation application date, to pay the**
5 **inclusionary fee on any additional units or square footage allowed by the state law;**
6 **affirming the Planning Department’s determination under the California Environmental**
7 **Quality Act; making findings of consistency with the General Plan, and the eight**
8 **priority policies of Planning Code, Section 101.1; and making findings of public**
9 **convenience, necessity, and welfare under Planning Code, Section 302.**

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

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

18 Section 1. Environmental and Land Use Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 181154 and is incorporated herein by reference. The Board affirms
23 this determination.

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

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

3 (c) Pursuant to Planning Code Section 302, the Board finds that the actions
4 contemplated in this ordinance will serve the public necessity, convenience, and welfare for
5 the reasons set forth in Planning Commission Resolution No. _____ and the Board
6 incorporates such reasons herein by reference. A copy of the Planning Commission
7 Resolution No. _____ is on file with the Clerk of the Board of Supervisors in File
8 No. _____.

9 (b) The Board finds that the actions contemplated in this ordinance are consistent, on
10 balance, with the eight priority policies of Planning Code Section 101.1, as follows:

11 1. That existing neighborhood-serving retail uses be preserved and be enhanced and
12 future opportunities for resident employment in and ownership of such businesses enhanced.

13 The proposed Ordinance would not have a negative effect on neighborhood serving
14 retail uses and will not have a negative effect on opportunities for resident employment in and
15 ownership of neighborhood-serving retail.

16 2. That existing housing and neighborhood character be conserved and protected in
17 order to preserve the cultural and economic diversity of our neighborhoods.

18 The proposed Ordinance would not have a negative effect on housing or neighborhood
19 character.

20 3. That the City's supply of affordable housing be preserved and enhanced.

21 The proposed Ordinance would not have an adverse effect on the City's supply of
22 affordable housing. The proposed Ordinance would increase the supply of affordable housing
23 by applying the Affordable Housing Fee, supported by the 2016 Residential Affordable
24 Housing Nexus Analysis, to the entirety of a residential housing project regardless of
25 development application date.

1 4. That commuter traffic not impede MUNI transit service or overburden our streets or
2 neighborhood parking.

3 The proposed Ordinance would not result in commuter traffic impeding MUNI transit
4 service or overburdening the streets or neighborhood parking.

5 5. That a diverse economic base be maintained by protecting our industrial and service
6 sectors from displacement due to commercial office development, and that future
7 opportunities for resident employment and ownership in these sectors be enhanced.

8 The proposed Ordinance would not cause displacement of the industrial or service
9 sectors due to office development, and future opportunities for resident employment or
10 ownership in these sectors would not be impaired.

11 6. That the City achieve the greatest possible preparedness to protect against injury
12 and loss of life in an earthquake.

13 The proposed Ordinance would not have an adverse effect on City's preparedness
14 against injury and loss of life in an earthquake.

15 7. That the landmarks and historic buildings be preserved.

16 The proposed Ordinance would not have an adverse effect on the City's Landmarks
17 and historic buildings.

18 8. That our parks and open space and their access to sunlight and vistas be protected
19 from development.

20 The proposed Ordinance would not have an adverse effect on the City's parks and
21 open space and their access to sunlight and vistas.

22 (c) The Board finds that the actions contemplated in this ordinance are consistent, on
23 balance, with the City's General Plan, as follows:

24 **Housing Element Objective 1. Identify and Make available for development adequate**
25 sites to meet the City's Housing needs, especially permanently affordable.

1 **Policy 1.** Plan for the full range of housing needs in the City and County of San
2 Francisco, especially affordable housing.

3 **Policy 1.9.** Require new commercial developments and higher educational institutions
4 to meet the housing demand they generate, particularly the need for affordable housing for
5 lower income workers and students.

6 This ordinance furthers the potential for creation of permanently affordable housing in
7 San Francisco and facilitates an increase in the number of affordable housing units that could
8 be built in San Francisco by applying the Affordable Housing Fee to the entirety of a
9 residential housing project regardless of development application date. The Inclusionary
10 Housing Ordinance, supported by the 2016 Residential Affordable Housing Nexus Analysis,
11 assures that market-rate residential development projects adequately mitigate impacts to the
12 availability and affordability of housing in San Francisco.

13 **Policy 3.3.** Maintain balance in affordability of existing housing stock by supporting
14 affordable moderate ownership opportunities.

15 The ordinance would support affordable moderate ownership opportunities by applying
16 the Affordable Housing Fee to the entirety of a residential housing project regardless of
17 development application date, thereby increasing the ability of the City to support moderate
18 income housing opportunities and down payment assistance programs. The Inclusionary
19 Housing Ordinance, supported by the 2016 Residential Affordable Housing Nexus Analysis,
20 assures that market-rate residential development projects adequately mitigate impacts to the
21 availability and affordability of housing in San Francisco. Fees are deposited into the Citywide
22 Affordable Housing Fund, which MOHCD uses to increase the supply of affordable housing
23 and provide assistance to low- and moderate-income homebuyers.

24 **Objective 4.** Foster a Housing Stock that meets the needs of all residents across
25 lifecycles.

1 This ordinance would apply the Affordable Housing Fee to the entirety of a residential
2 housing project regardless of development application date, thereby allowing the Mayor's
3 Office of Housing and Community Development to support and fund housing projects for all
4 residents, including projects with family housing, and senior housing. The Inclusionary
5 Housing Ordinance, supported by the 2016 Residential Affordable Housing Nexus Analysis,
6 assures that market-rate residential development projects adequately mitigate impacts to the
7 availability and affordability of housing in San Francisco.

8 **Policy 4.5.** Ensure that new permanently affordable housing is located in all of the
9 City's neighborhoods, and encourage integrated neighborhoods with a diversity of unit types
10 provided at a range of income levels.

11 The ordinance would apply the full Affordable Housing Fee to the entirety of a
12 residential housing project regardless of development application date, assuring that market-
13 rate residential development projects adequately mitigate all impacts on the availability and
14 affordability of housing in San Francisco. The fee, deposited into the Citywide Affordable
15 Housing Fund, supports and funds housing projects in all neighborhoods at very low-, low-,
16 and moderate-income levels.

17 **Objective 7.** Secure funding and resources for permanently affordable housing,
18 including innovative programs that are not solely reliant on traditional mechanisms or capital.

19 **Policy 7.1.** Expand the financial resources available for permanently affordable
20 housing, especially permanent sources.

21 The ordinance would apply the full Affordable Housing Fee to the entirety of a housing
22 project regardless of development application date, thereby expanding the financial resources
23 of MOHCD to facilitate and/or create permanently affordable housing. The Inclusionary
24 Housing Ordinance, supported by the 2016 Residential Affordable Housing Nexus Analysis,
25

1 assures that all market-rate residential development projects adequately mitigate impacts on
2 the availability and affordability of housing in San Francisco.

3 **Policy 7.5.** Encourage the production of affordable housing through process and
4 zoning accommodations, and prioritize affordable housing in the review and approval process.

5 This ordinance would support the production of affordable housing through payment of
6 the Inclusionary Affordable Housing Fee into the Citywide Affordable Housing Fund, while
7 allowing for the zoning accommodations and additional market rate units allowed by the State
8 Density Bonus law.

9 **Policy 8.1.** Support the protection and management of permanently affordable
10 housing.

11 This ordinance would support production and management of affordable housing by
12 increasing the number of projects subject to Affordable Housing Fee, which allows MOHCD to
13 produce and manage affordable housing. The Inclusionary Housing Ordinance, supported by
14 the 2016 Residential Affordable Housing Nexus Analysis, assures that market-rate residential
15 development projects adequately mitigate impacts on the availability and affordability of
16 housing in San Francisco.

17 (d) Planning Code Section 302 Findings. The Board finds from the facts presented
18 that the public necessity, convenience and general welfare require the proposed amendments
19 to the Planning Code as set forth in Section 302.

20
21 Section 2. Article 4 of the Planning Code is hereby amended by revising Section 415.5
22 and 415.6, to read as follows:

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1 **415.5 AFFORDABLE HOUSING FEE**

2 The fees set forth in this Section 415.5 will be reviewed when the City completes an
3 Economic Feasibility Study. Except as provided in Section 415.5(g), all development projects
4 subject to this Program shall be required to pay an Affordable Housing Fee subject to the
5 following requirements:

6 * * * *

7 (b) Amount of Fee. The amount of the fee that may be paid by the project sponsor
8 subject to this Program shall be determined by MOHCD utilizing the following factors:

9 * * * *

10 (6) The fee shall be imposed on any additional units or square footage
11 authorized and developed under California Government Code Sections 65915 et seq. *This*
12 *subsection 415.5(b)(6) shall not apply to development projects that have submitted a complete*
13 *Environmental Evaluation application on or before January 1, 2016.*

14 * * * *

15 (g) Alternatives to Payment of Affordable Housing Fee.

16 (1) Eligibility: A project sponsor must pay the Affordable Housing Fee unless it
17 chooses to meet the requirements of the Program through an Alternative provided in this
18 subsection (g). The project sponsor may choose one of the following Alternatives:

19 (A) Alternative #1: On-Site Units. Project sponsors may elect to construct
20 units affordable to qualifying households on-site of the principal project pursuant to the
21 requirements of Section 415.6.
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1 (B) Alternative #2: Off-Site Units. Project sponsors may elect to construct
2 units affordable to qualifying households at an alternative site within the City and County of
3 San Francisco pursuant to the requirements of Section 415.7.

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

6 (D) Alternative #4: Combination. Project sponsors may elect any
7 combination of payment of the Affordable Housing Fee as provided in Section 415.5,
8 construction of on-site units as provided in Section 415.6, or construction of off-site units as
9 provided in Section 415.7, provided that the project applicant constructs or pays the fee at the
10 appropriate percentage or fee level required for that option. Development Projects ~~that have~~
11 ~~submitted a complete Environmental Evaluation application after January 12, 2016~~ that are providing
12 on-site units under Section 415.6 and that qualify for and receive additional density under
13 California Government Code Section 65915 et seq. shall use Alternative #4 to pay the
14 Affordable Housing Fee on any additional units or square footage authorized under Section
15 65915.

16
17 * * * *

18 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

19 If a project sponsor elects to provide on-site units pursuant to Section 415.5(g), the
20 development project shall meet the following requirements:

21
22 * * * *

23 (d) ~~Unless otherwise specified in this Section 415.1 et seq., in~~ In the event the project
24 sponsor is eligible for and elects to receive additional density under California Government
25 Code Section 65915, the Sponsor shall pay the Affordable Housing Fee on any additional

1 units or square footage authorized under that section in accordance with the provisions in
2 Section 415.5(g)(1)(D).

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4 * * * *

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

10
11 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the “Note” that appears under
16 the official title of the ordinance.

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

20 By: _____
21 AUDREY WILLIAMS PEARSON
22 Deputy City Attorney

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