



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: OCTOBER 22, 2015
Continued from the September 24, 2015 Hearing

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San Francisco,
CA 94103-2479

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Project Name: Clarifying/Creating Preferences for Affordable Housing Units
Case Number: 2015-008208PCA [Board File No. 150622]
Initiated by: Mayor Ed Lee, Supervisors Christensen, Cohen, Breed, and Wiener/
Introduced June 30, 2015
Staff Contact: Menaka Mohan, Legislative Affairs
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Reviewed by: Aaron Starr, Acting Manager of Legislative Affairs
Aaron.Starr@sfgov.org 415-558-6362
Recommendation: Approval with Modifications

BACKGROUND

The Planning Commission [Commission] held an adoption hearing for the ordinance Clarifying and Creating Preferences for Affordable Housing Units on September 24, 2015. In general, the proposed legislation contained two sets of proposals for preference for Citywide Affordable Housing: (1) a new Neighborhood Preference for applicants from the geographic area near a proposed project or unit; and (2) an expanded definition of Displaced Tenants to receive priority. At the adoption hearing, the Commission voted to continue the adoption of the proposed Ordinance for four weeks so that the Staff could analyze additional options for neighborhood boundaries for the Neighborhood Preference as well as continue outreach and discussion related to the proposed expansion of the Displaced Tenant preference; staff from the Mayor's Office of Housing and Community Development (MOHD) has met with stakeholders, including members from the Anti-Displacement Coalition to discuss the Displaced Tenant preference.

CURRENT PROPOSAL

The current, revised proposal, made by the Planning Department [Department] and MOHCD, on behalf of the Mayor as a legislative sponsor would split the ordinance into two separate pieces of legislation-one piece would focus on the Displaced Tenant category while the other would focus on the Neighborhood Preference. The proposal includes the following:

1. That the Commission recommend that the Displaced Tenant component of the legislation be stricken from the current version of the legislation to allow further discussion and outreach. MOHCD and stakeholders will continue to assess appropriate amendments to the existing Displaced Tenant preference, and will introduce those as a separate Ordinance, which will be referred to the Planning Commission for its review and;
2. That the Board of Supervisors approve the geographic preference component and;
3. That there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

REQUIRED COMMISSION ACTION

The proposed Resolution is before the Commission so that it may recommend approval or disapproval to the Board of Supervisors.

PROPOSED RECOMMENDATION

The Department recommends that the Commission recommend approval with modifications of the proposed Ordinance to the Board of Supervisors. The proposed recommendations are as follows:

1. Remove the proposed amendments that would expand the existing Displaced Preference beyond the existing preference for tenants evicted under the provisions of the Ellis Act.
2. Approve the Neighborhood Preference at the Supervisorial District plus a half mile buffer from a selected project. The half mile buffer would include any parcel touched by the half mile radius.
3. Recognize that there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

BASIS FOR RECOMMENDATION

At the September 24th planning commission hearing, discussion of the proposed geographic preference focused on two key components: 1) the size and boundaries of the area in which a resident would be eligible for the preference, and 2) the percentage of new units eligible for the preference. Based on the analysis summarized below, the department and the mayor's office of housing and community development continue to recommend that the geographic preference be applicable at the supervisorial district level plus a ½ mile buffer around a project, and that up to 25% of a project's units be allocated to the new preference.

The following analysis of various defined geographies and percentages was conducted by the Mayor's Office of Housing and Community Development. Please note that the proposed ordinance only applies to the Neighborhood Preference Category while the Displaced Tenant category will be addressed with a separate ordinance.

Based on the criterion detailed below, Supervisorial Districts remain the best geography for implementing a neighborhood preference in a way that creates neighborhood opportunity without excluding other San Franciscans from the development that is occurring in the eastern part of the City. Limiting the units subject to the preference to 25% of new units, the neighborhood preference at the Supervisorial District level is also less likely to result in an adverse impact on neighborhood minority groups. Below is a brief description of the Neighborhoods:

Supervisorial Districts: Supervisorial Districts are drawn by Department of Elections Task Force soon after each decennial census to ensure equal distribution of district population. Please see Sec. 13.110 (d) to 13.110 (f) of the City Charter for details on the process of changing the boundaries. The latest boundaries were established in 2012.

Planning Neighborhoods: The Planning Neighborhoods consist of 37 neighborhoods and came from the 1990s real estate definition of neighborhoods. The Planning Neighborhoods are used for the neighborhood notification system. Since the 1990s the neighborhoods have been divvied up to match the common real estate boundaries and other neighborhood boundaries have also changed. These do not match census tract boundaries and, these boundaries are not codified in the Planning Code.

Planning Districts: There are 15 Planning Districts, not including Treasure Island, in the City. These Districts do include Golden Gate Park and the Presidio though no data is reported for those Districts in the Housing Element because there are no housing units produced in these Districts. These Districts were established in the late 1960s and the names of the districts are rather general and are not neighborhoods and function more like areas of the City. In general, these boundaries follow census tracts with a few exceptions. These boundaries are not codified in the Planning Code.

City Analysis Neighborhoods: The Department of Public Health and the Mayor’s Office of Housing and Community Development with support from the Planning Department created these 41 neighborhoods using common real estate and residents’ definitions and census tract boundaries for the purpose of providing consistency in the analysis and reporting of socio-economic data, demographic data, and data on City-funded programs and services. They are not codified in Planning Code.

Table 1: Evaluation Criteria for Neighborhood Preference Geography

Geography	Number of Geographic Subdivisions	Evenness of Household Population	Variation of Race/Ethnicity	Size of Smallest Neighborhood	Households Excluded from Preference
Supervisory Districts	11	.3775	.6307	10,495	0
Planning Neighborhoods	37	.8963	1.2790	157	65,842
Planning Districts *	17	.6744	.9278	6,791	67,376
City Analysis Neighborhoods **	41	.8580	1.2373	20	22,976

Evenness of Household Population: Measures the variation in the number of households between geographic subdivisions: the lower the number, the more even the subdivisions.

Variation of Race/Ethnicity: Measures the variation in the number of households by race/ethnicity between geographic subdivisions: the lower the number, the more even the subdivisions.

Size of the Smallest Neighborhood: Identifies the number of households in the smallest geographic subdivision. The smaller the number of households the less likely neighborhood participation rate will meet 20%.

Households Excluded from Preference: Enumerates the estimated number of households that would not be eligible for a neighborhood preference for 100% affordable and inclusionary housing that is projected to be completed by 2020.

*There are 16 Planning Districts. An additional subdivision was added to include Treasure Island.

** Golden Gate Park is an identified neighborhood, but was excluded because there is no household population.

Table 2: Evaluation Matrix of Neighborhood Preference Percentage

Geography	25% Preference		50% Preference	
	Four-Fifths Analysis	Standard Deviation Analysis	Four-Fifths Analysis	Standard Deviation Analysis

Supervisory Districts	0% (0)	2% (1)	52% (23)	13% (7)
Planning Neighborhoods	0% (0)	3% (5)	58% (83)	23% (41)
Planning Districts	0% (0)	4% (3)	56% (38)	21% (18)
City Analysis Neighborhoods	0% (0)	3% (5)	53% (84)	22% (43)

Four-Fifth Analysis: Assesses whether a selection rate for a minority race/ethnic group is less than four-fifths (80%) of the rate for the largest race/ethnic group. A selection rate that is less than four-fifths will generally be regarded as evidence of adverse impact. The tests evaluate, for each geographic sub division, potential access to housing for five race/ethnic categories against the largest race/ethnic group. The matrix enumerates the percentage and the number of tested rates that fall below 80%.

Standard Deviation Analysis: Measures the mathematical probability that a nonbiased selection system would produce any fluctuation observed between the actual results and the predicted result for each geographic sub division for five race/ethnic categories. Results greater than two to three standard deviations indicate a possible discriminatory outcome. Matrix enumerates the percentage and the number of geographic subdivisions greater than 3 standard deviations.

The Mayor’s Office of Housing and Community Development evaluated a neighborhood preference against four criteria (evenness of household population, variation of race/ethnicity, size of smallest neighborhood, and the number of households that would be excluded from the preference) and two preference percentages (25% and 50%) using four geographic boundaries: Supervisory Districts, Planning Neighborhoods, Planning Districts, and City Analysis Neighborhoods. Of the four evaluated geographies, Supervisory Districts performed better for all four evaluated criteria and for each preference percentage tested. Supervisory Districts have a more even number of households between geographic subdivisions, the least variation in race/ethnicity, and population sizes that best support active neighborhood participation. Furthermore, a preference applied to Supervisory districts will not exclude households from benefitting from a neighborhood preference, as would be the case in all of the other geographic areas tested. With a 25% preference percentage, Supervisory Districts result in no race/ethnic group being selected at rate of less than four-fifths (80%) of the rate for the largest race/ethnic group and is the preference definition least likely to result in a biased selection system. Additionally, unlike the other geographies analyzed, Supervisory Districts are codified in the City Charter through a community process that considers equal population; voting rights act compliance; contiguity; preservation of recognized neighborhoods; preservation of communities of interest; and compactness.

RECOMMENDATION: Approve with Recommendations

Attachments:

- Exhibit A: Draft Resolution
- Exhibit B: BOS File No. 150622



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Planning Commission Resolution No.

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Reviewed by: Aaron Starr, Manager Legislative Affairs
Aaron.Starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE ADMINISTRATIVE AND PLANNING CODES; SECTIONS 24.8, 47.1, 47.2, 47.3, 47.4, AND 47.5, 10.100-110, 10.100-370, OF THE ADMINISTRATIVE CODE AND PLANNING CODE SECTIONS 413.10, 415.5, 415.6, 415.7, 413.10, 415.5, 415.6, AND 415.7 TO DEFINE AND ESTABLISH A PREFERENCE IN ALL AFFORDABLE HOUSING PROGRAMS ADMINISTERED OR FUNDED BY THE CITY; ADOPT FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on June 30, 2015, Mayor Lee and Supervisors Christensen, Cohen, Breed, and Wiener introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 15-0622, which would amend Sections 24.8, 47.1, 47.2, 47.3, 47.4, and 47.5, 10.100-110, 10.100-370, of the administrative code and planning code sections 413.10, 415.5, 415.6, 415.7, 413.10, 415.5, 415.6, to add a new category of preference for neighborhoods;

WHEREAS, neighborhood is defined as Supervisor District plus a ½ mile buffer around a project;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 24, 2015; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with recommendations** the proposed ordinance. Specifically, the Commission recommends the following modifications:

1. Remove the proposed amendments that would expand the existing Displaced Preference beyond the existing preference for tenants evicted under the provisions of the Ellis Act.
2. Approve the Neighborhood Preference at the Supervisorial District plus a half mile buffer from a selected project. The half mile buffer would include any parcel touched by the half mile radius.
3. Recognize that there continue to be no changes to the Certificate of Preference (COP) program, but that the new structure from the Proposed Legislation related to housing preference for Affordable Housing Units be retained. The new structure places the primary Preference requirements in the Administrative Code with references as appropriate in the Planning Code.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. 2010 data show that overcrowding is an issue faced by San Franciscans Citywide, and that there are specific neighborhoods, including the Mission, Chinatown, and the Tenderloin, in which the percentage of overcrowded households is close to double that of the Citywide average. A preference for existing neighborhood residents that can be applied to a portion of new affordable housing developments in San Francisco will provide an opportunity to current low- and very-low income residents that are living in overcrowded housing configurations to move into appropriately sized units without leaving the community.

General Plan Compliance. The proposed Ordinance and the Commission's recommended modifications are, *on balance*, consistent with the Objectives and Policies of the General Plan (Staff discussion is added in *italic font* below):

HOUSING ELEMENT

OBJECTIVE 5

Ensure that all residents have equal access to available units.

POLICY 5.2

Increase access to housing, particularly for households who might not be aware of their housing choices.

Residents who might face overcrowding in certain neighborhoods will be provided a new preference for the City's Affordable Housing Units allowing them increased access to housing choices with the ability to remain in the neighborhood.

8. Planning Code Section 101 Findings. The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

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

The proposed amendments will not have a negative effect on neighborhood serving retail uses and will not affect opportunities for resident employment in and ownership of neighborhood-serving retail.

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

The amendments will not affect existing housing and neighborhood character.

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

The proposed amendments will not affect the supply of affordable housing.

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

The proposed amendments will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

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

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

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

The proposed ordinance would not negatively affect preparedness in the case of an earthquake.

7. That the landmarks and historic buildings be preserved;

Landmarks and historic buildings would not be negatively affected by the proposed amendments.

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

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.

Planning Code Section 302 Findings. The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with the modification as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 22, 2015.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:

1 [Administrative, Planning Codes - Preferences in Affordable Housing Programs]

2

3 **Ordinance amending the Administrative Code to clarify existing preferences in**
4 **allocating City affordable housing units first to Certificate of Preference holders and**
5 **second to tenants evicted under the Ellis Act, create a third preference for residents in**
6 **the neighborhood where the affordable housing is located, create additional categories**
7 **of eligible displaced tenants, and provide for preference to displaced tenants from the**
8 **Neighborhood; to make conforming amendments to provisions of the Administrative**
9 **and Planning Codes; to affirm the Planning Department’s determination under the**
10 **California Environmental Quality Act; and to make findings of consistency with the**
11 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

18

19 Section 1. Findings.

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

25

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

6
7 Section 2. The Administrative Code is hereby amended by deleting Section 24.8, as
8 follows:

9 **~~SEC. 24.8. PREFERENCE IN ALL CITY AFFORDABLE HOUSING PROGRAMS FOR~~**
10 **~~CERTIFICATE OF PREFERENCE HOLDERS AND DISPLACED TENANTS.~~**

11 ~~This Section shall apply to all programs related to the provision of affordable housing, unless~~
12 ~~specified otherwise. To the extent permitted by law, the Mayor's Office of Housing and Community~~
13 ~~Development ("MOHCD") or its successor shall give or require project sponsors or their successors in~~
14 ~~interest funded through MOHCD to give, preference in occupying units or receiving assistance under~~
15 ~~all City affordable housing programs, including all former San Francisco Redevelopment Agency~~
16 ~~affordable housing programs administered or funded by the City, first to Residential Certificate of~~
17 ~~Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant~~
18 ~~Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with~~
19 ~~the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or assistance;~~
20 ~~and second to any Displaced Tenant, as defined herein, who meets all of the qualifications for the unit~~
21 ~~or assistance, provided that the following limitations shall apply to the Displaced Tenant preference:~~
22 ~~(i) a Displaced Tenant may apply the preference to existing, currently occupied developments only for~~
23 ~~three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration~~
24 ~~Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to~~
25 ~~the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the~~

1 ~~San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code~~
2 ~~Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments~~
3 ~~going through the initial occupancy process only for six years from the date the landlord filed with the~~
4 ~~Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis~~
5 ~~Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new~~
6 ~~residential development going through the initial occupancy process, the Displaced Tenant preference~~
7 ~~shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's~~
8 ~~preference shall still apply even if such Displaced Tenant declines a unit offered through application of~~
9 ~~the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced~~
10 ~~Tenant's preference terminates.~~

11 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~
12 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~
13 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~
14 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~
15 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~
16 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~
17 ~~this paragraph are directory rather than mandatory.~~

18 ~~For purposes of this Section, "Displaced Tenant" shall mean any tenant residing in San~~
19 ~~Francisco who on or after January 1, 2012 has received a notice that his or her landlord plans to~~
20 ~~withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the~~
21 ~~corresponding provisions of the Rent Ordinance, cited above, and, who, as of the date of receipt of the~~
22 ~~notice of withdrawal from the rental market, has resided in his or her unit continuously for: (i) at least~~
23 ~~ten years; or (ii) at least five years, if the tenant can verify that he or she is suffering from a life~~
24 ~~threatening illness as certified by his or her primary care physician or that he or she is disabled, as~~
25 ~~defined in Administrative Code Section 37.9(i). MOHCD shall establish a process for a tenant to verify~~

1 his or her status as a "Displaced Tenant," which, at a minimum, shall require a tenant to show: (i) the
2 landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental
3 market; (ii) the tenant meets the ten or five year residency requirement stated above; and (iii) the
4 tenant either: (A) is listed on the notice of withdrawal; (B) is listed on the lease for the unit in question;
5 or (C) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she has
6 lived in the unit for the required five or ten year period as applicable. If the Rent Board grants a
7 landlord's request to rescind the Notice of Intent to Withdraw Rental Units under the Ellis Act before a
8 tenant moves out of his or her unit, such tenant shall no longer qualify as a "Displaced Tenant."
9 Additionally, if a person disputes a MOHCD determination that he or she does not qualify as a
10 "Displaced Tenant" under this Section, such person shall have the right to a hearing conducted by a
11 Rent Board Administrative Law Judge (as defined in Administrative Code Section 37.2(f)), with
12 MOHCD as the responding party.

13 ~~The Board of Supervisors shall hold a hearing on the status of this Section within 2 years of the~~
14 ~~effective date of Ordinance 232-08 to assess its impact, or at such time as the MOHCD certifies to the~~
15 ~~Board of Supervisors that, in any one fiscal year, the percent of Residential Certificate of Preference~~
16 ~~holders obtaining an affordable housing unit by taking advantage of the applicable preferences in this~~
17 ~~Section in all of the City's affordable housing programs combined exceeds 50% of the total number of~~
18 ~~units made available through the City's affordable housing programs in that year.~~

19 ~~The Board of Supervisors shall hold an initial hearing to assess the impact of the Displaced~~
20 ~~Tenant preference within one year of the effective date of the ordinance creating the Displaced Tenant~~
21 ~~preference. The Board of Supervisors shall hold a subsequent hearing within three years of the effective~~
22 ~~date, at which MOHCD and the Rent Board shall submit a report on the demographics and income~~
23 ~~levels of beneficiaries of the Displaced Tenant preference system.~~

1 Section 3. The Administrative Code is hereby amended by adding Chapter 47,
2 consisting of Sections 47.1, 47.2, 47.3, 47.4, and 47.5 to read as follows:

3 **CHAPTER 47: PREFERENCE IN CITY AFFORDABLE HOUSING PROGRAMS**

4 **SEC. 47.1 FINDINGS AND PURPOSE.**

5 Based on the information presented to the Board of Supervisors in Board of Supervisor's File
6 No. _____, staff presentations, and public testimony, the Board of Supervisors makes the
7 following findings:

8 (a) In 2008, the City enacted Ordinance 232-08, to establish a preference in occupying units or
9 receiving assistance under all City affordable housing programs to Residential Certificate of
10 Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant
11 Preference Program. In 2013, the City enacted Ordinance 277-13, to establish a second preference in
12 occupying units or receiving assistance under all City affordable housing programs to certain San
13 Francisco residents displaced by an eviction under the Ellis Act, California Government Code Section
14 7060 et seq.

15 (b) From 2010 to 2014, eviction notices filed with the Rent Board for all causes (not just
16 evictions under the Ellis Act) increased 45% Citywide. Within specific neighborhoods, including the
17 Mission, the Sunset/Parkside, the Outer Richmond, the Tenderloin, and the Castro, the percentage of
18 eviction notices recorded was significantly higher than the Citywide average.

19 (c) During that same period, average residential rents increased 54% Citywide. Moreover,
20 rents in those neighborhoods with the highest number of eviction notices filed have risen by a greater
21 percentage over the same time period, including the Castro (145%), the Outer Richmond (137%), the
22 Sunset/Parkside (121%), and the Mission (by 108%).

23 (d) While current market rate rents in San Francisco are unaffordable to more than 60% of all
24 rental households in the City, current market rate rents are unaffordable to 100% of all low- and
25 moderate-income San Francisco households earning less than 120% Area Median Income.

1 (e) San Francisco tenants are being displaced through evictions, and current market rate rents
2 are unaffordable to the majority of San Francisco renters. Thus, when displacement now occurs,
3 remaining in San Francisco and paying market rate rent is not a viable option for most San Francisco
4 residents, especially low and moderate income households.

5 (f) Affordable housing in San Francisco is a scarce resource with limited availability. In
6 addition, production of affordable housing in San Francisco has not kept pace with population growth,
7 nor have the Regional Housing Needs Allocation goals for affordable housing been met.

8 (g) A preference in qualifying for affordable housing for residents who have been, or are about
9 to be, displaced is necessary to achieve the important public purpose of increasing opportunities for
10 those residents to continue to live in San Francisco even as market rate rents rise.

11 (h) 2010 data show that overcrowding is an issue faced by San Franciscans Citywide, and that
12 there are specific neighborhoods, including the Mission, Chinatown, and the Tenderloin, in which the
13 percentage of overcrowded households is close to double that of the Citywide average.

14 (i) Compounding the problem of overcrowding, nearly half of all San Franciscans are currently
15 rent burdened, paying more than 30% of household income toward rent. Approximately 22% of San
16 Francisco renters are severely rent burdened, meaning they pay more than 50% of their household
17 income toward rent.

18 (j) The high cost of housing is a significant factor in causing low- and very-low income
19 households to leave the City: 63% of people who moved out of San Francisco between 2011-2013 were
20 members of low- or very-low income households.

21 (k) It is a necessary and important public purpose to provide relief for these economic and
22 social ills arising from the housing challenges facing most San Franciscans. But because of the trends
23 in current San Francisco market rate rents, moving low- and very-low income households into market
24 rate housing in San Francisco is not a viable option.

1 (l) A limited preference for existing neighborhood residents that can be applied to a portion of
2 new affordable housing developments in San Francisco will provide an opportunity to current low- and
3 very-low income residents that are living in overcrowded housing configurations to move into
4 appropriately sized units without leaving the community. This preference will also help provide relief
5 for rent burdened low- and very-low income households while allowing them to benefit from new
6 affordable housing development within their communities.

7 (m) In addition, it is in the City’s interest to assist residents in preserving their existing
8 community-based safety nets, such as access to schools, after school programs, stores, community
9 centers, places of worship, and health care providers. A neighborhood preference will help to preserve
10 community webs that serve as efficient safety nets and enhance the quality of life for neighborhood
11 residents.

12 (n) Developers, community advocates, and residents have a long history of collaboration on
13 housing development in San Francisco. A neighborhood preference for current low income residents
14 for a portion of new affordable housing opportunities acknowledges this collaboration and will help
15 increase participation in this process, which will in turn help generate additional support for, and
16 contribute to, the successful approval of more affordable housing development in San Francisco.

17 **SEC. 47.2 DEFINITIONS.**

18 “City Affordable Housing Programs” shall mean, unless specified otherwise, all programs
19 related to the provision of affordable housing administered or funded by MOHCD, including but not
20 limited to Tax Exempt Bond Developments. “City Affordable Housing Programs” does not include
21 programs or affordable housing units exclusively supported by the Department of Housing and Urban
22 Development, the San Francisco Human Services Agency, the San Francisco Department of Public
23 Health, or the San Francisco Housing Authority.

24 “Displaced Tenant” shall mean any person who applies to MOHCD and who MOHCD
25 determines qualifies for any one of the categories enumerated below. If a person disputes MOHCD’s

1 determination that he or she does not qualify as a "Displaced Tenant" under this Section 47.2, such
2 person shall have the right to a hearing conducted by a Rent Board Administrative Law Judge (as
3 defined in Administrative Code Section 37.2(f)), with MOHCD as the responding party:

4 Category 1: A tenant residing in San Francisco who on or after January 1, 2010
5 receives a Notice of Intent to Withdraw Rental Units ("Notice of Intent to Withdraw") pursuant to the
6 Ellis Act, Government Code Section 7060 et seq., and corresponding provisions of the Rent Ordinance.
7 MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced Tenant" under
8 Category 1 that, at a minimum, shall require a tenant to show: (a) the landlord filed with the Rent
9 Board a Notice of Intent to Withdraw; and (b) the tenant either: (1) is listed on the Notice of Intent to
10 Withdraw; (2) is listed on the lease for the unit in question; or (3) has other evidence sufficient to
11 establish, in MOHCD's reasonable discretion, that he or she resided in the unit at the time the Notice of
12 Intent to Withdraw was filed. If the Rent Board grants a landlord's request to rescind the Notice of
13 Intent to Withdraw before a tenant moves out of his or her unit, such tenant shall no longer qualify as a
14 "Displaced Tenant."

15 Category 2: A tenant residing in San Francisco who on or after January 1, 2010
16 receives a notice that his or her landlord plans to recover possession of the unit for any one of the "no
17 fault" eviction provisions under Sections 37.9(a)(8) through (16) of the Rent Ordinance. MOHCD shall
18 establish a process for a tenant to verify his or her status as a "Displaced Tenant" under Category 2
19 that, at a minimum, shall require a tenant to show: (a) the landlord filed with the Rent Board the notice
20 to vacate, as required under Rent Ordinance Section 37.9(c); and (b) the tenant either: (1) is listed on
21 the notice to vacate; (2) is listed on the lease for the unit in question; or (3) has other evidence
22 sufficient to establish, in MOHCD's reasonable discretion, that he or she resided in the unit at the time
23 the notice to vacate was filed.

24 Category 3: A tenant residing in San Francisco who on or after January 1, 2010 is
25 ordered to vacate his or her unit by a public safety official due to fire or other disaster, and who can

1 provide sufficient evidence to MOHCD that demonstrates that he or she cannot return to the unit within
2 a reasonable period of time (as determined by MOHCD) thereafter. MOHCD shall establish a process
3 for a tenant to verify his or her status as a "Displaced Tenant" under Category 3 that, at a minimum,
4 shall require a tenant to show: (a) a public safety official provided an order to vacate the unit; and (b)
5 the tenant either: (1) is listed on the order to vacate; (2) is listed on the lease for the unit in question;
6 or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she
7 resided in the unit at the time the order was provided.

8 Category 4: A tenant residing in San Francisco on or after January 1, 2010 in a unit
9 that is subject to affordability restrictions in a Tax Exempt Bond Development, or a similar type of
10 development with expiring affordability restrictions that the Director of MOHCD determines are
11 unable to be extended, where such restrictions will expire within one year of the tenant's application to
12 MOHCD for status as a Displaced Tenant, or have already expired. MOHCD shall establish a process
13 for a tenant to verify his or her status as a "Displaced Tenant" under Category 4 that, at a minimum,
14 shall require a tenant to show: (a) the landlord provided notice to the tenant that the affordability
15 restrictions applicable to that unit have expired or will be expiring; and (b) the tenant either: (1) is
16 listed on the notice regarding expiration of affordability restrictions; (2) is listed on the lease for the
17 unit in question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion,
18 that he or she resided in the unit at the time the notice was provided to the tenant.

19 Category 5: A tenant residing in San Francisco on or after January 1, 2010 in a Below
20 Market Rate unit restricted under the San Francisco Inclusionary Affordable Housing Program,
21 Planning Code Section 415 et seq., where the Below Market Rate unit is transitioning from a rental unit
22 to an ownership unit, and the tenant provides sufficient evidence to MOHCD that demonstrates that he
23 or she is not able to purchase the unit due to financial reasons. MOHCD shall establish a process for a
24 tenant to verify his or her status as a "Displaced Tenant" under Category 5 that, at a minimum, shall
25 require a tenant to show: (a) the landlord provided notice to the tenant of the intent to convert the unit

1 to an ownership unit; and (b) the tenant either: (1) is listed on the notice; (2) is listed on the lease for
2 the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable
3 discretion, that he or she resided in the unit at the time the notice was provided to the tenant.

4 Category 6: A tenant residing in San Francisco on or after January 1, 2010 who can
5 document that he or she was, or will be, displaced due to the loss of a legal residential unit through a
6 residential demolition or residential merger (as both terms are defined in Planning Code Section 317)
7 authorized by any City permit, or the loss of an illegal unit resulting from a merger or demolition
8 authorized by any City permit. MOHCD shall establish a process for a tenant to verify his or her status
9 as a "Displaced Tenant" under Category 6 that, at a minimum, shall require a tenant to show: (a) the
10 Planning Commission or Planning Department approved the residential demolition or residential
11 merger; and (b) the tenant either: (1) is listed on a Notice required by the Rent Board; (2) is listed on
12 the lease for the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's
13 reasonable discretion, that he or she resided in the unit at the time the approval was granted.

14 "MOHCD" shall mean the Mayor's Office of Housing and Community Development or its
15 successor.

16 "Neighborhood" shall mean any one of the 11 Supervisorial Districts as defined and
17 established in the San Francisco Charter, Appendix E plus a buffer such that for each unit or project
18 that is part of a City Affordable Housing Program "Neighborhood" means the Supervisorial District in
19 which the unit or project is located, plus a 1/2 mile buffer around the location of the unit or project.

20 "Neighborhood Resident" shall mean any person who has a primary residence in a certain
21 Neighborhood at the time he or she applies for a unit or assistance. MOHCD shall establish a process
22 for a person to verify status as a "Neighborhood Resident" for a particular Neighborhood, which, at a
23 minimum, shall require a person to show: (a) that he or she is listed on the lease for a unit in that
24 Neighborhood; or (b) other evidence sufficient to establish, in MOHCD's reasonable discretion, that
25 the person resides in a unit in that Neighborhood. If a person disputes a MOHCD determination that he

1 or she does not qualify as a "Neighborhood Resident" under this Section 47.2, such person shall have
2 the right to a hearing conducted by a Rent Board Administrative Law Judge (as defined in
3 Administrative Code Section 37.2(f)), with MOHCD as the responding party.

4 "Rent Board" shall mean the Residential Rent Stabilization and Arbitration Board.

5 "Rent Ordinance" shall mean the San Francisco Rent Stabilization and Arbitration Ordinance,
6 Administrative Code Chapter 37.

7 "Residential Certificate of Preference Holders" shall mean a person who holds a Residential
8 Certificate of Preference under the San Francisco Redevelopment Agency's Property Owner and
9 Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on
10 file with the Clerk of the Board in File No. 080521.

11 "Tax Exempt Bond Development" shall mean any housing development financed through a tax-
12 exempt bond issuance that imposes rent and occupancy restrictions as a condition of the financing.

13 **SEC. 47.3 APPLICATION OF PREFERENCE.**

14 Except to the extent prohibited by an applicable State or Federal funding source, MOHCD shall
15 give, or require project sponsors or their successors in interest funded through MOHCD to give,
16 preference in occupying units or receiving assistance under all City Affordable Housing Programs.
17 Each preference enumerated below shall be applied as of the effective date of the legislation
18 establishing each preference. The City established preference for holders of Certificates of Preference
19 in Ordinance 232-08, Displaced Tenants, Category 1 in Ordinance 277-13, and Displaced Tenants,
20 Categories 2 through 6 and Neighborhood Residents in legislation adding this Chapter 47. The
21 preference requirements are intended to have prospective effect only, and shall not be interpreted to
22 impair the obligations of any pre-existing contract entered into by the City. Notwithstanding the prior
23 sentence, the preference requirements shall apply to contracts entered into by the City on or after the
24 effective date of the legislation establishing each preference, including contracts materially amended
25 on or after the effective date. Preference shall be given:

1 (a) First, to Residential Certificate of Preference Holders, who meet all of the qualifications for
2 the unit or assistance. Preference under this subsection (a) shall be given in 100% of the units in all
3 initial sales, re-sales, initial leases, and subsequent leases.

4 (b) Second, to any Displaced Tenant who meets all of the qualifications for the unit or
5 assistance. For any Displaced Tenant displaced prior to the effective date of this Chapter 47,
6 preference under this subsection (b) shall expire six years from the effective date of this Chapter
7 47. For any Displaced Tenant displaced after the effective date of this Chapter 47, preference under
8 this subsection (b) shall expire six years from the date of the earliest of any of the following
9 circumstances: (i) the landlord filed with the Rent Board a Notice of Intent to Withdraw; (ii) the
10 landlord filed with the Rent Board the notice to vacate pursuant to the Rent Ordinance Section 37.9(c);
11 (iii) a public safety official provided the order to vacate to the tenant; (iv) the landlord provided notice
12 to the tenant that the affordability restrictions applicable to that unit will be expiring; (v) the landlord
13 provided notice to the tenant that the unit is transitioning from a rental unit to an ownership unit; or
14 (vi) the residential demolition or residential merger of the tenant's unit, as defined in Planning Code
15 Section 317, was approved by the Planning Commission or Planning Department. Preference under
16 this subsection (b) shall be applicable to:

17 (1) 20% of the units in any new residential development that is part of a City Affordable
18 Housing Program going through the initial occupancy or sale process; and

19 (2) units in all re-sales and subsequent leases until 20% of all units that are part of a
20 City Affordable Housing Program in a building are occupied by tenants who have exercised this
21 preference.

22 (3) 50% of the units for which Preference under this subsection (b) is applicable will be
23 prioritized for Displaced Tenants who were living in the Neighborhood in which the units are located
24 at the time of their displacement, such that 50% of the units in subsection (1) subject to the preference
25 shall be prioritized first for Displaced Tenants who were living in the Neighborhood in which the units

1 are located at the time of their displacement; and units subject to subsection (2) shall be prioritized
2 first for Displaced Tenants who were living in the Neighborhood in which the units are located at the
3 time of their displacement until 10% of all the units that are part of a City Affordable Housing Program
4 in a building are occupied by Displaced Tenants who were living in the Neighborhood.

5 The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a
6 unit offered through application of the preference, but upon accepting and occupying a unit obtained
7 using the preference, such Displaced Tenant's preference terminates.

8 (c) Third, to a Neighborhood Resident, who meets all of the qualifications for the unit or
9 assistance. Preference under this subsection (c) shall be given:

10 (1) for units located in the same Neighborhood as the person resides;

11 (2) only for any new residential development in that Neighborhood going through the
12 initial occupancy or sale process, and only to 25% of the units in such development.

13 **SEC. 47.4. IMPLEMENTATION AND MONITORING.**

14 (a) Certificate of Preference. The Board of Supervisors shall hold a hearing on the status of
15 the legislation creating the Certificate of Preference preference, Ordinance 232-08, within two years of
16 its effective date to assess its impact, or at such time as the MOHCD certifies to the Board of
17 Supervisors that, in any one fiscal year, the percent of Residential Certificate of Preference holders
18 obtaining an affordable housing unit by taking advantage of the Certificate of Preference preference in
19 all of the City's affordable housing programs combined exceeds 50% of the total number of units made
20 available through the City's affordable housing programs in that year.

21 (b) Displaced Tenant and Neighborhood Preferences. MOHCD shall implement the Displaced
22 Tenant and Neighborhood preference requirements of this Chapter 47 by developing procedures and
23 amending its applicable regulations within 90 days of the effective date of this Chapter 47. Said
24 procedures and regulations shall be subject to approval by Resolution of the Board of Supervisors. The
25 requirements of this paragraph are directory rather than mandatory.

1 The Board of Supervisors or a committee thereof shall hold an initial hearing to assess the
2 impact of the Displaced Tenant and Neighborhood preferences within one year of the effective date of
3 this Chapter 47. The Board of Supervisors or a committee thereof shall hold a subsequent hearing
4 within three years of the effective date of this Chapter 47, at which MOHCD and the Rent Board shall
5 submit a report on the demographics and income levels of beneficiaries of the Displaced Tenant and
6 Neighborhood preference system.

7 **SEC. 47.5. SEVERABILITY.**

8 If any section, subsection, sentence, clause, phrase, or word of this Chapter 47, or any
9 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
10 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
11 portions or applications of the Chapter. The Board of Supervisors hereby declares that it would have
12 passed the ordinances establishing this Chapter and each and every section, subsection, sentence,
13 clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other
14 portion of this Chapter or application thereof would be subsequently declared invalid or
15 unconstitutional.

16
17 Section 4. The Administrative Code is hereby amended by revising Sections 37.6,
18 43.3.4, 10.100-110, and 10.100-370, to read as follows:

19 **SEC. 37.6. POWERS AND DUTIES.**

20 In addition to other powers and duties set forth in this Chapter, and in addition to
21 powers under the Charter and under other City Codes, including powers and duties under
22 Administrative Code Chapter 49 (“Interest Rates on Security Deposits”), the Board shall have
23 the power to:

24 * * * *

1 (o) As provided by Administrative Code ~~Section~~ Chapter 24.847, utilize Administrative
2 Law Judges to hear and decide petitions from persons who dispute the Mayor's Office of
3 Housing and Community Development's determination that such person does not qualify as a
4 "Displaced Tenant" or a "Neighborhood Resident" (each as defined in Administrative Code
5 ~~Section~~ Chapter 24.847).

6
7 **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

8 Following payment of costs of issuance, 85 percent of the bond proceeds will be used
9 for the development of affordable rental housing through the development account described
10 in the regulations, and 15 percent of the bond proceeds will be used for downpayment
11 assistance for low and moderate income first-time homebuyers through the downpayment
12 assistance loan account described in the program regulations; including all legally permissible
13 administrative costs related to the program. The Mayor's Office of Housing and Community
14 Development ("MOHCD") shall develop procedures and amend its regulations such that, for
15 all projects funded by this affordable housing and home ownership bond program, including
16 multifamily rental projects and down payment assistance to individual households, it requires
17 the project sponsor or its successor in interest to give preference in occupying units or
18 receiving assistance as provided for in Administrative Code Chapter 47. first to Residential
19 Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner
20 and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and
21 on file with the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or
22 assistance; and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who
23 meets all of the qualifications for the unit or assistance, provided that the following limitations shall
24 apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing,
25 currently occupied developments only for three years from the date the landlord filed with the

1 ~~Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the~~
2 ~~tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section~~
3 ~~7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration~~
4 ~~Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced~~
5 ~~Tenant may apply the preference to new developments going through the initial occupancy process only~~
6 ~~for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the~~
7 ~~tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding~~
8 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~
9 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~
10 ~~the units in such development. The Displaced Tenant's preference shall still apply even if such~~
11 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~
12 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

13 ~~—MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~
14 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~
15 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~
16 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~
17 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~
18 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~
19 ~~this paragraph are directory rather than mandatory.~~

20 **SEC. 10.100-110. MAYOR'S HOUSING AFFORDABILITY FUND.**

21 (a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a
22 category two fund to receive any prior legally binding obligations any grants, gifts, bequests
23 from private sources for the purposes cited in subsection (b), any monies repaid to the City as
24 a result of loans made by the City to developers to assist in the development of affordable
25 housing, any repayments of monies to the City where the City is beneficiary under a

1 promissory note which was acquired as a result of the City's housing affordability assistance,
2 any repayments of loans made from this fund and any monies otherwise appropriated to the
3 fund.

4 (b) Use of Fund. The fund shall be used exclusively for the purpose of providing
5 financial assistance to for-profit and nonprofit housing developers, where the contribution of
6 monies from the fund will allow units in a project to be affordable to persons and families of
7 low and moderate income. City departments may recover any costs of administering any
8 project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of
9 Housing and Community Development ("MOHCD") shall develop procedures and amend its
10 regulations such that, for all projects funded by this fund, it requires the project sponsor or its
11 successor in interest to give preference in occupying units or receiving assistance *as provided*
12 *for in Administrative Code Chapter 47. ~~first to Residential Certificate of Preference Holders under the~~*
13 *~~San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as~~*
14 *~~reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in~~*
15 *~~File No. 080521, who meet all of the qualifications for the unit or assistance; and second to any~~*
16 *~~Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications~~*
17 *~~for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant~~*
18 *~~preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied~~*
19 *~~developments only for three years from the date the landlord tiled with the Residential Rent~~*
20 *~~Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from~~*
21 *~~the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the~~*
22 *~~corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent~~*
23 *~~Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply~~*
24 *~~the preference to new developments going through the initial occupancy process only for six years from~~*
25 *~~the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the~~*

1 ~~rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent~~
2 ~~Ordinance; and (iii) for any new residential development going through the initial occupancy process,~~
3 ~~the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such~~
4 ~~development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant~~
5 ~~declines a unit offered through application of the preference, but upon accepting and occupying a unit~~
6 ~~obtained using the preference, such Displaced Tenant's preference terminates.~~

7 ~~—MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~
8 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~
9 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~
10 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~
11 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~
12 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~
13 ~~this paragraph are directory rather than mandatory.~~

14 **SEC. 10.100-370. SAN FRANCISCO HOPE SF FUND.**

15 (a) Establishment of Fund. The HOPE SF Fund is hereby established as a category
16 four fund for the purpose of assisting in the replacement and/or rehabilitation of distressed
17 public housing projects in the City and County of San Francisco.

18 * * * *

19 (d) Administration of Fund. The fund shall be administered by the Mayor's Office of
20 Housing and Community Development ("MOHCD"). The Director of MOHCD shall
21 promulgate such rules and regulations as he or she may deem appropriate to carry out the
22 provisions of the fund. Such rules and regulations shall be developed in consultation with any
23 appropriate agencies or organizations with which the Director, or his or her designee, may
24 choose to consult. The rules and regulations shall be subject to a public hearing and
25 approved by resolution of the Board of Supervisors. MOHCD shall develop procedures such

1 that, for all projects funded by the HOPE SF Fund, MOHCD requires the project sponsor or its
2 successor in interest to give preference in occupying units as provided for in Administrative Code
3 Chapter 47. first to any current occupants of a housing development receiving Funds, second to
4 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's
5 Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective
6 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the
7 qualifications for the unit; and third to any Displaced Tenant, as defined in Administrative Code
8 Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following
9 limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the
10 preference to existing, currently-occupied developments only for three years from the date the landlord
11 filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to
12 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government
13 Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization
14 and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A;
15 (ii) a Displaced Tenant may apply the preference to new developments going through the initial
16 occupancy process only for six years from the date the landlord filed with the Rent Board a notice of
17 intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and
18 the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development
19 going through the initial occupancy process, the Displaced Tenant preference shall apply only to
20 twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still
21 apply even if such Displaced Tenant declines a unit offered through application of the preference, but
22 upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's
23 preference terminates.

24 *MOHCD shall implement the Certificate of Preference Holder requirements of this Section by*
25 *developing procedures and amending its applicable regulations within 90 days of the effective date of*

1 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~
2 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~
3 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~
4 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~
5 ~~this paragraph are directory rather than mandatory.~~

6
7 Section 5. The Planning Code is hereby amended by revising Sections 413.10, 415.5,
8 415.6 and 415.7, to read as follows:

9 **SEC. 413.10. CITYWIDE AFFORDABLE HOUSING FUND.**

10 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to
11 Section 413.9 shall be deposited in the special fund maintained by the Controller called the
12 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated
13 in accordance with law to be used solely to increase the supply of housing affordable to
14 qualifying households subject to the conditions of this Section. The Mayor's Office of Housing
15 and Community Development ("MOHCD") shall develop procedures such that, for all projects
16 funded by the Citywide Affordable Housing Fund, MOHCD requires the project sponsor or its
17 successor in interest to give preference in occupying units as provided for in Administrative Code
18 Chapter 47. first to Residential Certificate of Preference Holders under the San Francisco
19 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September
20 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who
21 meet all of the qualifications for the unit; and second to any Displaced Tenant, as defined in
22 Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance,
23 provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced
24 Tenant may apply the preference to existing, currently-occupied developments only for three years from
25 the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board")

1 ~~a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act,~~
2 ~~California Government Code Section 7060 et seq. and the corresponding provisions of the San~~
3 ~~Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code~~
4 ~~Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments~~
5 ~~going through the initial occupancy process only for six years from the date the landlord filed with the~~
6 ~~Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis~~
7 ~~Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new~~
8 ~~residential development going through the initial occupancy process, the Displaced Tenant preference~~
9 ~~shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's~~
10 ~~preference shall still apply even if such Displaced Tenant declines a unit offered through application~~
11 ~~of the preference, but upon accepting and occupying a unit obtained using the preference, such~~
12 ~~Displaced Tenant's preference terminates.~~

13 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~
14 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~
15 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~
16 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~
17 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~
18 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements~~
19 ~~of this paragraph are directory rather than mandatory.~~

20 The Fund shall be administered and expended by the Director of MOHCD, who shall
21 have the authority to prescribe rules and regulations governing the Fund which are consistent
22 with Section 413.1 et seq. No portion of the Fund may be used, by way of loan or otherwise, to
23 pay any administrative, general overhead, or similar expense of any entity.

24 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

25 * * * *

1 (f) Use of Fees. All monies contributed pursuant to this Section shall be deposited in
2 the special fund maintained by the Controller called the Citywide Affordable Housing Fund.
3 The Mayor's Office of Housing and Community Development ("MOHCD") shall use the funds
4 in the following manner:

5 (1) Except as provided in subsection (2) below, the receipts in the Fund are
6 hereby appropriated in accordance with law to be used to:

7 (A) increase the supply of housing affordable to qualifying households
8 subject to the conditions of this Section; and

9 (B) provide assistance to low and moderate income homebuyers; and

10 (C) pay the expenses of MOHCD in connection with monitoring and
11 administering compliance with the requirements of the Program. MOHCD is authorized to use
12 funds in an amount not to exceed \$200,000 every 5 years to conduct follow-up studies under
13 Section 415.9(e) and to update the affordable housing fee amounts as described above in
14 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated
15 through the annual budget process or supplemental appropriation for MOHCD. The fund shall
16 be administered and expended by MOHCD, which shall have the authority to prescribe rules
17 and regulations governing the Fund which are consistent with this Section.

18 (2) "Small Sites Funds."

19 (A) Designation of Funds. MOHCD shall designate and separately
20 account for 10% percent of all fees that it receives under Section 415.1 et seq., excluding fees
21 that are geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(C), to
22 support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall
23 continue to divert 10 percent of all fees for this purpose until the Small Sites Funds reach a
24 total of \$15 million at which point, MOHCD will stop designating funds for this purpose. At
25 such time as designated Small Sites Funds are expended and dip below \$15 million, MOHCD

1 shall start designating funds again for this purpose, such that at no time the Small Sites Funds
2 shall exceed \$15 million. When the total amount of fees paid to the City under Section
3 415.1et seq. totals less than \$10 million over the preceding 12 month period, MOHCD is
4 authorized to temporarily divert funds from the Small Sites Fund for other purposes. MOHCD
5 must keep track of the diverted funds, however, such that when the amount of fees paid to the
6 City under Section 415.1et seq. meets or exceeds \$10 million over the preceding 12 month
7 period, MOHCD shall commit all of the previously diverted funds and 10 percent of any new
8 funds, subject to the cap above, to the Small Sites Fund.

9 (B) Use of Small Sites Funds. The funds shall be used exclusively to
10 acquire or rehabilitate "Small Sites" defined as properties consisting of less than 25 units.
11 Units supported by monies from the fund shall be designated as housing affordable to
12 qualifying households as defined in Section 415.1 for no less than 55 years. Properties
13 supported by the Small Sites Funds must be either:

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

22 (C) Initial Funds. If, within 18 months from April 23, 2009 ~~the date of~~
23 ~~adoption of this ordinance~~, MOHCD dedicates an initial one-time contribution of other eligible
24 funds to be used initially as Small Sites Funds, MOHCD may use the equivalent amount of
25

1 Small Sites Funds received from fees for other purposes permitted by the Citywide Affordable
2 Housing Fund until the amount of the initial one-time contribution is reached.

3 (D) Annual Report. At the end of each fiscal year, MOHCD shall issue a
4 report to the Board of Supervisors regarding the amount of Small Sites Funds received from
5 fees under this legislation, and a report of how those funds were used.

6 (E) Intent. In adopting this ordinance regarding Small Sites Funds, the
7 Board of Supervisors does not intend to preclude MOHCD from expending other eligible
8 sources of funding on Small Sites as described in this Section, or from allocating or expending
9 more than \$15 million of other eligible funds on Small Sites.

10 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD
11 requires the project sponsor or its successor in interest to give preference *as provided for in*
12 *Administrative Code Chapter 47. in-occupying units first to Residential Certificate of Preference*
13 *Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference*
14 *Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of*
15 *the Board in File No. 080521, who otherwise meet all of the requirements for a unit; and second to any*
16 *Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications*
17 *for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant*
18 *preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied*
19 *developments only for three years from the date the landlord filed with the Residential Rent*
20 *Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from*
21 *the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the*
22 *corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent*
23 *Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply*
24 *the preference to new developments going through the initial occupancy process only for six years from*
25 *the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the*

1 ~~rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent~~
2 ~~Ordinance; and (iii) for any new residential development going through the initial occupancy process,~~
3 ~~the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such~~
4 ~~development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant~~
5 ~~declines a unit offered through application of the preference, but upon accepting and occupying a unit~~
6 ~~obtained using the preference, such Displaced Tenant's preference terminates. Otherwise, it is the~~
7 ~~policy of the City to treat all households equally in allocating affordable units under this Program.~~

8 * * * *

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

10 * * * *

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12
13 (d) Marketing the Units. The Mayor's Office of Housing and Community Development
14 ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable
15 units under this Section. In general, the marketing requirements and procedures shall be
16 contained in the Procedures Manual as amended from time to time and shall apply to the
17 affordable units in the project. MOHCD may develop occupancy standards for units of
18 different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of
19 affordable units. MOHCD may require in the Procedures Manual that prospective purchasers
20 complete homebuyer education training or fulfill other requirements. MOHCD shall develop a
21 list of minimum qualifications for marketing firms that market affordable units under Section
22 415.5 et seq., referred to the Procedures Manual as Below Market Rate (BMR units). No
23 developer marketing units under the Program shall be able to market affordable units except
24 through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or
25 conditions of approval shall specify that the marketing requirements and procedures

1 contained in the Procedures Manual as amended from time to time, shall apply to the
2 affordable units in the project.

3 (1) Lottery. At the initial offering of affordable units in a housing project and
4 when ownership units become available for re-sale in any housing project subject to this
5 Program after the initial offering, MOHCD must require the use of a public lottery approved by
6 MOHCD to select purchasers or tenants.

7 (2) Preferences. MOHCD shall create a lottery system that gives preference
8 according to the provisions of Administrative Code Chapter 47. ~~the following preferences (A) first to~~
9 ~~Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's~~
10 ~~Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective~~
11 ~~October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications~~
12 ~~of the Program; (B) second to any Displaced Tenant, as defined in Administrative Code Section 24.8,~~
13 ~~who meets all of the qualifications for the unit or assistance, provided that the following limitations~~
14 ~~shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to~~
15 ~~existing, currently-occupied developments only for three years from the date the landlord filed with the~~
16 ~~Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the~~
17 ~~tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section~~
18 ~~7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration~~
19 ~~Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced~~
20 ~~Tenant may apply the preference to new developments going through the initial occupancy process only~~
21 ~~for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the~~
22 ~~tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding~~
23 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~
24 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~
25 ~~the units in such development; and (C) third to people who live or work in San Francisco who meet the~~

1 ~~qualifications of the Program. The Displaced Tenant's preference shall still apply even if such~~
2 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~
3 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

4 MOHCD shall propose policies and procedures for implementing these preferences to the
5 Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the
6 City to treat all households equally in allocating affordable units under this Program.

7 * * * *

8 **SEC. 415.7. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.**

9 * * * *

10 (e) Marketing the Units. MOHCD shall be responsible for overseeing and monitoring
11 the marketing of affordable units under this Section. In general, the marketing requirements
12 and procedures shall be contained in the Procedures Manual as amended from time to time
13 and shall apply to the affordable units in the project. MOHCD may develop occupancy
14 standards for units of different bedroom sizes in the Procedures Manual in order to promote
15 an efficient allocation of affordable units. MOHCD may require in the Procedures Manual that
16 prospective purchasers complete homebuyer education training or fulfill other requirements.
17 MOHCD shall develop a list of minimum qualifications for marketing firms that market
18 affordable units under Section 415.1 et seq., referred to the Procedures Manual as Below
19 Market Rate (BMR units). No project sponsor marketing units under the Program shall be
20 able to market BMR units except through a firm meeting all of the minimum qualifications.
21 The Notice of Special Restrictions or conditions of approval shall specify that the marketing
22 requirements and procedures contained in the Procedures Manual as amended from time to
23 time, shall apply to the affordable units in the project.

24 (1) Lottery. At the initial offering of affordable units in a housing project and
25 when ownership units become available for resale in any housing project subject to this

1 Program after the initial offering, MOHCD must require the use of a public lottery approved by
2 MOHCD to select purchasers or tenants.

3 (2) Preferences. MOHCD shall create a lottery system that gives preference
4 according to the provisions of Administrative Code Chapter 47. ~~the following preferences: (A) first to~~
5 ~~Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's~~
6 ~~Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective~~
7 ~~October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications~~
8 ~~of the Program; (B) second to any Displaced Tenant, as defined in Administrative Code Section 24.8,~~
9 ~~who meets all of the qualifications for the unit for assistance, provided that the following limitations~~
10 ~~shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to~~
11 ~~existing, currently-occupied developments only for three years from the date the landlord filed with the~~
12 ~~Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the~~
13 ~~tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section~~
14 ~~7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration~~
15 ~~Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced~~
16 ~~Tenant may apply the preference to new developments going through the initial occupancy process only~~
17 ~~for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the~~
18 ~~tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding~~
19 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~
20 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~
21 ~~the units in such development; and (C) third to people who live or work in San Francisco who meet the~~
22 ~~qualifications of the Program. The Displaced Tenant's preference shall still apply even if such~~
23 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~
24 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

25 MOHCD shall propose policies and procedures for implementing these preferences to the

1 Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the
2 City to treat all households equally in allocating affordable units under this Program.

3 * * * *

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.

9
10 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
11 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
12 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
13 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
14 additions, and Board amendment deletions in accordance with the “Note” that appears under
15 the official title of the ordinance.

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17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20
21 By: SUSAN CLEVELAND-KNOWLES
22 Deputy City Attorney

23 n:\legana\as2015\1500661\01046889.docx