



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change HEARING DATE: SEPTEMBER 24, 2015

*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, Manager of Legislative Affairs  
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*Recommendation:* **Recommend Approval with Modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Administrative Code to clarify existing preference in allocating City affordable housing units to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and make conforming amendments to provisions of 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 (Citywide Affordable Housing Fund), 415.5 (Affordable Housing Fee), 415.6 (On-Site Affordable Housing Alternative), and 415.7 (Off-Site Affordable Housing Alternative).

#### The Way It Is Now:

1. Preference for occupying affordable units or receiving assistance as part of San Francisco's Affordable Housing programs is defined in both the Administrative Code and the Planning Code.
2. In both the Administrative Code and the Planning Code, preference is given to Residential Certificate of Preference (COP) holders<sup>1</sup> who meet all of the qualifications for the unit, or for the assistance. Second preference is given to Displaced Tenants (as defined in the Administrative Code) in occupying units or in receiving assistance from any of the funds, fees, or alternatives associated with affordable housing. In the case of HOPE SF funded projects, first preference is given to occupants of existing housing, and second preference to COP holders. Displaced Tenant is defined as residents who were displaced due to an Ellis Act eviction.

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<sup>1</sup>A Certificate of Preference is a document originally issued by the San Francisco Redevelopment Agency to residents displaced by the Agency in the 1960s as a result of federally funded urban renewal programs. With the 2012 dissolution of the Redevelopment Agency, the Mayor's Office of Housing has taken over the administration and management of the COP program. Information is available online at:  
[http://www.sfredevelopment.org/ftp/uploadedfiles/Programs/COP\\_FAQs-Revised\\_March\\_2009.pdf](http://www.sfredevelopment.org/ftp/uploadedfiles/Programs/COP_FAQs-Revised_March_2009.pdf) (November 4, 2013)

### The Way It Would Be:

1. Preference for San Francisco's Affordable housing program would be removed from the Planning Code and replaced with a reference to the Administrative Code. A new chapter will be created in the Administrative Code where preferences for the City's affordable housing program would be defined.
2. The Administrative Code would be amended to add additional categories of Displaced Tenants to include all no-fault evictions, tenants who are displaced due to fire and natural disasters, as well as to tenants who are living in units where the affordability restriction is ending. Additionally, a third preference will be created for residents in the neighborhood where the affordable housing is added, where neighborhood is defined as Supervisorial District.

## ISSUES AND CONSIDERATIONS

The draft Ordinance makes two significant amendments to the existing two-tiered preferences that apply to affordable housing lotteries: it expands the existing Ellis Act Displacement Preference to include tenants displaced through any form of no-fault eviction, and it creates a third preference category for existing residents in neighborhoods in which affordable housing is constructed.

The units covered under this ordinance are defined under "City Affordable Housing Programs" which are all programs related to the provision of affordable housing administered or funded by MOHCD, including but not limited to the Inclusionary Housing program, multi-family, 100% affordable rental units, and Tax Exempt Bond Developments. These units are subject to income requirements, which apply to all preference categories.

### Expanding the Displaced Tenant Definition

The draft Ordinance expands the definition of Displaced Tenant to include all no-fault evictions, tenants who are displaced due to fire and natural disasters, as well as to tenants who are living in units where the affordability restriction is ending. Expanding the Displaced Tenant category to include all no fault evictions would cover tenants who have been displaced due to owner move-ins, demolition, and condominium conversion as described in the Rent Ordinance Section 37.9C. "Just Cause" evictions such as tenant defaults, including breach of rental agreement, non-payment or habitual late payment of rent, and committing a nuisance are not covered under this ordinance.

The draft Ordinance expands the definition of Displaced Tenant to recognize the sharp 45% increase from 2010-2014 in the number of eviction notices filed with the Rent Board for all causes. The Annual Statistical Report 2013-2014 from the Rent Board states, "Total eviction notices filed with the Board increased by 7% from 1,934 to 2,064 while the number of tenant reports of alleged wrongful eviction decreased by 5% from 497 to 471. The number of units withdrawn from the rental market under the Ellis Act increased from 121 to 192 units."<sup>2</sup>

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<sup>2</sup> San Francisco Residential Rent Stabilization and Arbitration Board Annual Statistical Report 2013-2014. Available online at <http://www.sfrb.org/modules/showdocument.aspx?documentid=2756> (September 17, 2014).

This Table highlights statistics from the Rent Board Fiscal Year 2013-2014<sup>3</sup>:

| Eviction Type                 | Units Impacted |
|-------------------------------|----------------|
| Ellis Act                     | 304            |
| Development Agreements        | 0              |
| Owner Move-Ins                | 307            |
| Nuisance                      | 359            |
| Breach of Lease               | 646            |
| Other Eviction Types          | 448            |
| <b>Total Eviction Notices</b> | <b>2064</b>    |

From 2010-2014, evictions for all causes have increased by 45% Citywide, with specific neighborhoods including the Mission (108%), the Sunset (121%), the Outer Richmond (137%), the Tenderloin and the Castro (145%) with significantly higher rates of evictions. During the same period residential rates increased 54% Citywide. Current market rate rents in San Francisco are unaffordable to more than 60% of all rental households in the City, and unaffordable to 100% of all low and moderate income households those earning less than 120% AMI-for a family of four (\$122,300). The affordability gap also extends to families who earn 150% of the AMI as the majority of households need to earn well above 175% AMI (\$160,475 for a household of 3) to afford the average purchase price of a home in San Francisco

#### Existing Affordable Housing Preferences: COP and Ellis Preferences

MOHCD's procedures require that tenants who were displaced in the 1960s by the San Francisco Redevelopment Agency ("Agency") when it implemented its federally funded urban renewal program receive first preference to apply for affordable housing units. This existing preference, called the Certificate of Preference (COP) Program, is tied to displacement by the Redevelopment Agency in the Western Addition and in Hunters Point, and applies to the head of households displaced by the Agency, eligible family members residing in the household at the time of displacement, and to households displaced by the Agency after 2008.<sup>4</sup>

The Ellis Act Housing Preference is a second preference category that was added through Ordinance 277-13, (BF130968), passed by the Board of Supervisors and signed by the Mayor on December 18, 2013. The Ellis Act Housing Preference was enacted in 2014 due to the increased percentage of Ellis Act evictions that occurred in 2013 (145.5% increase from February 2013 to September 2013).

From 2012 (when MOHCD took over the COP Program from the former Redevelopment Agency) to the present, 242 COPs have been issued and 50 COP holders have been housed: three in Below Market Rate Inclusionary ("BMR") BMR ownership units, 13 in BMR rental units, and 34 in multifamily affordable developments. Since the Ellis Act Housing Preference program's start in

<sup>3</sup> Ibid.

<sup>4</sup> <http://www.sf-moh.org/index.aspx?page=268> (November 13, 2013).

2014, 141 Ellis Act Housing Preference Certificates have been issued and 36 Ellis Act Housing certificate holders have received housing: 7 in BMR ownership units, 13 in BMR rental units, and 16 in multifamily affordable rental units.

### Neighborhood Preference

This ordinance creates a third preference category- Neighborhood Preference -to provide residents who live in the neighborhood-*defined as Supervisorial District*-an opportunity to stay in the neighborhood where they reside. Data from 2010 indicates that overcrowding is an issue faced by all San Franciscans, however in certain neighborhoods including the Mission, Chinatown, and the Tenderloin the percentage of overcrowding is almost double that of the Citywide average. Given the impact of overcrowding in these neighborhoods creating a neighborhood preference can provide relief from overcrowding while providing the benefit of allowing residents to stay in their communities.

The new preference would apply to 25% of available units, after any COP holders have exercised their preference, and after any Displaced Tenants have exercised their preference.

Given that neighborhoods can sometimes be over- or under-represented by certain populations MOHCD analyzed whether the preference would result in any disparate impacts to protected groups. Analysis of a hypothetical lottery and occupant selection process demonstrates that a neighborhood preference would not likely result in a discriminatory outcome if the preference is limited to 25% of available housing units in a given lottery. In order to assess whether the proposed neighborhood preference could be discriminatory, two commonly used tests were applied to the original proposal... The application of the two tests demonstrates that a disparate impact is unlikely if the preference is limited to 25% of available housing.

Two key components to the Neighborhood Preference are discussed in greater detail below: an assessment of the proposal's potential to exclude certain ethnicities and races from access to housing, and determining the geography and boundaries of the neighborhood.

#### *Disparate Impact Analysis*

Two court informed statistical tests<sup>5</sup>, the Four-Fifths test and a standard deviation analysis known as the Z-score, were used by MOHCD to predict whether the 25% neighborhood preference would result in a Disparate Impact on certain populations. Both tests are used to determine adverse or disparate impact on a particular racial or ethnic group by comparing outcomes to the expected or most selected racial group.

#### *The Four-Fifths test*

The four-fifths test is used by the Equal Opportunity Employment Commission to determine if there is adverse impact, or substantially different rate of selection in hiring, which results in a disadvantage for a particular race, sex, or ethnic group. The EEOC has developed the four-fifths

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<sup>5</sup> The application of two tests that have been used by the courts in similar contexts to evaluate adverse impact and bias were applied to the proposed neighborhood preference to measure possible discriminatory effects. The tests are known as the "Four-fifths Test," which is a practical evaluation, and the "Z-score," which is a standard deviation statistical analysis.

test, or 80 percent of the selection rate, as best practice for ensuring that specific populations are not adversely impacted.

*Standard Deviation Analysis or Z-Score:*

The Standard Deviation test is a statistical test that converts the probability of a difference in different selection rates into a standard metric of deviations. The test assesses the probability of discriminatory outcome by statistically evaluating the difference between observed and expected values. For the standard deviation test, results that have greater than two or three deviations could indicate a probable adverse impact.

*Determining the Geography for Neighborhood Preference*

In analyzing the proposed neighborhood preference, MOHCD examined the existing patterns of diversity and segregation within San Francisco; specifically, the evaluation compares the demographics of the city as a whole to the demographics at the smaller neighborhood level. Notable points associated with MOHCD's evaluation include:

- San Francisco is very diverse, but is also moderately to highly segregated; segregation is the most important factor in predicting whether a neighborhood preference may result in a discriminatory outcome;
- A 25% neighborhood preference allows MOHCD to implement a neighborhood preference while limiting the risk of an adverse impact or discriminatory outcome.
- It is important to have sufficiently high numbers of neighborhood residents participate in lotteries in order to ensure the accuracy of the predictive analyses. Without sufficiently high neighborhood level participation, ethnic and racial groups within certain neighborhoods could be adversely impacted.

Results of MOHCD's analysis demonstrated that a 25% neighborhood preference where neighborhood is defined as Supervisorial District limits the risk of an adverse impact or discriminatory outcome.

## REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

## RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. **The recommendations below are reflected in substitute legislation that will be introduced at the Board of Supervisors on Tuesday, September 22, 2015** a copy of which is included in this report as Exhibit D. The Department recommends the following specific modifications to the proposed Ordinance (Exhibit C):

1. Change Neighborhood preference to 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.

2. Overlay a priority for half of the Displaced Tenants' units for tenants displaced from the Neighborhood (as defined above). In practice, in a 100 unit building, 20% (20 units) would be available for Displaced Tenants, of which 10 units would be available for Displaced Tenants from the Neighborhood. Neighborhood would use the new neighborhood definition above.
3. Extend the "expiration date" of the displaced tenants from six years from the date of displacement to provide all persons who are displaced a minimum of six years to qualify from the effective date of the ordinance – and once the ordinance is effective, the six year expiration date will be triggered from the date of displacement.

## BASIS FOR RECOMMENDATION

The Department is supportive of efforts to assist tenants who have faced residential evictions, which have increased across all categories in the last year. The proposed ordinance expands the definition of a Displaced Tenant to six different categories to include those not just impacted by Ellis Act recognizing that from 2010-2014, eviction notices filed with the Rent Board for all causes have increased 45% Citywide. A neighborhood preference also supports communities that face overcrowding and while providing the benefit of allowing residents to stay in their communities. The Department also supports the removal of these provisions from the Planning Code because this program is administered entirely by MOHCD, and not by the planning Department.

### **Basis for Recommendation #1: Expanding the Neighborhood to include the Supervisor District plus a half mile buffer around a project site**

The Department supports using Supervisorial Districts because smaller geographic boundaries such as MOHCD Neighborhoods, Planning Districts, and Planning Neighborhoods can result in neighborhoods that have less than 100 households. Additionally, some of the small neighborhood geographies studied have no race or ethnic group households for the AMI levels analyzed.

The general expected geography of a walkable neighborhood is defined as a quarter mile to a half mile from home. Expanding the geography to a half mile buffer area will also include residents who live near the project site, but happen to be living in the adjacent Supervisorial District. Additionally, expanding the geography generally strengthens results of the disparate impact analysis, in that expanding the geography generally does not result in an adverse impact.

### **Basis for Recommendation #2: Overlay a priority for half of the Displaced Tenants' units for tenants displaced from the Neighborhood (as defined above)**

Creating a new category for displaced neighborhood residents offers the most preference for displaced tenants who live in the neighborhood where new affordable units are built. In practice, the overlay of a neighborhood preference within the Displaced Tenant category could result in the following: in a 100 unit building, 20% (20 units) are available for Displaced Tenants, of which 10 units would be available for Displaced Tenants from the Neighborhood. Including neighborhood preference for Displaced Tenant recognizes the importance of housing displaced tenants in the neighborhoods from which they were displaced. Additionally, if a resident was displaced but has found housing in the Neighborhood, the resident could still qualify under the Neighborhood preference category.

**Basis for Recommendation #3: Extend the “expiration date” of the Displaced Tenants from six years from the date of displacement to provide Displacees a minimum of six years to qualify from the effective date of the Ordinance.**

The current legislation provides six years from the January 1, 2010 for all categories under Displaced Tenant. If this legislation passes, it will most likely become effective at the end of 2015 or in the beginning of 2016, it would not provide a substantial window of time for Displaced Tenants to qualify under the proposed categories. If a resident was displaced on January 1, 2010, he or she would only have until January 1, 2016 to qualify under all of the categories as currently defined in the legislation. The proposed change would allow all displaced tenants six years from the date of the displacement to qualify under the category of Displaced Tenant- once the Ordinance is effective, the six year expiration date will be triggered from the date of displacement.

**ENVIRONMENTAL REVIEW**

The proposal is not defined as a project under CEQA Sections 15378 and 15060 (c) (2) because it does not result in a physical change in the environment, as determined on July 13, 2015.

**PUBLIC COMMENT**

As of the date of this report, the Planning Department has received one letter from Supervisor Cohen (attached). Supervisor Cohen recommends increasing the percentage of units allocated to the Neighborhood Preference (See Exhibit B). The Planning Department has received no additional public comment in support or opposition on this item. The Mayor’s Office of Housing and Community Development has worked with several Supervisors and community organizations to develop the proposed legislation. The amendments included in the substitute legislation were developed in response to concerns presented to MOHCD; specifically, reserving half of all Displaced Tenants units for neighborhood residents (see Exhibit C), and expanding the geography to include a half mile buffer surrounding the project sites to include residents who live close to the affordable units, but outside of the Supervisorial district (see Exhibit C).

|                        |  |
|------------------------|--|
| <b>RECOMMENDATION:</b> | <b>Recommendation of Approval with Modifications</b> |
|------------------------|--|

Attachments:

Exhibit A: Draft Planning Commission Resolution

Exhibit B: Public Comment

Exhibit C: Proposed Changes in Substitute Legislation

Exhibit D: Proposed Substitute Legislation

Exhibit E: Board of Supervisor File No. 150622



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No.

HEARING DATE SEPTEMBER 24, 2015

*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, Manager Legislative Affairs  
[aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org), 415-558-6362  
*Recommendation:* **Recommend Approval with Modifications**

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**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 expand and clarify a preference in all affordable housing programs funded or administered by the City for Displaced Tenants and ;

WHEREAS, the proposed ordinance expands Displaced Tenant to tenants who were displaced due to no-fault evictions, tenants who are displaced due to fire and natural disasters, tenants who are living in units where the affordability restriction is ending, and tenants who are displaced through a residential merger as defined in Planning Code 317,

WHEREAS, the proposed ordinance adds a new category of preference for neighborhoods,

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 modifications** the proposed ordinance. Specifically, the Commission recommends the following modifications:

1. Change Neighborhood preference to 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,
2. Overlay a priority for half of the Displaced Tenants' units for tenants displaced from the Neighborhood (as defined above),
3. Extend the "expiration date" of the displaced tenants from six years from the date of displacement to provide all persons who are displaced a minimum of six years to qualify from the effective date of the ordinance – and once the ordinance is effective, the six year expiration date will be triggered from the date of displacement.

## **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. From 2010 to 2014, eviction notices filed with the Rent Board for all causes (not just evictions under the Ellis Act) increased 45% Citywide. During that same period, average residential rents increased 54% Citywide. Expanding the definition of Displaced Tenant in qualifying for affordable housing for residents who have been, or are about to be, displaced is necessary to achieve the important public purpose of increasing opportunities for those residents to continue to live in San Francisco even as market rate rents rise.
2. 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.
3. As of June 30th, 2015, MOHCD has conducted 26 lotteries, including 11 (13 units) rental lotteries 15 (25 units) ownership lotteries. To date, 141 Ellis Act Housing Preference Certificates have been issued and 36 Ellis Act Housing certificate holders have received housing, 7 in BMR ownership,

13 in BMR rentals, and 16 in multifamily rentals. From 2012-2015 242 COPs have been issued and 50 COP holders have been housed since 2013, three in BMR ownership, 13 in BMR inclusionary, and 34 in multifamily rentals, with over 3,000 applicants. Therefore, the existing inclusionary housing allocation program functions as a nearly pure lottery system.

4. **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 losing housing due to displacement have a narrow range of options affordable to their income in the existing market. The proposed legislation would provide priority to these residents for affordable housing to help them in an emergency crisis.*

##### **OBJECTIVE 6**

**Reduce homelessness and the risk of homelessness.**

##### **POLICY 6.2**

**Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants.**

*Residents who are recently evicted and or displaced may be at risk of homelessness due to the high cost of market rate housing. The proposed legislation may help keep these residents from facing homelessness due to a sudden increase in housing costs which they would not afford.*

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 impact on neighborhood serving retail uses and will not impact 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 impact 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 impact preparedness in the case of an earthquake.*

7. That the landmarks and historic buildings be preserved;

*Landmarks and historic buildings would not be negatively impacted 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.*

- 8. 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 September 24, 2015.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:

Member, Board of Supervisors  
District 10



City and County of San Francisco

**MALIA COHEN**  
**郭嫻**

September 14, 2015

Rodney Fong  
President  
San Francisco Planning Commission  
Commission Chambers, Room 400  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Re: File No 150622 – Preference in Affordable Housing Programs Legislation

President Fong and Members of the Planning Commission;

Thank you for your consideration of this important piece of legislation. Since this legislation was introduced, I have been working collaboratively with community stakeholders and the Mayor's Office of Housing to evaluate the possibility of increasing the neighborhood preference percentage. Currently, the legislation requires the neighborhood preference apply to 25% of new rental or ownership units. While this is an important start, I do believe with some additional analysis we can increase this percentage to capture more of our residents in this program.

As the Commission considers the aspects of this legislation and its recommendations to the Board of Supervisors, I would ask you to also consider whether you believe the current 25% neighborhood preference is the most appropriate number. I look forward to hearing your feedback on this legislation and continuing to work with staff to address this issue as the legislation moves through the Board of Supervisors.

Sincerely,

A handwritten signature in blue ink that reads "Malia".

Malia Cohen  
Member, Board of Supervisors

cc:

Sophie Hayward, Mayor's Office of Housing  
Jeff Buckley, Mayor's Office of Housing  
Jonas P. Ionin, Planning Commission

## Exhibit C: Summary of MOHCD Proposed Changes in Substitute Legislation

### Recommended Amendments:

#### Amendment #1

- The geography of the “Neighborhood” will be expanded from the Supervisorial district to the Supervisorial district and a ½ mile buffer around any project that includes affordable units subject to the preference;
- **The Definition of “Neighborhood” in Section 47.2 is amended (adding text on Page 10, Lines 13-14 of the version Introduced on June 9)**

“Neighborhood” shall mean any one of the 11 Supervisorial Districts as defined and established in the San Francisco Charter, Appendix E; **for each unit or project that is part of a City Affordable Housing Program "Neighborhood" means the Supervisorial District in which the unit or project is located, plus a ½ mile buffer around the location of the unit or project.**

#### Amendment #2

- Overlay a priority for half of the Displaced Tenants’ units for tenants displaced from the Neighborhood (as defined above) within the Displaced Tenant preference. This means that in a 100 unit building, 20 units are available for a Displaced Tenants preference, of which 10 can go to Displaced Tenants from the Neighborhood. In addition, note that for re-sales and re-rentals, the Displaced Tenant preference is available until 20% of the affordable units are leased up to preference holders:
  - **Amend the “Application of Preference” Section 47.3(b) related to the preference for Displaced Tenants (adding text on Page 12, Line 13 of the version Introduced on June 9):**
    - (1) 20% of the units in any new residential development **that is part of a City Affordable Housing Program** going through the initial occupancy or sale process; and
    - (2) ~~100% of the~~ units in all re-sales and subsequent leases **until 20% of all units that are part of a City Affordable Housing Program in a building are occupied by tenants who have exercised this preference.**
    - (3) **50% of the units for which Preference under this subsection (b) is applicable will be prioritized for Displaced Tenants who were living in the Neighborhood in which the units are located at the time of their displacement, such that 50% of the units in subsection (1) subject to the preference shall be prioritized first for Displaced Tenants who were living in the Neighborhood in which the units are located at the time of their displacement, and units subject to subsection (2) shall be prioritized first for Displaced Tenants who were living in the Neighborhood in which the units are located at the time of their displacement until 10% of all the units that are part of a City Affordable Housing Program in a building are occupied by Displaced Tenants who were living in the Neighborhood.**

### **Amendment #3**

- Extend the “expiration date” of the Displaced Tenants from 6 years from the date of displacement to provide all displacees a minimum of six years to qualify from the effective date of the Ordinance – and once the Ordinance is effective, the six year expiration date will be triggered from the date of displacement. (This addresses the problem faced by the person who was displaced in 2010, but since the Ordinance will be effective likely in December, 2015 or January, 2016, they won’t have a very large window in which to use the preference).
  - **Amend the “Application of Preference” Section 47.3(b) related to the preference for Displaced Tenants (adding text on Page 12, Line 2-4 of the version Introduced on June 9):**
    - (b) Second, to any Displaced Tenant who meets all of the qualifications for the unit or assistance. **For any Displaced Tenant displaced prior to the effective date of this Chapter 47, p**Preference under this subsection (b) shall expire six years from the **effective date of this Chapter 47. For any Displaced Tenant displaced after the effective date of this Chapter 47, preference under this subsection (b) shall expire six years from the** date of the earliest of any of the following circumstances: (i) the landlord filed with the Rent Board a Notice of Intent to Withdraw; (ii) the landlord filed with the Rent Board the notice to vacate pursuant to the Rent Ordinance Section 37.9(c); (iii) a public safety official provided the order to vacate to the tenant; (iv) the landlord provided notice to the tenant that the affordability restrictions applicable to that unit will be expiring; (v) the landlord provided notice to the tenant that the unit is transitioning from a rental unit to an ownership unit; or (vi) the residential demolition or residential merger of the tenant’s unit, as defined in Planning Code Section 317, was approved by the Planning Commission or Planning Department.

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 make conforming amendments to provisions of the**  
 8 **Administrative and Planning Codes; to affirm the Planning Department's determination**  
 9 **under the California Environmental Quality Act; and to make findings of consistency**  
 10 **with the General Plan and the eight priority policies of Planning Code Section 101.1.**

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

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

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 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
 adopted findings that the actions contemplated in this ordinance are consistent, on balance,



1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
3 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

4  
5 Section 2. The Administrative Code is hereby amended by deleting Section 24.8, as  
6 follows:

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

9 ~~This Section shall apply to all programs related to the provision of affordable housing, unless~~  
10 ~~specified otherwise. To the extent permitted by law, the Mayor's Office of Housing and Community~~  
11 ~~Development ("MOHCD") or its successor shall give or require project sponsors or their successors in~~  
12 ~~interest funded through MOHCD to give, preference in occupying units or receiving assistance under~~  
13 ~~all City affordable housing programs, including all former San Francisco Redevelopment Agency~~  
14 ~~affordable housing programs administered or funded by the City, first to Residential Certificate of~~  
15 ~~Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant~~  
16 ~~Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with~~  
17 ~~the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or assistance;~~  
18 ~~and second to any Displaced Tenant, as defined herein, who meets all of the qualifications for the unit~~  
19 ~~or assistance, provided that the following limitations shall apply to the Displaced Tenant preference:~~  
20 ~~(i) a Displaced Tenant may apply the preference to existing, currently occupied developments only for~~  
21 ~~three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration~~  
22 ~~Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to~~  
23 ~~the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the~~  
24 ~~San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code~~  
25 ~~Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments~~

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

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

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

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

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

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

22  
23 Section 3. The Administrative Code is hereby amended by adding Chapter 47,  
24 consisting of Sections 47.1, 47.2, 47.3, 47.4, and 47.5 to read as follows:

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

1            **SEC. 47.1 FINDINGS AND PURPOSE.**

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

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

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

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

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

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

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

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

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

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

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

21           (l) A limited preference for existing neighborhood residents that can be applied to a portion  
22 of new affordable housing developments in San Francisco will provide an opportunity to current low-  
23 and very-low income residents that are living in overcrowded housing configurations to move into  
24 appropriately sized units without leaving the community. This preference will also help provide relief  
25

1 for rent burdened low- and very-low income households while allowing them to benefit from  
2 new affordable housing development within their communities.

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

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

13 **SEC. 47.2 DEFINITIONS.**

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

20 “Displaced Tenant” shall mean any person who applies to MOHCD and who MOHCD  
21 determines qualifies for any one of the categories enumerated below. If a person disputes MOHCD’s  
22 determination that he or she does not qualify as a "Displaced Tenant" under this Section 47.2, such  
23 person shall have the right to a hearing conducted by a Rent Board Administrative Law Judge (as  
24 defined in Administrative Code Section 37.2(f)), with MOHCD as the responding party:

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

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

21                   Category 3: A tenant residing in San Francisco who on or after January 1, 2010 is  
22 ordered to vacate his or her unit by a public safety official due to fire or other disaster, and who can  
23 provide sufficient evidence to MOHCD that demonstrates that he or she cannot return to the unit within  
24 a reasonable period of time (as determined by MOHCD) thereafter. MOHCD shall establish a process  
25 for a tenant to verify his or her status as a "Displaced Tenant" under Category 3 that, at a minimum,

1 shall require a tenant to show: (a) a public safety official provided an order to vacate the unit; and (b)  
2 the tenant either: (1) is listed on the order to vacate; (2) is listed on the lease for the unit in question;  
3 or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she  
4 resided in the unit at the time the order was provided.

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

16 Category 5: A tenant residing in San Francisco on or after January 1, 2010 in a Below  
17 Market Rate unit restricted under the San Francisco Inclusionary Affordable Housing Program,  
18 Planning Code Section 415 et seq., where the Below Market Rate unit is transitioning from a rental unit  
19 to an ownership unit, and the tenant provides sufficient evidence to MOHCD that demonstrates that he  
20 or she is not able to purchase the unit due to financial reasons. MOHCD shall establish a process for a  
21 tenant to verify his or her status as a "Displaced Tenant" under Category 5 that, at a minimum, shall  
22 require a tenant to show: (a) the landlord provided notice to the tenant of the intent to convert the unit  
23 to an ownership unit; and (b) the tenant either: (1) is listed on the notice; (2) is listed on the lease for  
24 the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable  
25 discretion, that he or she resided in the unit at the time the notice was provided to the tenant.



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

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

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

17           "Neighborhood Resident" shall mean any person who has a primary residence in a certain  
18 Neighborhood at the time he or she applies for a unit or assistance. MOHCD shall establish a process  
19 for a person to verify status as a "Neighborhood Resident" for a particular Neighborhood, which, at a  
20 minimum, shall require a person to show: (a) that he or she is listed on the lease for a unit in that  
21 Neighborhood; or (b) other evidence sufficient to establish, in MOHCD's reasonable discretion, that  
22 the person resides in a unit in that Neighborhood. If a person disputes a MOHCD determination that he  
23 or she does not qualify as a "Neighborhood Resident" under this Section 47.2, such person shall have  
24 the right to a hearing conducted by a Rent Board Administrative Law Judge (as defined in  
25 Administrative Code Section 37.2(f)), with MOHCD as the responding party.

1 “Rent Board” shall mean the Residential Rent Stabilization and Arbitration Board.

2 “Rent Ordinance” shall mean the San Francisco Rent Stabilization and Arbitration Ordinance,  
3 Administrative Code Chapter 37.

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

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

10 **SEC. 47.3 APPLICATION OF PREFERENCE.**

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

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

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

14           (1) 20% of the units in any new residential development that is part of a City Affordable  
15 Housing Program going through the initial occupancy or sale process; and

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

19           (3) 50% of the units for which Preference under this subsection (b) is applicable will be  
20 prioritized for Displaced Tenants who were living in the Neighborhood in which the units are located  
21 at the time of their displacement, such that 50% of the units in subsection (1) subject to the preference  
22 shall be prioritized first for Displaced Tenants who were living in the Neighborhood in which the units  
23 are located at the time of their displacement; and units subject to subsection (2) shall be prioritized  
24 first for Displaced Tenants who were living in the Neighborhood in which the units are located at the  
25

1 time of their displacement until 10% of all the units that are part of a City Affordable Housing Program  
2 in a building are occupied by Displaced Tenants who were living in the Neighborhood.

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

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

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

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

11 **SEC. 47.4. IMPLEMENTATION AND MONITORING.**

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

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

24 The Board of Supervisors or a committee thereof shall hold an initial hearing to assess the  
25 impact of the Displaced Tenant and Neighborhood preferences within one year of the effective date of

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

5 **SEC. 47.5. SEVERABILITY.**

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

14  
15 Section 4. The Administrative Code is hereby amended by revising Sections 37.6,  
16 43.3.4, 10.100-110, and 10.100-370, to read as follows:

17 **SEC. 37.6. POWERS AND DUTIES.**

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

22 \* \* \* \*

23 (o) As provided by Administrative Code ~~Section~~ Chapter 24.847, utilize Administrative  
24 Law Judges to hear and decide petitions from persons who dispute the Mayor’s Office of  
25 Housing and Community Development’s determination that such person does not qualify as a

1 “Displaced Tenant” or a “Neighborhood Resident” (each as defined in Administrative Code  
2 Section Chapter 24.847).

3  
4 **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

5 Following payment of costs of issuance, 85 percent of the bond proceeds will be used  
6 for the development of affordable rental housing through the development account described  
7 in the regulations, and 15 percent of the bond proceeds will be used for downpayment  
8 assistance for low and moderate income first-time homebuyers through the downpayment  
9 assistance loan account described in the program regulations; including all legally permissible  
10 administrative costs related to the program. The Mayor's Office of Housing and Community  
11 Development ("MOHCD") shall develop procedures and amend its regulations such that, for  
12 all projects funded by this affordable housing and home ownership bond program, including  
13 multifamily rental projects and down payment assistance to individual households, it requires  
14 the project sponsor or its successor in interest to give preference in occupying units or  
15 receiving assistance as provided for in Administrative Code Chapter 47. ~~first to Residential~~  
16 ~~Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner~~  
17 ~~and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and~~  
18 ~~on file with the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or~~  
19 ~~assistance; and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who~~  
20 ~~meets all of the qualifications for the unit or assistance, provided that the following limitations shall~~  
21 ~~apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing,~~  
22 ~~currently-occupied developments only for three years from the date the landlord filed with the~~  
23 ~~Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the~~  
24 ~~tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section~~  
25 ~~7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration~~

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

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

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

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

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



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

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

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

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

15 \* \* \* \*

16 (d) Administration of Fund. The fund shall be administered by the Mayor's Office of  
17 Housing and Community Development ("MOHCD"). The Director of MOHCD shall  
18 promulgate such rules and regulations as he or she may deem appropriate to carry out the  
19 provisions of the fund. Such rules and regulations shall be developed in consultation with any  
20 appropriate agencies or organizations with which the Director, or his or her designee, may  
21 choose to consult. The rules and regulations shall be subject to a public hearing and  
22 approved by resolution of the Board of Supervisors. MOHCD shall develop procedures such  
23 that, for all projects funded by the HOPE SF Fund, MOHCD requires the project sponsor or its  
24 successor in interest to give preference in occupying units as provided for in Administrative Code  
25 Chapter 47. first to any current occupants of a housing development receiving Funds, second to

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

21 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
22 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
23 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
24 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
25 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~

1 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
2 ~~this paragraph are directory rather than mandatory.~~

3  
4 Section 5. The Planning Code is hereby amended by revising Sections 413.10, 415.5,  
5 415.6 and 415.7, to read as follows:

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

7 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to  
8 Section 413.9 shall be deposited in the special fund maintained by the Controller called the  
9 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated  
10 in accordance with law to be used solely to increase the supply of housing affordable to  
11 qualifying households subject to the conditions of this Section. The Mayor's Office of Housing  
12 and Community Development ("MOHCD") shall develop procedures such that, for all projects  
13 funded by the Citywide Affordable Housing Fund, MOHCD requires the project sponsor or its  
14 successor in interest to give preference in occupying units as provided for in Administrative Code  
15 Chapter 47. first to Residential Certificate of Preference Holders under the San Francisco  
16 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September  
17 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who  
18 meet all of the qualifications for the unit; and second to any Displaced Tenant, as defined in  
19 Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance,  
20 provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced  
21 Tenant may apply the preference to existing, currently-occupied developments only for three years from  
22 the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board")  
23 a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act,  
24 California Government Code Section 7060 et seq. and the corresponding provisions of the San  
25 Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code

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

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

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

21 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

22 \* \* \* \*

23 (f) Use of Fees. All monies contributed pursuant to this Section shall be deposited in  
24 the special fund maintained by the Controller called the Citywide Affordable Housing Fund.

1 The Mayor's Office of Housing and Community Development ("MOHCD") shall use the funds  
2 in the following manner:

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

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

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

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

16 (2) "Small Sites Funds."

17 (A) Designation of Funds. MOHCD shall designate and separately  
18 account for 10% percent of all fees that it receives under Section 415.1 et seq., excluding fees  
19 that are geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(C), to  
20 support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall  
21 continue to divert 10 percent of all fees for this purpose until the Small Sites Funds reach a  
22 total of \$15 million at which point, MOHCD will stop designating funds for this purpose. At  
23 such time as designated Small Sites Funds are expended and dip below \$15 million, MOHCD  
24 shall start designating funds again for this purpose, such that at no time the Small Sites Funds  
25 shall exceed \$15 million. When the total amount of fees paid to the City under Section

1 415.1et seq. totals less than \$10 million over the preceding 12 month period, MOHCD is  
2 authorized to temporarily divert funds from the Small Sites Fund for other purposes. MOHCD  
3 must keep track of the diverted funds, however, such that when the amount of fees paid to the  
4 City under Section 415.1et seq. meets or exceeds \$10 million over the preceding 12 month  
5 period, MOHCD shall commit all of the previously diverted funds and 10 percent of any new  
6 funds, subject to the cap above, to the Small Sites Fund.

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

12 (i) rental properties that will be maintained as rental properties;  
13 (ii) vacant properties that were formerly rental properties as long  
14 as those properties have been vacant for a minimum of two years prior to the effective date of  
15 this legislation;

16 (iii) properties that have been the subject of foreclosure; or  
17 (iv) a Limited Equity Housing Cooperative as defined in  
18 Subdivision Code Sections 1399.1et seq. or a property owned or leased by a non-profit entity  
19 modeled as a Community Land Trust.

20 (C) Initial Funds. If, within 18 months from April 23, 2009 ~~the date of adoption of~~  
21 ~~this ordinance~~, MOHCD dedicates an initial one-time contribution of other eligible funds to be  
22 used initially as Small Sites Funds, MOHCD may use the equivalent amount of Small Sites  
23 Funds received from fees for other purposes permitted by the Citywide Affordable Housing  
24 Fund until the amount of the initial one-time contribution is reached.

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

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

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

1 ~~the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such~~  
2 ~~development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant~~  
3 ~~declines a unit offered through application of the preference, but upon accepting and occupying a unit~~  
4 ~~obtained using the preference, such Displaced Tenant's preference terminates. Otherwise, it is the~~  
5 ~~policy of the City to treat all households equally in allocating affordable units under this Program.~~

6 \* \* \* \*

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

8  
9 \* \* \* \*

10  
11 (d) Marketing the Units. The Mayor's Office of Housing and Community Development  
12 ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable  
13 units under this Section. In general, the marketing requirements and procedures shall be  
14 contained in the Procedures Manual as amended from time to time and shall apply to the  
15 affordable units in the project. MOHCD may develop occupancy standards for units of  
16 different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of  
17 affordable units. MOHCD may require in the Procedures Manual that prospective purchasers  
18 complete homebuyer education training or fulfill other requirements. MOHCD shall develop a  
19 list of minimum qualifications for marketing firms that market affordable units under Section  
20 415.5 et seq., referred to the Procedures Manual as Below Market Rate (BMR units). No  
21 developer marketing units under the Program shall be able to market affordable units except  
22 through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or  
23 conditions of approval shall specify that the marketing requirements and procedures  
24 contained in the Procedures Manual as amended from time to time, shall apply to the  
25 affordable units in the project.



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

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

1 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

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

5 \* \* \* \*

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

7 \* \* \* \*

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

22 (1) Lottery. At the initial offering of affordable units in a housing project and  
23 when ownership units become available for resale in any housing project subject to this  
24 Program after the initial offering, MOHCD must require the use of a public lottery approved by  
25 MOHCD to select purchasers or tenants.

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

1 \* \* \* \*

2  
3 Section 6. Effective Date. This ordinance shall become effective 30 days after  
4 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
5 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
6 of Supervisors overrides the Mayor's veto of the ordinance.

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

14  
15  
16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

18  
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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 make conforming amendments to provisions of the**  
8 **Administrative and Planning Codes; to affirm the Planning Department's determination**  
9 **under the California Environmental Quality Act; and to make findings of consistency**  
10 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

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 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
3 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.  
4

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

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

9 *~~This Section shall apply to all programs related to the provision of affordable housing, unless~~*  
10 *~~specified otherwise. To the extent permitted by law, the Mayor's Office of Housing and Community~~*  
11 *~~Development ("MOHCD") or its successor shall give or require project sponsors or their successors in~~*  
12 *~~interest funded through MOHCD to give preference in occupying units or receiving assistance under~~*  
13 *~~all City affordable housing programs, including all former San Francisco Redevelopment Agency~~*  
14 *~~affordable housing programs administered or funded by the City, first to Residential Certificate of~~*  
15 *~~Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant~~*  
16 *~~Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with~~*  
17 *~~the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or assistance;~~*  
18 *~~and second to any Displaced Tenant, as defined herein, who meets all of the qualifications for the unit~~*  
19 *~~or assistance, provided that the following limitations shall apply to the Displaced Tenant preference:~~*  
20 *~~(i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for~~*  
21 *~~three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration~~*  
22 *~~Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to~~*  
23 *~~the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the~~*  
24 *~~San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code~~*  
25 *~~Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments~~*

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

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

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

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

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

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

22  
23 Section 3. The Administrative Code is hereby amended by adding Chapter 47,  
24 consisting of Sections 47.1, 47.2, 47.3, 47.4, and 47.5 to read as follows:

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



1                    **SEC. 47.1 FINDINGS AND PURPOSE.**

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

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

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

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

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

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

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

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

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

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

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

21           (l) A limited preference for existing neighborhood residents that can be applied to a portion  
22 of new affordable housing developments in San Francisco will provide an opportunity to current low-  
23 and very-low income residents that are living in overcrowded housing configurations to move into  
24 appropriately sized units without leaving the community. This preference will also help provide relief  
25

1 for rent burdened low- and very-low income households while allowing them to benefit from  
2 new affordable housing development within their communities.

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

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

13 **SEC. 47.2 DEFINITIONS.**

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

20 "Displaced Tenant" shall mean any person who applies to MOHCD and who MOHCD  
21 determines qualifies for any one of the categories enumerated below. If a person disputes MOHCD's  
22 determination that he or she does not qualify as a "Displaced Tenant" under this Section 47.2, such  
23 person shall have the right to a hearing conducted by a Rent Board Administrative Law Judge (as  
24 defined in Administrative Code Section 37.2(f)), with MOHCD as the responding party:

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

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

21                   Category 3: A tenant residing in San Francisco who on or after January 1, 2010 is  
22 ordered to vacate his or her unit by a public safety official due to fire or other disaster, and who can  
23 provide sufficient evidence to MOHCD that demonstrates that he or she cannot return to the unit within  
24 a reasonable period of time (as determined by MOHCD) thereafter. MOHCD shall establish a process  
25 for a tenant to verify his or her status as a "Displaced Tenant" under Category 3 that, at a minimum,

1 shall require a tenant to show: (a) a public safety official provided an order to vacate the unit; and (b)  
2 the tenant either: (1) is listed on the order to vacate; (2) is listed on the lease for the unit in question;  
3 or (3) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she  
4 resided in the unit at the time the order was provided.

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

16 Category 5: A tenant residing in San Francisco on or after January 1, 2010 in a Below  
17 Market Rate unit restricted under the San Francisco Inclusionary Affordable Housing Program,  
18 Planning Code Section 415 et seq., where the Below Market Rate unit is transitioning from a rental unit  
19 to an ownership unit, and the tenant provides sufficient evidence to MOHCD that demonstrates that he  
20 or she is not able to purchase the unit due to financial reasons. MOHCD shall establish a process for a  
21 tenant to verify his or her status as a "Displaced Tenant" under Category 5 that, at a minimum, shall  
22 require a tenant to show: (a) the landlord provided notice to the tenant of the intent to convert the unit  
23 to an ownership unit; and (b) the tenant either: (1) is listed on the notice; (2) is listed on the lease for  
24 the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's reasonable  
25 discretion, that he or she resided in the unit at the time the notice was provided to the tenant.

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

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

13           "Neighborhood" shall mean any one of the 11 Supervisorial Districts as defined and  
14 established in the San Francisco Charter, Appendix E.

15           "Neighborhood Resident" shall mean any person who has a primary residence in a certain  
16 Neighborhood at the time he or she applies for a unit or assistance. MOHCD shall establish a process  
17 for a person to verify status as a "Neighborhood Resident" for a particular Neighborhood, which, at a  
18 minimum, shall require a person to show: (a) that he or she is listed on the lease for a unit in that  
19 Neighborhood; or (b) other evidence sufficient to establish, in MOHCD's reasonable discretion, that  
20 the person resides in a unit in that Neighborhood. If a person disputes a MOHCD determination that he  
21 or she does not qualify as a "Neighborhood Resident" under this Section 47.2, such person shall have  
22 the right to a hearing conducted by a Rent Board Administrative Law Judge (as defined in  
23 Administrative Code Section 37.2(f)), with MOHCD as the responding party.

24           "Rent Board" shall mean the Residential Rent Stabilization and Arbitration Board.  
25

1           “Rent Ordinance” shall mean the San Francisco Rent Stabilization and Arbitration Ordinance,  
2 Administrative Code Chapter 37.

3           “Residential Certificate of Preference Holders” shall mean a person who holds a Residential  
4 Certificate of Preference under the San Francisco Redevelopment Agency's Property Owner and  
5 Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on  
6 file with the Clerk of the Board in File No. 080521.

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

9           **SEC. 47.3 APPLICATION OF PREFERENCE.**

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

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

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

11           **(1) 20% of the units in any new residential development going through the initial**  
12 **occupancy or sale process; and**

13           **(2) 100% of the units in all re-sales and subsequent leases.**

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

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

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

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

22           **SEC. 47.4. IMPLEMENTATION AND MONITORING.**

23           **(a) Certificate of Preference. The Board of Supervisors shall hold a hearing on the status of**  
24 **the legislation creating the Certificate of Preference preference, Ordinance 232-08, within two years of**  
25 **its effective date to assess its impact, or at such time as the MOHCD certifies to the Board of**



1 Supervisors that, in any one fiscal year, the percent of Residential Certificate of Preference holders  
2 obtaining an affordable housing unit by taking advantage of the Certificate of Preference preference in  
3 all of the City's affordable housing programs combined exceeds 50% of the total number of units made  
4 available through the City's affordable housing programs in that year.

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

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

16 **SEC. 47.5. SEVERABILITY.**

17 If any section, subsection, sentence, clause, phrase, or word of this Chapter 47, or any  
18 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a  
19 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining  
20 portions or applications of the Chapter. The Board of Supervisors hereby declares that it would have  
21 passed the ordinances establishing this Chapter and each and every section, subsection, sentence,  
22 clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other  
23 portion of this Chapter or application thereof would be subsequently declared invalid or  
24 unconstitutional.

1 Section 4. The Administrative Code is hereby amended by revising Sections 37.6,  
2 43.3.4, 10.100-110, and 10.100-370, to read as follows:

3 **SEC. 37.6. POWERS AND DUTIES.**

4 In addition to other powers and duties set forth in this Chapter, and in addition to  
5 powers under the Charter and under other City Codes, including powers and duties under  
6 Administrative Code Chapter 49 ("Interest Rates on Security Deposits"), the Board shall have  
7 the power to:

8 \* \* \* \*

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

14  
15 **SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.**

16 Following payment of costs of issuance, 85 percent of the bond proceeds will be used  
17 for the development of affordable rental housing through the development account described  
18 in the regulations, and 15 percent of the bond proceeds will be used for downpayment  
19 assistance for low and moderate income first-time homebuyers through the downpayment  
20 assistance loan account described in the program regulations; including all legally permissible  
21 administrative costs related to the program. The Mayor's Office of Housing and Community  
22 Development ("MOHCD") shall develop procedures and amend its regulations such that, for  
23 all projects funded by this affordable housing and home ownership bond program, including  
24 multifamily rental projects and down payment assistance to individual households, it requires  
25 the project sponsor or its successor in interest to give preference in occupying units or

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

21 —MOHCD shall implement the Certificate of Preference Holder requirements of this Section by  
22 developing procedures and amending its applicable regulations within 90 days of the effective date of  
23 Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of  
24 this Section by developing procedures and amending its applicable regulations within 90 days of the  
25 effective date of the ordinance creating the Displaced Tenant preference. Said procedures and

1 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements of~~  
2 ~~this paragraph are directory rather than mandatory.~~

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

4 (a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a  
5 category two fund to receive any prior legally binding obligations any grants, gifts, bequests  
6 from private sources for the purposes cited in subsection (b), any monies repaid to the City as  
7 a result of loans made by the City to developers to assist in the development of affordable  
8 housing, any repayments of monies to the City where the City is beneficiary under a  
9 promissory note which was acquired as a result of the City's housing affordability assistance,  
10 any repayments of loans made from this fund and any monies otherwise appropriated to the  
11 fund.

12 (b) Use of Fund. The fund shall be used exclusively for the purpose of providing  
13 financial assistance to for-profit and nonprofit housing developers, where the contribution of  
14 monies from the fund will allow units in a project to be affordable to persons and families of  
15 low and moderate income. City departments may recover any costs of administering any  
16 project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of  
17 Housing and Community Development ("MOHCD") shall develop procedures and amend its  
18 regulations such that, for all projects funded by this fund, it requires the project sponsor or its  
19 successor in interest to give preference in occupying units or receiving assistance as provided  
20 for in Administrative Code Chapter 47. first to Residential Certificate of Preference Holders under the  
21 San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as  
22 reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in  
23 File No. 080521, who meet all of the qualifications for the unit or assistance; and second to any  
24 Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications  
25 for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant

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

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

## 22 **SEC. 10.100-370. SAN FRANCISCO HOPE SF FUND.**

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

1 \* \* \* \*

2 (d) Administration of Fund. The fund shall be administered by the Mayor's Office of  
3 Housing and Community Development ("MOHCD"). The Director of MOHCD shall  
4 promulgate such rules and regulations as he or she may deem appropriate to carry out the  
5 provisions of the fund. Such rules and regulations shall be developed in consultation with any  
6 appropriate agencies or organizations with which the Director, or his or her designee, may  
7 choose to consult. The rules and regulations shall be subject to a public hearing and  
8 approved by resolution of the Board of Supervisors. MOHCD shall develop procedures such  
9 that, for all projects funded by the HOPE SF Fund, MOHCD requires the project sponsor or its  
10 successor in interest to give preference in occupying units *as provided for in Administrative Code*  
11 *Chapter 47, first to any current occupants of a housing development receiving Funds, second to*  
12 *Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's*  
13 *Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective*  
14 *October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the*  
15 *qualifications for the unit; and third to any Displaced Tenant, as defined in Administrative Code*  
16 *Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following*  
17 *limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the*  
18 *preference to existing, currently-occupied developments only for three years from the date the landlord*  
19 *filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to*  
20 *withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government*  
21 *Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization*  
22 *and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A;*  
23 *(ii) a Displaced Tenant may apply the preference to new developments going through the initial*  
24 *occupancy process only for six years from the date the landlord filed with the Rent Board a notice of*  
25 *intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and*

1 ~~the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development~~  
2 ~~going through the initial occupancy process, the Displaced Tenant preference shall apply only to~~  
3 ~~twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still~~  
4 ~~apply even if such Displaced Tenant declines a unit offered through application of the preference, but~~  
5 ~~upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's~~  
6 ~~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  
15 Section 5. The Planning Code is hereby amended by revising Sections 413.10, 415.5,  
16 415.6 and 415.7, to read as follows:

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

18 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to  
19 Section 413.9 shall be deposited in the special fund maintained by the Controller called the  
20 Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated  
21 in accordance with law to be used solely to increase the supply of housing affordable to  
22 qualifying households subject to the conditions of this Section. The Mayor's Office of Housing  
23 and Community Development ("MOHCD") shall develop procedures such that, for all projects  
24 funded by the Citywide Affordable Housing Fund, MOHCD requires the project sponsor or its  
25 successor in interest to give preference in occupying units as provided for in Administrative Code

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

21 ~~MOHCD shall implement the Certificate of Preference Holder requirements of this Section by~~  
22 ~~developing procedures and amending its applicable regulations within 90 days of the effective date of~~  
23 ~~Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of~~  
24 ~~this Section by developing procedures and amending its applicable regulations within 90 days of the~~  
25 ~~effective date of the ordinance creating the Displaced Tenant preference. Said procedures and~~



1 ~~regulations shall be subject to approval by Resolution of the Board of Supervisors. The requirements~~  
2 ~~of this paragraph are directory rather than mandatory.~~

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

7 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

8 \* \* \* \*

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

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

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

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

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

1 (2) "Small Sites Funds."

2 (A) Designation of Funds. MOHCD shall designate and separately  
3 account for 10% percent of all fees that it receives under Section 415.1et seq., excluding fees  
4 that are geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(C), to  
5 support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall  
6 continue to divert 10 percent of all fees for this purpose until the Small Sites Funds reach a  
7 total of \$15 million at which point, MOHCD will stop designating funds for this purpose. At  
8 such time as designated Small Sites Funds are expended and dip below \$15 million, MOHCD  
9 shall start designating funds again for this purpose, such that at no time the Small Sites Funds  
10 shall exceed \$15 million. When the total amount of fees paid to the City under Section  
11 415.1et seq. totals less than \$10 million over the preceding 12 month period, MOHCD is  
12 authorized to temporarily divert funds from the Small Sites Fund for other purposes. MOHCD  
13 must keep track of the diverted funds, however, such that when the amount of fees paid to the  
14 City under Section 415.1et seq. meets or exceeds \$10 million over the preceding 12 month  
15 period, MOHCD shall commit all of the previously diverted funds and 10 percent of any new  
16 funds, subject to the cap above, to the Small Sites Fund.

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

- 22 (i) rental properties that will be maintained as rental properties;  
23 (ii) vacant properties that were formerly rental properties as long  
24 as those properties have been vacant for a minimum of two years prior to the effective date of  
25 this legislation;

1 (iii) properties that have been the subject of foreclosure; or  
2 (iv) a Limited Equity Housing Cooperative as defined in  
3 Subdivision Code Sections 1399.1 et seq. or a property owned or leased by a non-profit entity  
4 modeled as a Community Land Trust.

5 (C) Initial Funds. If, within 18 months from April 23, 2009 the date of adoption of  
6 ~~this ordinance~~, MOHCD dedicates an initial one-time contribution of other eligible funds to be  
7 used initially as Small Sites Funds, MOHCD may use the equivalent amount of Small Sites  
8 Funds received from fees for other purposes permitted by the Citywide Affordable Housing  
9 Fund until the amount of the initial one-time contribution is reached.

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

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

17 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD  
18 requires the project sponsor or its successor in interest to give preference as provided for in  
19 ~~Administrative Code Chapter 47. in occupying units first to Residential Certificate of Preference~~  
20  ~~Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference~~  
21  ~~Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of~~  
22  ~~the Board in File No. 080521, who otherwise meet all of the requirements for a unit; and second to any~~  
23  ~~Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications~~  
24  ~~for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant~~  
25  ~~preference: (i) a Displaced Tenant may apply the preference to existing, currently occupied~~

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

15 \* \* \* \*

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

17 \* \* \* \*

18  
19  
20 (d) Marketing the Units. The Mayor's Office of Housing and Community Development  
21 ("MOHCD") shall be responsible for overseeing and monitoring the marketing of affordable  
22 units under this Section. In general, the marketing requirements and procedures shall be  
23 contained in the Procedures Manual as amended from time to time and shall apply to the  
24 affordable units in the project. MOHCD may develop occupancy standards for units of  
25 different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of

1 affordable units. MOHCD may require in the Procedures Manual that prospective purchasers  
2 complete homebuyer education training or fulfill other requirements. MOHCD shall develop a  
3 list of minimum qualifications for marketing firms that market affordable units under Section  
4 415.5 et seq., referred to the Procedures Manual as Below Market Rate (BMR units). No  
5 developer marketing units under the Program shall be able to market affordable units except  
6 through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or  
7 conditions of approval shall specify that the marketing requirements and procedures  
8 contained in the Procedures Manual as amended from time to time, shall apply to the  
9 affordable units in the project.

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

14 (2) Preferences. MOHCD shall create a lottery system that gives preference  
15 according to the provisions of Administrative Code Chapter 47. the following preferences (A) first to  
16 Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's  
17 Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective  
18 October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications  
19 of the Program; (B) second to any Displaced Tenant, as defined in Administrative Code Section 24.8,  
20 who meets all of the qualifications for the unit or assistance, provided that the following limitations  
21 shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to  
22 existing, currently-occupied developments only for three years from the date the landlord filed with the  
23 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the  
24 tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section  
25 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration

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

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

14 \* \* \* \*

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

16 \* \* \* \*

17 (e) Marketing the Units. MOHCD shall be responsible for overseeing and monitoring  
18 the marketing of affordable units under this Section. In general, the marketing requirements  
19 and procedures shall be contained in the Procedures Manual as amended from time to time  
20 and shall apply to the affordable units in the project. MOHCD may develop occupancy  
21 standards for units of different bedroom sizes in the Procedures Manual in order to promote  
22 an efficient allocation of affordable units. MOHCD may require in the Procedures Manual that  
23 prospective purchasers complete homebuyer education training or fulfill other requirements.  
24 MOHCD shall develop a list of minimum qualifications for marketing firms that market  
25 affordable units under Section 415.1et seq., referred to the Procedures Manual as Below

1 Market Rate (BMR units). No project sponsor marketing units under the Program shall be  
2 able to market BMR units except through a firm meeting all of the minimum qualifications.  
3 The Notice of Special Restrictions or conditions of approval shall specify that the marketing  
4 requirements and procedures contained in the Procedures Manual as amended from time to  
5 time, shall apply to the affordable units in the project.

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

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

1 ~~provisions of the Rent Ordinance; and (iii) for any new residential development going through the~~  
2 ~~initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of~~  
3 ~~the units in such development; and (C) third to people who live or work in San Francisco who meet the~~  
4 ~~qualifications of the Program. The Displaced Tenant's preference shall still apply even if such~~  
5 ~~Displaced Tenant declines a unit offered through application of the preference, but upon accepting and~~  
6 ~~occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.~~

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

10 \* \* \* \*

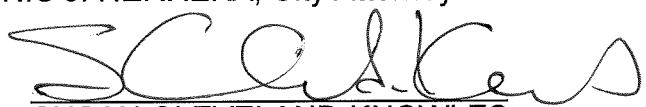
11  
12 Section 6. Effective Date. This ordinance shall become effective 30 days after  
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
15 of Supervisors overrides the Mayor's veto of the ordinance.

16  
17 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
18 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
19 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
20 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
21 additions, and Board amendment deletions in accordance with the "Note" that appears under  
22 the official title of the ordinance.



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

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By:   
SUSAN CLEVELAND-KNOWLES  
Deputy City Attorney

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