



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Amendment

HEARING DATE: JANUARY 21, 2016

*Project Name:* **Inclusionary Affordable Housing Program**  
*Case Number:* **2015-012722PCA [Board File No. 150911]**  
*Initiated by:* Mayor Edwin M Lee, Supervisors Mark Farrell and Katy Tang /  
Introduced September 15, 2015  
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*Recommendation:* **Recommend Approval with Modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to provide revised geographic, timing, pricing and other requirements for the off-site alternative to the Inclusionary Affordable Housing Fee; create a new option for off-site projects that qualify as Nonprofit Provider Partner Projects; create a new alternative for project sponsors of smaller market rate projects to direct the Affordable Housing Fee to small sites projects; create an option for project sponsors of on- and off-site housing to provide higher amounts of affordable housing at higher levels of affordability termed “dialing up”; revise certain definitions and operating procedures related to the Inclusionary Housing Program and make conforming changes.

#### The Way It Is Now:

##### Off-Site Affordable Housing Alternative

1. Planning Code Section 415.7 typically requires Project Sponsors electing the Off-Site Affordable Housing Alternative to construct 20% of the number of units produced in the Principal Project as Inclusionary Housing Units at an off-site location.
2. Planning Code Section 415.7(b) requires Inclusionary Housing Units constructed to satisfy the Off-Site Affordable Housing Alternative to have secured their First Certificate of Occupancy no later than the date the market rate units in the Principal Project received their First Certificate of Occupancy.
3. Planning Code Section 415.7(c) requires all Inclusionary Housing Units satisfying the Off-Site Housing Alternative to be located within one mile of the Principal Project.
4. Planning Code Section 415.7(g) requires the Project Sponsors to provide Inclusionary Housing Units at a quantity equivalent to 25% of the total number of units in the Principal Project for Project Sponsors using California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% credits under the Tax Credit Allocation Committee (TCAC) to help fund its obligations under the Off-Site Affordable Housing Alternative.

5. Planning Code Section 415.7 does not explicitly allow the aggregation of Inclusionary Housing Units satisfying the Off-Site Housing Alternative from multiple Principal Projects into one Off-Site project.

#### Quantity and Pricing of Required Inclusionary Housing Units/Dial Program

6. Planning Code Sections 415.6 and 415.7 establish a baseline number of Inclusionary Housing Units to be constructed and AMI targets for households qualified to reside in those Inclusionary Housing Units for Project Sponsors electing either the On-Site or Off-Site Housing Alternative as a method of compliance with the Inclusionary Affordable Housing Program. The On-Site Affordable Housing Alternative requires Inclusionary Housing Units to be priced at 55% AMI for rental units and at 90% AMI for ownership units. The Off-Site Affordable Housing Alternative requires Inclusionary Housing Units to be priced at 55% AMI for rental units and at 70% AMI for ownership units.

#### Alternatives to the Affordable Housing Fee / “Small Sites” Alternative

7. Sponsors of projects subject to Planning Code Section 415 are afforded four alternatives to paying the Affordable Housing Fee. The alternatives are (i) constructing On-Site Inclusionary Units; (ii) constructing Off-Site Inclusionary Units; (iii) constructing a combination of On- and Off-Site units and/or paying the Affordable Housing Fee; and (iv) in certain zoning districts, dedicating land.

#### Timing of and Amending the Declaration of the Method of Compliance

8. Planning Code Section 415.5(g) requires Project Sponsors to elect a method of compliance with the Inclusionary Affordable Housing Program prior to the Planning Department or Planning Commission acting on the project.
9. Planning Code Section 415.5(g)(4) allows a Project Sponsor who chose upon project approval to provide affordable ownership units as a method of compliance with the Inclusionary Affordable Housing Program but who is now providing affordable rental units instead to immediately inform the Planning Department and the Mayor’s Office on Housing and Community Development (MOHCD) of a change in method of compliance in favor of paying the applicable Affordable Housing Fee plus interest and any applicable penalties provided for under the Planning Code.

#### Program Definitions and Monitoring

10. Planning Code Sections 401, 415 and 419 use the term “Affordable to Qualifying Households” when referencing the income and pricing rules for units that satisfy Inclusionary Affordable Housing Program requirements, including units produced using the general Inclusionary and Small Sites Program fees and the Land Dedication Alternative in the Urban Mixed Use (UMU) and Mission Street Neighborhood Commercial Transit zoning districts.
11. Planning Code Section 401 defines the term “Household of Median Income” as a household with annual gross income not exceeding 90% of AMI and the term “Household of Moderate Income” as a household with annual gross income not exceeding 110% of AMI. Planning Code Section 419 makes reference to the “tenth unit” in Principal Projects as being the first unit subject to the Affordable Housing Requirements in the UMU zoning district.

12. Planning Code Section 415.8 establishes monitoring practices and provides that (i) below market rate (BMR) rental household income for an existing tenant cannot exceed 200% of the income target noted in the Notice of Special Restrictions (NSR) for the unit; (ii) applicants for new BMR units are allowed to earn 10% above the AMI pricing level for the unit; and (iii) Program restrictions can be subordinated to assist a developer or buyer in obtaining financing.
13. Planning Code Section 415.9 requires that MOHCD evaluate the inclusionary requirements for developments of over 120 feet in height. This was to occur in April 2012.

**The Way It Would Be:**

Off-Site Affordable Housing Alternative

1. Planning Code Section 415.7 would be amended to allow Project Sponsors electing the Off-Site Housing Alternative a second method to meet this Alternative. The existing method would be considered the “Core Off-Site Project” method and the second method would be the “Nonprofit Provider Partner Project”. The “Nonprofit Provider Partner Project” requires Project Sponsors and a nonprofit affordable housing provider (or group of providers) to enter into an agreement to provide the required Off-Site Inclusionary Housing Units at an off-site affordable housing project. The “Nonprofit Provider Partner Project” must provide the Principal Project’s required Inclusionary Housing Units and provide 20% of the Principal Project’s Residential Floor Area as Off-Site Inclusionary Housing Units. However, the “Nonprofit Provider Partner Project” is not required to reflect the proportional unit mix of the Principal Project. Instead, the Off-Site Inclusionary Housing Units must (i) meet or exceed the weight average of unit type by bedroom count of the Principal Project and (ii) provide the same number of bedrooms as would have been provided as a “Core Off-Site Project.”
2. Planning Code Section 415.7 would be amended to allow the Director of MOHCD to recommend to the Zoning Administrator (ZA) that an extension to the time limits regarding securing the First Certificate of Occupancy for the Inclusionary Housing Units in projects satisfying the Off-Site Housing Alternative be granted. The Director of MOHCD would only make this recommendation under the following circumstances:
  - a. Prior to receiving its First Certificate of Occupancy for the Principal Project the Project Sponsor provides the City with an irrevocable letter of credit in the amount of the Affordable Housing Fee that would have been due plus interest and penalties from the date when it should have been paid until the last date of the requested extension; and
  - b. The Off-Site Project is entitled before the Principle Project obtains its First Construction Document; and
  - c. Prior to the Principal Project obtaining its First Certificate of Occupancy the following is met:
    - i. The Principal Project Partner, Nonprofit Provider Partner or entity that is owned or controlled by either party has acquired the Off-Site Project; and
    - ii. The Off-Site Project has obtained its First Construction Document and has commenced construction; and
    - iii. An NSR reflecting the Off-Site Project’s conditions of approval have been recorded on the Off-Site Project .

The Off-Site project in Core Off-Site Projects must receive its First Certificate of Occupancy within one year of the date the Principal Project obtained its First Certificate of Occupancy.

The Off-Site project in Nonprofit Provider Partner Projects must receive its First Certificate of Occupancy within two years of the date the Principal Project obtained its First Certificate of Occupancy. The Director of MOHCD may recommend an additional year extension for Nonprofit Provider Partner Projects demonstrating progress and ability to be completed within the additional year.

Failure to complete an Off-Site Project within the time extension results in the Project Sponsor forfeiting the letter of credit. However the Certificate of Occupancy for the Principal Project will not be withheld or withdrawn.

3. Planning Code Section 415.7(c) would be amended to allow Inclusionary Housing Units satisfying the Off-Site Housing Alternative to be located within either (i) the same neighborhood as the Principal Project<sup>1</sup> or (ii) a 1.25 mile radius of the Principal Project.
4. Planning Code Section 415.7 would be amended to require projects using CDLAC tax-exempt bond financing and 4% credits under TCAC to fund their obligation under the Off-Site Affordable Housing Alternative to provide Inclusionary Housing Units at a quantity equivalent to 20% of the total number of units in the Principal Project. This amendment would align with the existing requirement for Projects using CDLAC and TCAC financing and electing the On-Site Alternative.
5. Planning Code Section 415.7 would be amended to add a subsection 415.7(j) that would explicitly allow the aggregation of Inclusionary Housing Units satisfying the Off-Site Housing Alternative from multiple Principal Projects into one Off-Site project.

#### Quantity and Pricing of Required Inclusionary Housing Units/Dial Program

6. Planning Code Sections 415.6 and 415.7 would be amended to establish the Dial Alternative for the On-Site and Off-Site Housing Alternatives. The Dial Alternative would augment the existing baseline Inclusionary Housing Unit requirements and AMI Targets by creating additional combinations of required Inclusionary Housing Unit counts and AMI Targets. Project Sponsors electing to serve households at AMI Targets above the baseline would be required to increase the number of Inclusionary Housing Units provided.

#### Alternatives to the Affordable Housing Fee / "Small Sites" Alternative

7. Planning Code Section 415.5(g) would afford a fourth alternative to paying the Affordable Housing Fee by allowing Project Sponsors to designate its payment of the Affordable Housing Fee into the Small Sites Program (Planning Code Section 415.7A). This program would be used to fund "Small Sites," defined as properties consisting of two to 25 units targeted to low- or moderate-income households, located in the neighborhood of the Principal Project.

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<sup>1</sup> The proposed Ordinance suggests using a definition of "neighborhood" in common use by the Planning Department, such as the neighborhoods defined in the Planning Department's neighborhood notification map.

Timing of and Amending the Declaration of the Method of Compliance

8. Planning Code Section 415.5(g)(3) would be amended to require Project Sponsors to declare a method of compliance the earlier of (i) any neighborhood notification for the Principal Project or (ii) any Planning Department or Planning Commission action on the project.
9. Planning Code Section 415.5(g)(4) would be amended to require Project Sponsors seeking to change their method of compliance with Section 415 to elect one of the following ways:
  - a. Prior to issuance of First Construction Document, making a written request to the ZA to either change (i) from the Affordable Housing Fee to an Alternative to paying the Affordable Housing Fee or (ii) from any method of compliance to the On-Site Alternative; or
  - b. Prior to issuance of First Certificate of Occupancy, a Project Sponsor who has elected to comply via the On-Site or Off-Site affordable ownership-only units Alternatives but instead rents those units must immediately inform the Planning Department and MOHCD and apply to the Planning Department to either (i) change their method of compliance by paying the applicable Affordable Housing Fee plus interest and any applicable penalties provided for under the Planning Code or (ii) qualify to rent the units.

Program Definitions and Monitoring

10. Planning Code Sections 401, 415 and 419 would be amended to replace the term “Affordable to Qualifying Households” with the term “Inclusionary Housing Units.” In Planning Code Section 415, income and pricing rules for Inclusionary Housing Units would explicitly state the AMI targets, such as “55% of AMI” or “90% of AMI.” References to the use of general Inclusionary and Small Sites Program fees, as well as the land dedication component of Planning Code Section 419 would utilize the terms “Low-Income Household” and “Moderate-Income Household.”
11. Planning Code Section 401 would be amended to eliminate the terms “Household of Median Income” and “Household of Moderate Income” and use and define the terms “Median Income” as 100% of AMI and “Moderate Income” as 80 – 120% of AMI. References to the “tenth unit” in Planning Code Section 419 would be eliminated.
12. Planning Code Section 415.8 would be amended to provide that (i) BMR rental household income for an existing tenant cannot exceed 200% of the income target noted in the Notice of Special Restrictions for the unit but never higher than Moderate Income; (ii) applicants for new *or resale* BMR units are allowed to earn 10% above the AMI pricing level for the unit; and (iii) Program restrictions can be subordinated to assist a buyer in obtaining financing.
13. Planning Code Section 415.9 would be amended to eliminate the rule that MOHCD evaluate the requirements for developments of over 120 feet in height and require a review of the proposed Dial Alternative and other amendments to the Off-Site Affordable Housing Alternative in 2016 with the next regular 5-year study.

**BACKGROUND**

On December 10, 2015 the Planning Department (Department) provided the Planning Commission with an informational case report on the proposed Ordinance, including proposed amendments, background

on the Inclusionary Affordable Housing Program and a discussion highlighting salient issues and concerns.<sup>2</sup> Department staff and the Mayor's Office of Housing and Community Development (MOHCD) also provided an information presentation to the Planning Commission on the proposed Ordinance. During this presentation MOHCD staff provided an overview of the City's Affordable Housing portfolio, an overview of the existing Inclusionary Affordable Housing Program (Program), a quantitative breakdown of the number of projects and units built to date and an overview of the number and composition of inclusionary affordable housing projects in the pipeline. Department staff discussed the proposed amendments in the Ordinance with the aim of soliciting comments and questions from the Planning Commission and public.

## **ISSUES AND CONSIDERATIONS**

The comments and questions from the December 10, 2015 informational presentation require the consideration of the following seven issues:

1. Locational Requirements for Off-Site Affordable Housing Projects
2. Nonprofit Provider Partner Projects Compliance using the Residential Floor Area option
3. Timing of Construction of Off-Site Affordable Housing units
4. Inclusionary Housing Unit requirements when using Government financing
5. The Dial Program Alternative
6. Small Sites Fee Election
7. Declaring the Method of Compliance with the Program

### Locational Requirements for Off-Site Affordable Housing Projects

The concept behind a locational requirement for Off-Site Affordable Housing Projects is to balance two separate housing goals. One goal is to facilitate the production of Inclusionary Housing Units. The other is to maintain a geographic relationship between the Principal Project and the Inclusionary Housing Units. Existing regulations aim to strike this balance by requiring Off-Site Inclusionary Housing Units to be located within a one mile radius of the Principal Project.

The Ordinance proposes two changes to the existing locational requirements. The first is to increase the radius from one mile to 1.25 miles. This change increases the area available for Off-Site Inclusionary Housing Units from 2,010 acres to 3,141 acres. This is a 56% increase in land area and is significant. At the same time, the added linear distance between the Principal Project and the Off-Site Inclusionary Housing Units is only 0.25 miles. This added linear distance can be considered negligible given that many neighborhoods span more than a mile in any one direction.

The second change would be to allow Off-Site Inclusionary Housing Units to locate within the same neighborhood as the Principal Project. "Neighborhood" would be determined by the Director of MOHCD and the Zoning Administrator (ZA) and the Ordinance proposes using the Planning Department's "Neighborhood Groups Notification" map.<sup>3</sup> This map has been in use for many years as a tool for neighborhood groups to receive notification of projects within their neighborhoods. Allowing Off-Site

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<sup>2</sup> <http://commissions.sfplanning.org/cpcpackets/2015-012722PCA.pdf>

<sup>3</sup> <http://www.sf-planning.org/index.aspx?page=1654>

Inclusionary Housing Units to locate within the “neighborhood” may also increase the area of available sites. Because many San Francisco neighborhoods are at least one mile in width, the available land area is increased over what the existing one mile radius requirement affords. This option also maintains the geographic relation between the Principal Project and the Off-Site Inclusionary Housing Units as residents may connect the development of these two projects in their neighborhood.

Both of these changes maintain a geographic link between the Principal Project and Inclusionary Housing Units. In this way they preserve the Program’s goal of achieving a balance between housing production and proximity. Expanding the geographic constraint and allowing Inclusionary Housing Units to locate in areas further away risks upsetting the desired balance. This includes allowing Inclusionary Housing Units to be located in neighborhoods undergoing rapid demographic change.

Nonprofit Provider Partner Projects Compliance using the Residential Floor Area option

Creating the Nonprofit Provider Partner Project can help improve the quality of the City’s affordable housing stock. San Francisco has a number of nonprofit developers with decades of experience in developing and managing this type of housing. Utilizing this experience to more efficiently produce affordable units is in the City’s interests. It makes sense that these developers be afforded additional opportunities to contribute to the City’s affordable housing stock through the Inclusionary Affordable Housing Program.

Adding flexibility to the Off-Site program through the Residential Floor Area option also benefits the City’s affordable housing stock. This flexibility allows the nonprofit developer to craft a unit mix and size for the off-site affordable housing project that is slightly different than that of the Principal Project. This allows the nonprofit developer to produce a project more attuned to the needs of targeted households. It is important to note that the unit sizes in Principal Projects are often larger than what is common for affordable housing projects. Requiring the affordable housing project to have the same unit sizes as the Principal Project is unnecessary to assure a quality off-site project. At the same time, the Ordinance would still require the same affordable unit count in the off-site affordable housing project as under existing requirements. It would also require the Nonprofit Provider Partner Project to provide a weighted average of unit type by bedroom count equal to that of the Principal Project. This assures a reasonable semblance between the Principal Project and the off-site affordable housing project.

Timing of Construction of Off-Site Affordable Housing units

The Ordinance’s proposed time extension and parameters are crafted in a clear, effective and fair manner. The parameters for granting a time extension are explicitly defined and provide guidance to the Zoning Administrator as to when a time extension is merited. The parameters also ensure that the Off-Site Project is being actively developed in conjunction with the Principal Project. The magnitudes of extended time are appropriate and reasonable given that the Off-Site Project must be under construction to be eligible for an extension. Delays stemming from legal appeals are also addressed under the proposed scheme. In all circumstances the consequences for failing to meet the time limit are known. Failure to complete the Off-Site Project within the granted time extension results in forfeiting the letter of credit required for the extension. The letter of credit is in the amount of the Affordable Housing Fee plus interest and penalties less any equity the Sponsor has paid that has already been spent on constructing the Off-Site Project.

Providing a time extension to private developers for completing Off-Site Inclusionary Housing Units may seem contradictory to the idea that they produce housing units at a faster rate than other developers. However, the requirement to complete the Off-Site Project prior to the Principal Project adds a level of risk that developers are reluctant to take, especially given the available alternatives. The aim of the time extension is to reduce the risk of missing the stringent occupancy deadline and therefore make this alternative more attractive.

The conditions for granting a requested time extension may also appear to be a deterrent to electing the Off-Site Alternative. The added conditions, however, must be seen as an assurance that the private developer has the Off-Site Project proceeding at a reasonable pace to ensure its timely completion. Without the proposed conditions and embedded milestones, time extensions would result in delayed projects.

#### Inclusionary Housing Unit requirements when using Government financing

The Program allows a developer to use California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% credits under the Tax Credit Allocation Committee (TCAC) to help fund inclusionary housing obligations. When using CDLAC/TCAC funds, the Program requires a developer electing the On-Site Affordable Housing Alternative to provide an amount equivalent to 20% of the units in the Principal Project as Inclusionary Housing Units. If a developer utilizes this public source of financing as part of the Off-Site Affordable Housing Alternative, it must provide an amount equivalent to 25% of the units in the Principal Project as Off-Site Inclusionary Housing Units.

A difference in unit requirement between On- and Off-Site Alternatives for using public financing is consistent with the unit requirements when public financing is not used. This is a standard policy of the Program and dates back to its inception.<sup>4</sup> It stems from the idea that locating Inclusionary Housing Units within the Principal Project is the best method to create socially integrated neighborhoods. As an incentive to elect this Alternative, the on-site obligation is lower than other Alternatives.

#### The Dial Program Alternative

The City's production of housing accessible to moderate income households greatly lags behind its Regional Housing Needs Allocation (RHNA) goals. Between 2007 and 2014, the City's RHNA production goal for moderate income housing was approximately 6,755 units (*see chart below*). The 2014 Housing Element reports that during that period the City only produced 1,100 housing units accessible to moderate-income households. In comparison to the production of housing for lower and higher income households, the greatest deficit was in the production of housing for moderate-income households.

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<sup>4</sup> BF 001262 <https://sfgov.legistar.com/View.ashx?M=F&ID=2607162&GUID=834416F9-DCED-42CF-A972-81D26DED2D9F>



**RHNA Goals and Actual Production, 2007 – June 2014**

Income Category	RHNA Goal		Actual Production	
	No. Units	% of Total	No. Units	% of RHNA Goal
Low	12,124	38.9%	4,978	41.1%
Moderate	6,754	21.7%	1,107	16.4%
Market	12,315	39.5%	11,993	97.4%
<b>TOTALS</b>	<b>31,193</b>		<b>18,078</b>	

Existing housing production subsidy programs principally focus on housing for low-, very low- and extremely low-income households. Providing housing for these households is a vitally important policy goal, supported by the City’s significant investment in its 20,000-plus units of 100% affordable housing. There is, however, a demonstrated need for additional housing affordable to moderate-income households. This is an income range that does not benefit from the support of public subsidies to produce much-needed units. Indeed, the 2014 Housing Element speaks to the need to provide a housing stock serving diverse strata of incomes and household types.<sup>5</sup>

Yet another reason to augment the supply of housing accessible to moderate-income households is to relieve demand from moderate-income households for private housing units that would otherwise be available for lower income households. When housing accessible to moderate-income households is available, it decreases the competition for those housing units, occupied or vacant, priced at the lower end of the market.

The Dial Program is one way to augment housing production targeted for moderate-income households. The Dial Program would allow Project Sponsors the option of pricing required Inclusionary Housing Units at higher AMI targets than is allowed under the current baseline. In exchange for this flexibility, the Project Sponsor would be required to provide a higher number of Inclusionary Housing Units than under the existing requirement. In this way the Dial meets two outstanding housing production goals: to serve moderate-income households and to produce more units than under the existing Program. The

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<sup>5</sup> From the 2014 Housing Element:

Objective 1: Identify and make available for development adequate sites to meet the City’s housing needs, especially permanently affordable housing.

Policy 1.1: Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

Objective 4: Foster a housing stock that meets the needs of all residents across lifecycles.

Policy 4.4: Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.5: Ensure that new permanently affordable housing is located in all of the city’s neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

charts below illustrate the Dial Program options for a typical 12% On-Site baseline case and a 20% Off-Site baseline case.

**ON-SITE UNITS- BASELINE 12%**

	Unit Requirement	Ownership AMI Target	Rental AMI Target
Baseline Requirement	12%	90% of AMI	55% of AMI
Dial Up	13%	Not Available	70% of AMI
Dial Up	15%	120% of AMI	Not Available
Dial Up	16%	Not Available	90% of AMI

**OFF-SITE UNITS- BASELINE 20%**

	Unit Requirement	Ownership AMI Target	Rental AMI Target
Baseline Requirement	20%	90% of AMI	55% of AMI
Dial Up	23%	Not Available	70% of AMI
Dial Up	30%	Not Available	90% of AMI
Dial Up	31%	120% of AMI	Not Available

There are concerns that allowing Project Sponsors to dial up and serve households with higher incomes will result in a significant loss of diversity in the City’s affordable housing stock. In light of these concerns it is important to take stock of the number and type of Inclusionary Housing Units produced to date and in the pipeline.

Approximately 94% of the City’s affordable housing stock serves low-income households earning 0% - 60% of Area Median Income (AMI). Approximately 6% of the affordable housing stock serves moderate-income households earning 80% - 120% of AMI.

There are 887 Inclusionary rental units in MOHCD’s existing portfolio, and approximately 1,050 in the pipeline slated for development. If the full pipeline of known Inclusionary rental units were to dial up from the baseline 55% AMI to 90% AMI, then approximately 1,400 units would be produced for moderate-income households. There are 1,151 Inclusionary ownership units in MOHCD’s existing portfolio, and approximately 269 in the pipeline. If all future Inclusionary ownership units were to dial up to 120% AMI, then approximately 336 units would be produced for higher income households.<sup>6</sup>

It is also important to note that MOHCD is required to periodically review and update the requirements of the Program.<sup>7</sup> This review is the moment to evaluate the actual use of the Dial Program and the production of Inclusionary Housing Units serving moderate-income households. Should a policy

<sup>6</sup> This assumes a flat 12% on-site inclusionary requirement for the entire pipeline of future inclusionary rental units. This number will fluctuate if the units are provided off-site, or are generated by market rate projects in specific zoning districts with higher Inclusionary Housing requirements.

<sup>7</sup> Planning Code Section 415.9(e) requires a study every five years to update requirements and recommend changes to the Board of Supervisors and the Planning Commission.

preference change away from the Program producing housing accessible to moderate-income households, this is just one opportunity to adjust or eliminate the Dial Program alternative.

#### Small Sites Fee Election

Established in 2009 and launched in 2014, the Small Sites program has the express purpose of acquiring smaller rental properties, smaller vacant properties that were formerly rental properties, or smaller properties subject to foreclosure. Currently, any property acquired by the Small Site Program must have less than 25 units, and is required to remain affordable for 55 years after acquisition. The acquisition of these properties and their income restrictions are meant to help protect existing tenants from eviction. The program is funded through an allocation of the Affordable Housing Fee; this allocation can be withheld during years when the City collects less than \$10 million in Affordable housing Fee. This was the case during the last economic downturn.

Allowing a Project Sponsor to designate their Affordable Housing Fee into the Small Sites Program can help bolster the Program's viability. Given the current housing affordability crisis and related increase in no-fault evictions, the value of acquiring at-risk housing, and the challenges with building new units, investing in the Small Sites program is a worthwhile endeavor. Acquisitions of small sites immediately increase the City's stock of affordable housing and help address the neighborhood stabilization concerns that are rampant in many of the City's neighborhoods.

The Ordinance establishes a deadline for using designated Small Sites Fees at two years from their payment. Should MOHCD be unable to apply the Small Sites Fee to a qualifying project within the neighborhood or a 1.25 mile radius of the Principle Project, the Fee would be released into the general Small Sites fund to acquire sites elsewhere in the City. This ensures that designated Small Sites Fees are actively employed for site acquisition and not left idle.

#### Declaring the Method of Compliance with the Program

Currently, the Inclusionary Affordable Housing Program requires Project Sponsors to declare their method of compliance with the Program prior to Planning Department or Planning Commission action. This allows the declaration to be made after neighborhood notification of a project is sent. This can leave adjacent neighbors and interested neighborhood groups unaware of the elected method of compliance until a project is approved or considered at a public hearing. It may also result in an unnecessary uncertainty for the surrounding community.

Requiring the Project Sponsor to submit their declaration to the Department at neighborhood notification can be beneficial. It provides stakeholders with information and time to engage developers regarding projects in their communities. It can also be viewed as an additional layer of procedural transparency and good faith.

To implement this procedural change the Department would add language to mailed notification indicating the project is subject to Planning Code Section 415, Inclusionary Affordable Housing Program. The mailed notification would also note that the Project Sponsor declaration is on file with the case planner. This provides the public with valuable information about the project as well as with access to the declaration.

## 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 Department's proposed recommendations are as follows:

1. Maintain the minimum required percent of Inclusionary Housing Units provided when a Project Sponsor elects the Off-Site Affordable Housing Alternative and uses CDLAC/TCAC financing at 25%.
2. Modify the locational constraints for off-site affordable housing projects by eliminating the requirement that a Project Sponsor secure the approval from the Director of MOHCD and the ZA in order to locate an Off-Site Affordable Housing project more than one mile, but not more than 1.25 miles, from the principal project. Proposed subsection 415.7(c)(1) would read as follows:

*(1) Core Off-site projects. MOHCD shall not permit a Core Off-site project unless the off-site units are located within a ~~one mile~~ 1.25 mile radius of the Principal Project, or MOHCD, in conjunction with the Planning Department, determine that the off-site project is within the same neighborhood as the Principal Project using a definition of "neighborhood" in common use by the Planning Department, such as the Planning Department's 37-neighborhood notification map. If Director of MOHCD makes an affirmative recommendation, the Zoning Administrator may allow the off site project to be located an additional one quarter mile beyond the one mile radius.*

3. Codify the Department's Priority Processing Policy for projects providing increased affordable housing by adding the following language to Section 415.5 :

*Priority Processing with Increased Affordable Housing Alternative. Project Sponsors of a Principal Project may elect under Section 415.5(g) to meet its Inclusionary Affordable Housing requirement at a higher level and receive Priority Processing under the terms of this Section 415.7B. Projects that provide either (1) at least 20 percent of all units constructed on the project site as On-site Inclusionary Housing Units at 90% AMI for ownership or 55% AMI for rental as defined in Article 4 or (2) at least 30 percent of all units constructed on the project site as Off-site Inclusionary Housing Units at 90% AMI for ownership or 55% AMI for rental may be eligible for Priority Processing pursuant to Planning Director's Bulletin 2: Planning Department Priority Application Processing Guidelines. This Bulletin relates to the assignment and review of all applications, including revisions, addenda and corrections submitted subsequent to initial applications. The Department shall require for housing projects covered by Section 415.3(a)(1), as a condition of Department approval of a project's building permit, or by Section 415.3(a)(2), (3) and (4), as a condition of approval of a Conditional Use Authorization or Planned Unit Development or as a condition of Department approval of a live/work project, that 20 percent of all units constructed on the project site shall be On-site Inclusionary Housing Units so that a project sponsor must construct .20 times the total number of units produced in the Principal Project, pursuant to the requirements outlined in Planning Code Section 415.6. The Department shall require for housing projects described in Section 415.3(a)(1), (2), (3), and (4) 30 percent so that a project, and that .30 times the total number of units produced in the Principal Project shall be constructed as Off provide off-site, pursuant to the requirements outlined in Planning Code Section 415.7. The Planning Director is authorized to establish Priority Processing for equivalent levels of*

affordability for those Projects utilizing the Dial Alternative as defined in Planning Code Section 415 in direct proportion to the baseline example outlined above.

## BASIS FOR RECOMMENDATION

The Department supports the goals of the Ordinance as they strive to clarify the regulations of the Inclusionary Affordable Housing Program and facilitate the production of Off-Site Inclusionary Housing Units. The ordinance also provides the City with a mechanism to increase the production of units accessible to moderate-income households, which the City has consistently under produced. The Department believes the following modifications would better serve the goals of the Ordinance and improve implementation.

### **Recommendation 1: Maintain the minimum required percent of Inclusionary Housing Units provided when a Project Sponsor elects the Off-Site Affordable Housing Alternative and uses CDLAC/TCAC financing at 25%.**

Lowering the minimum required percent of Inclusionary Housing Units for projects electing the Off-Site Affordable Housing Alternative and using CDLAC/TCAC financing at 20% would align that requirement with that for projects electing the On-Site alternative and using CDLAC/TCAC; however, this represents a significant shift in policy. It contradicts the long standing practice of requiring more Inclusionary Housing Units when they are not located within the Principal Project and amounts to a decrease in the developer's monetary obligation given that public monies are used to finance the Inclusionary Housing Units. It also results in fewer units produced given the lower requirement.

### **Recommendation 2: Modify the Locational Constraints for Off-Site Affordable Housing Projects.**

The two proposals expanding the areas to locate Off-Site Affordable Housing projects are relatively minor amendments that preserve the geographic connection between the Principal Project and the Off-Site Inclusionary Housing Units. As indicated on page 6, changing the radius constraint from one mile to 1.25 miles would result in an additional 1,100 acres of area to locate an Off-Site Affordable Housing Project. This can be particularly helpful when the Principal Project is adjacent to a body of water, a large open space or a municipal boundary. Similar benefits arise when an Off-Site Affordable Housing Project is allowed to locate within the same neighborhood as the Principal Project. The flexibility offered by both amendments may also incentivize Project Sponsors to elect the Off-Site Affordable Housing Alternative given the difficulties of finding suitable sites within a constrained geography.

Proposals to further loosen the locational requirement, or even eliminate it, represent a significant break with the original intentions of the Off-Site Affordable Housing Alternative and the Inclusionary Housing Program as a whole. The Department believes that any further relaxation beyond what is proposed in the Ordinance would disrupt the intended balance between inclusionary housing production and geographic connection between projects.

Proposals allowing Off-Site Inclusionary Housing projects to locate in neighborhoods experiencing high rates of displacement and evictions ignore an important Program goal. They ignore the goal of off-setting the effect of market rate housing on neighborhoods with affordable housing development in that same neighborhood. The City may, and should, utilize a number of financing options, including the Affordable Housing Fee, dedicated General Obligation Bond monies, State and Federal subsidies and the City's own Small Sites Fund, to acquire and/or produce affordable housing in such gentrifying neighborhoods. Any market rate project electing the Off-Site Affordable Housing Alternative in any San

Francisco neighborhood should have its Off-Site Inclusionary Housing located in relative proximity. Every neighborhood deserves this consideration.

**Recommendation 3: Codify the Department’s Priority Processing Policy for market rate housing projects providing increased affordable housing.**

Currently Planning Director Bulletin Number 2 outlines the Department’s Priority Processing policies for assignment and review of seven types of projects. Market rate housing projects that provide either (1) at least 20 percent but less than 100 percent of the on-site dwelling units are affordable housing or (2) at least 30 percent of the number of on-site units are constructed off-site as affordable housing are considered Type 1A projects. These projects are guaranteed a target timeline of one week for application assignment and two weeks for application review. Subsequent review of Type 1 Applications (e.g. revisions, technical studies, addenda) shall be prioritized ahead of all other applications, including other types of Priority Applications.

Given the sensitivity around project review timelines, and the need to expedite the production of affordable housing, it is prudent to have this operating practice codified. This will provide a larger degree of certainty with respect to review timelines and incentivize the provision of additional affordable housing units as Project Sponsors seek to expedite review of their developments. In the context of the Dial Program Alternative, the clarity and certainty of a codified Priority Processing Policy will assist in its implementation.

**ENVIRONMENTAL REVIEW**

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

**PUBLIC COMMENT**

As of the date of this report, and after the December 10, 2015 Planning Commission hearing, the Planning Department has received two email messages from the public regarding the proposed Ordinance. The first email requested that the City consolidate all current housing policy proposals into one Ordinance, expressed concern about substantial changes to the locational requirements for off-site affordable housing projects and the proposed time extensions for their development, requested that the composition of housing working group participants be reviewed and rose the issue of protection of rent controlled housing. The second email expressed strong concerns about preserving the geographic relation between a Principal Project and required Inclusionary Housing Units. It expressed a strong preference for Inclusionary Housing Units to be constructed on-site or off-site within the same neighborhood as the Principal Project. The email also requested that the declaration of the method of compliance with the Program occur concurrent to neighborhood notification. These letters are included as Exhibit B.

<b>RECOMMENDATION:</b>	<b>Recommendation of Approval with Modification</b>
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**Attachments:**

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Letters of Interest
- Exhibit C: Board of Supervisors File No. 150911



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Draft Resolution

HEARING DATE JANUARY 21, 2016

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**  
Planning  
Information:  
**415.558.6377**

*Project Name:* **Inclusionary Affordable Housing Program**  
*Case Number:* **2015-012722PCA [Board File No. 150911]**  
*Initiated by:* Mayor Edwin M Lee, Supervisors Mark Farrell and Katy Tang /  
Introduced September 15, 2015  
*Staff Contact:* Diego R Sánchez, Legislative Affairs  
diego.sanchez@sfgov.org, 415-575-9082  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Recommend Approval with Modifications**

**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PROVIDE REVISED GEOGRAPHIC, TIMING, PRICING AND OTHER REQUIREMENTS FOR THE OFF-SITE ALTERNATIVE TO THE INCLUSIONARY AFFORDABLE HOUSING FEE; CREATE A NEW OPTION FOR OFF-SITE PROJECTS THAT QUALIFY AS NONPROFIT PROVIDER PARTNER PROJECTS; CREATE A NEW ALTERNATIVE FOR PROJECT SPONSORS OF SMALLER MARKET-RATE PROJECTS TO DIRECT THE AFFORDABLE HOUSING FEE TO SMALL SITES PROJECTS; CREATE AN OPTION FOR PROJECT SPONSORS OF ON- AND OFF-SITE HOUSING TO PROVIDE HIGHER AMOUNTS OF AFFORDABLE HOUSING AT HIGHER LEVELS OF AFFORDABILITY TERMED "DIALING UP"; REVISE CERTAIN DEFINITIONS AND OPERATING PROCEDURES RELATED TO THE INCLUSIONARY HOUSING PROGRAM AND MAKE CONFORMING CHANGES; AND AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.**

WHEREAS, on September 15, 2015 Mayor Edwin M Lee and Supervisors Mark Farrell and Katy Tang introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150911, which would amend the Planning Code to provide revised geographic, timing, pricing and other requirements for the off-site alternative to the Inclusionary Affordable Housing Fee; create a new option for off-site projects that qualify as Nonprofit Provider Partner Projects; create a new alternative for Project Sponsors of smaller market-rate projects to direct the affordable housing fee to small sites projects; create an option for Project Sponsors of on- and off-site housing to provide higher amounts of affordable housing at higher levels of affordability termed "dialing up"; revise certain definitions and operating procedures related to the Inclusionary Housing Program

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on January 21, 2016; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378, 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.

**The Commission recommended modifications are:**

1. Maintain the minimum required percent of Inclusionary Housing Units provided when a Project Sponsor elects the Off-Site Affordable Housing Alternative and uses CDLAC/TCAC financing at 25%.
2. Modify proposed subsection 415.7(c)(1) to eliminate the requirement that a Project Sponsor proposing to locate an Off-Site Affordable Housing project more than one mile, but not more than 1.25 miles, from the principal project secure the approval from the Director of MOHCD and the ZA to do so. Proposed subsection 415.7(c)(1) would read as follows:

*(1) Core Off-site projects. MOHCD shall not permit a Core Off-site project unless the off-site units are located within a ~~one mile~~ 1.25 mile radius of the Principal Project, or MOHCD, in conjunction with the Planning Department, determine that the off-site project is within the same neighborhood as the Principal Project using a definition of "neighborhood" in common use by the Planning Department, such as the Planning Department's 37-neighborhood notification map. If Director of MOHCD makes an affirmative recommendation, the Zoning Administrator may allow the off site project to be located an additional one quarter mile beyond the one mile radius.*

3. Add the following subsection (h) to Section 415.5 to codify the Department's Priority Processing Policy for market rate housing projects providing increased affordable housing:

*Priority Processing with Increased Affordable Housing Alternative. Project Sponsors of a Principal Project may elect under Section 415.5(g) to meet its Inclusionary Affordable Housing requirement at a higher level and receive Priority Processing under the terms of this Section 415.7B. Projects that provide either (1) at least 20 percent of all units constructed on the project site as On-site Inclusionary Housing Units at 90% AMI for ownership or 55% AMI for rental as defined in Article 4 or (2) at least 30 percent of all units constructed on the project site as Off-site Inclusionary Housing Units at 90% AMI for ownership or 55% AMI for rental may be eligible for Priority Processing pursuant to Planning Director's Bulletin 2: Planning Department Priority Application Processing Guidelines. This Bulletin relates to the assignment and review of all applications, including revisions, addenda and corrections submitted subsequent to initial applications. The Department shall require for housing projects covered by Section 415.3(a)(1), as a condition of Department approval of a project's building permit, or by Section 415.3(a)(2), (3) and (4), as a*



condition of approval of a Conditional Use Authorization or Planned Unit Development or as a condition of Department approval of a live/work project, that 20 percent of all units constructed on the project site shall be On-site Inclusionary Housing Units so that a project sponsor must construct .20 times the total number of units produced in the Principal Project, pursuant to the requirements outlined in Planning Code Section 415.6. The Department shall require for housing projects described in Section 415.3(a)(1), (2), (3), and (4) 30 percent so that a project, and that .30 times the total number of units produced in the Principal Project shall be constructed as Off provide off-site, pursuant to the requirements outlined in Planning Code Section 415.7. The Planning Director is authorized to establish Priority Processing for equivalent levels of affordability for those Projects utilizing the Dial Alternative as defined in Planning Code Section 415 in direct proportion to the baseline example outlined above.

## 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. San Francisco is experiencing a shortage in housing accessible to households with moderate, low and very low incomes. The California State Department of Housing and Community Development and the Association of Bay Area Governments established the City's Regional Housing Need Allocation for these households over the period from 2007 to 2014 at 18,878 units. However only 6,085 units were acquired and/or produced.
2. The Inclusionary Affordable Housing Program, which requires Project Sponsors to pay the Affordable Housing Fee or elect one of four alternatives, can help the City meet its goals for affordable housing production.
3. The Off-site Affordable Housing Alternative is one tool the City has to help address the shortage of affordable housing. Off-site affordable housing projects produce permanently affordable rental and ownership housing units accessible to low- and moderate-income households. These projects also produce Inclusionary Housing Units at a higher rate, per project, than when a sponsor elects the On-Site Affordable Housing Alternative.
4. However, Project Sponsors subject to the Inclusionary Affordable Housing Program (Program) have often elected other alternatives to the Off-Site Alternative when satisfying the Program's requirements. This can be partly attributed to the risks, perceived or otherwise, in electing the Off-Site Alternative as well as the difficulties complying with its inflexible requirements.
5. To incentivize the election of the Off-Site Affordable Housing Alternative a number of amendments to its requirements should be made. These include revising the geographic, timing and pricing requirements.
6. Amendments to the other Alternatives within the Program may also improve the City's production of affordable housing. For example, allowing Project Sponsors to serve higher income households in exchange for producing more affordable units is one method to help meet

production goals. Augmenting the City's capacity to acquire smaller rental properties by allowing Project Sponsors to direct their Affordable Housing Fee for such purposes is another way the City can augment its stock of affordable housing while keeping existing tenants housed in place.

7. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

## HOUSING ELEMENT

### OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

#### Policy 1.1

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

#### Policy 1.3

Work proactively to identify and secure opportunity sites for permanently affordable housing.

#### Policy 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

*The Ordinance proposes a number of amendments to the existing Inclusionary Affordable Housing Program that will help create a number of new affordable units for a broad range of households, including the Dial Program Alternative and the relaxation of the geographic constraints on the siting of Off-Site Affordable Housing projects.*

### OBJECTIVE 2

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

#### Policy 2.4

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

*The Ordinance proposes to enhance the viability of the Small Sites Program, a program that purchases existing rental properties, renovates them when necessary and ensures their affordability for decades.*

### OBJECTIVE 3

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

#### Policy 3.2

Promote voluntary housing acquisition and rehabilitation to protect affordability for existing occupants.

*The enhancements to the Small Sites Program within the proposed Ordinance will aid in the acquisition and rehabilitation of affordable housing for existing occupants.*

**OBJECTIVE 4**

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

**Policy 4.1**

Develop new housing, and encourage the remodeling of existing housing, for families with children.

**Policy 4.4**

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible

**Policy 4.5**

Ensure that new permanently affordable housing is located in all of the city's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

*The proposed amendments in the Ordinance will ensure that new, affordable housing is accessible to a number of households throughout the City, including for families seeking rental units.*

**OBJECTIVE 7**

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

**Policy 7.1**

Expand the financial resources available for permanently affordable housing, especially permanent sources.

**Policy 7.5**

Encourage the production of affordable housing through process and zoning accommodations, and prioritize affordable housing in the review and approval processes.

*The amendments to the Small Sites Program, the creation of the Nonprofit Partner Provider Project and the relaxing of geographic and timing constraints for the development of Off-Site Inclusionary Housing Units within the proposed Ordinance will facilitate the production of and expand resources for affordable housing development.*

**OBJECTIVE 10**

ENSURE A STREAMLINED, YET THOROUGH, AND TRANSPARENT DECISION-MAKING PROCESS.

**Policy 10.1**

Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations.

*The amendments to the timing restrictions for developing Off-Site Affordable Housing projects are crafted in a clear and effective manner to ensure their consistent application.*

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 Ordinance will not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail because the Ordinance concerns itself with the City's inclusionary housing program.*

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

*The proposed Ordinance will have a beneficial effect on housing and neighborhood character because it seeks to improve the delivery of affordable housing. This improves the diversity of the City's neighborhoods.*

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

*The proposed Ordinance will help to enhance the City's supply of affordable housing by facilitating the development of Off-Site Inclusionary Housing Units.*

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

*The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking as it deals with the streamlining of regulations concerning the Inclusionary Affordable Housing Program.*

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 Ordinance will 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 because the Ordinance deals with streamlining the City's development of Off-Site Inclusionary Housing Units.*

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

*The proposed Ordinance will not have an adverse effect on City's preparedness against injury and loss of life in an earthquake because it deals with the Inclusionary Affordable Housing Program.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance will not have an adverse effect on the City's Landmarks and historic buildings as the Ordinance seeks to improve the City's delivery of Off-Site Inclusionary Housing Units.*

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

*The proposed Ordinance will not have an adverse effect on the City's parks and open space and their access to sunlight and vistas because it seeks to improve the City's Inclusionary Affordable Housing Program.*

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 modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on January 21, 2016.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: January 21, 2016

**From:** [tesw@aol.com](mailto:tesw@aol.com)  
**To:** [Secretary, Commissions \(CPC\)](#)  
**Cc:** [Board of Supervisors \(BOS\)](#); [olson.lee@sfgov.org](mailto:olson.lee@sfgov.org); [Rahaim, John \(CPC\)](#); [Sanchez, Diego \(CPC\)](#)  
**Subject:** Inclusionary Housing Program amendments  
**Date:** Wednesday, January 13, 2016 12:44:42 PM

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January 13, 2016

San Francisco Planning Commission  
City Hall Room 400

Subject: Inclusionary Housing Program amendments – Off-Site Geography and Joint-Venture

Dear Commissioners:

It has come to our attention that proposed amendments to the City's Inclusionary Housing Program are being considered at your hearing on Thursday January 21<sup>st</sup>. One immediate issue is of grave concern for neighborhoods across the City – the proposal by the Housing Action Coalition to eliminate the 1-mile limit for providing "off-site" affordable. This is entirely unacceptable.

It is our goal to promote integration of residents with diverse socioeconomic backgrounds rather than to continue to segregate by building neighborhoods with high concentrations of affordable housing and neighborhoods with none. Our organizations have fought for years to have development projects in our communities provide on-site mixed-income housing units. In most cases we have been successful, in some we have not. As is currently allowed by City process, developers have made promises and then switched at the last minute to fee-out of their affordable housing requirement rather than provide on- or off-site. Such disappointments highlight the need for greater transparency from developers, so that communities know what affordable housing is being committed to and there is certainty that developers are held accountable to their commitments.

So when the Housing Action Coalition proposes to change the Inclusionary off-site rules so that local geography no longer matters, it is quite an offense. Local geography matters tremendously with inclusionary housing. As development continues to change our neighborhoods across the City, the least we can expect is for some "inclusionary" affordable units to be part of the mix. Otherwise there would be nothing but expensive market rate housing built in communities that are already so quickly gentrifying. Our goal is to highlight this issue so that the Planning Commission will understand our fundamental concerns and reject this particular amendment summarily.

In addition, we also ask the Planning Commission to add a requirement in this legislation that developers disclose their Inclusionary housing commitment prior to projects being approved – for example, included in the neighborhood notification that goes out 30 days in advance. Developers would also then be held to that commitment. Our communities want on-site mixed-income housing as a preference or off-site BMRs in the same neighborhood, but we certainly don't want fee-outs that leave our neighborhoods with no affordable units.

Please maintain the current rule for off-site BMRs and require transparency and disclosure from developers on how the inclusionary housing requirement will be addressed. Your help appreciated to require that developers continue to produce affordable housing in the neighborhoods where they build.

Thank you,

Tes Welborn  
D5 Action

Cc: Mayor Ed Lee

Olson Lee, MOH director  
John Rahaim, Planning Director  
Diego Sanchez, Planning staff  
Board of Supervisors



**From:** [pwebber928](mailto:pwebber928)  
**To:** [Sanchez, Diego \(CPC\)](mailto:Sanchez, Diego (CPC))  
**Subject:** Inclusionary Affordable Housing program  
**Date:** Sunday, December 13, 2015 8:20:15 PM

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-----Original Message-----

From: pwebber928 <pwebber928@aol.com>  
To: diego.sanchez <diego.sanchez@sfgov.org>; ken.rich <ken.rich@sfgov.org>  
Sent: Sun, Dec 13, 2015 8:09 pm  
Subject: Inclusionary Affordable Housing program

Gentlemen, I was one of the speakers at the 12/10 informational hearing on proposed changes to the Inclusionary Housing Program. I was not able to express all of my views in the short time allowed, and wanted to amplify on them here.

As I said in my allotted time, the Staff is doing a good job in seeking additional solutions for the processing of projects which provide for affordable housing and in incentivizing developers to utilize these solutions. But that is not the end of the inquiry.

1. There are currently four bills pending or proposed, of which yours is but one, which to varying degrees overlap each other. This is creating confusion to say the least. For example, your bill proposes to eliminate or substantially increase the radii from principal projects within which offsite affordable units can be built, but in an article in the Chronicle on Friday (12/11/2015) about the abandonment of a transbay project, there is mention of the need to build the affordable housing in the "transbay plan area." Further there is a recital in the article about requiring 35% affordable housing, whereas another Mayor sponsored legislative project (the AHBD) requires 30%, including middle income units which historically have not been considered part of the affordable package.

I urge you to consider consolidating into one package the substance of the various proposals, but with the additional changes suggested below. .

2. The proposal to eliminate or substantially increase the radii for off site inclusionary housing from their principal projects defeats the whole purpose of inclusionary housing, which is to spread the housing throughout the City and not by default create neighborhoods of just affordable housing. This can thus change the City policy from one of inclusionary housing to an exclusionary one as available land prices continue to climb in "hot" areas. Further, it runs against one of the key foundations of what has created the charm and uniqueness San Francisco neighborhoods, and that is diversity.

Finally, at some point the allowance of the building of affordable housing anywhere in the City and with little or no nexus to the principal project creates the risk of a credible claim of impermissible distinctions being made.

3. The legislation proposes to "decouple" the timing of the building of affordable housing from the construction of the principal project, and, you say, the imposition of what you believe to be adequate safe guards to getting the affordable housing built. Again, I draw your attention to the failed transbay project as reported by the Chronicle, as a result of which the City may have to make a "bridge" loan to cover at least the cost of a roof top green space on the transit center, the contract for which was awarded without having developer funds in hand. While the circumstances here may be different, it still illustrates what can happen without funds in hand.

You have suggested using a letter of credit to somehow cover the cost of building the affordable housing. All that does is create another dispute point to overcome if and when a developer defaults. The developer gets a to do its deal by this so he can then possibly use his cash flow from the principal project to finance the cost of the affordable housing. For the City, it buys a potential dispute.

Why doesn't the City require the builder to "fee out" the project, and if it can commence construction on the offsite affordable housing within XXX days/months of obtaining a certificate of completion of the principal project, then it can use the "feed out" funds for the inclusionary off site project with a holdback until completion and he obtaining of lien releases. It would be sized to cover the amount of inclusionary housing needed for a "feed out" project, which if higher than the percentage required for off site housing could be used for cost over runs, etc., but with a hold back.

4. Of the four projects seeking to provide incentives for affordable housing development, three

either had or will have 'working groups." From what is publicly available, those groups have been comprised primarily of third parties which, directly or indirectly have significant economic stakes in the proposed changes, with little or no input from neighborhoods. Going forward, that must be remedied. In doing so it must be significantly more than just "check the box' participation, but the creation of true partners from/ within the neighborhoods, as well as from organizations representing groups affected by the legislative proposals such as real renters groups and small business organizations. For example, some of the working groups in the past have had sub committees which do the real work on the legislation including the give and take, and those must include neighborhood groups and constituency representatives which are no just associated with the real estate industry .

In the past there has been advice/studies rendered by various experts, for which the City or the benefited industries have paid. Since the goal should be to reach a balanced approach in achieving the affordable housing goals, the funding of the costs of neighborhood advisors/experts should be done the City. Too often, the economic inequality between the benefited industries and the residents, neighborhoods, small businesses, etc. has been near impossible to overcome. The City will benefit by considering the informed views of both sides and the idea of there being "us or them" should be eliminated as much as possible.

5. The must be a resolution of the questions of the need and means to maintain rent controlled housing stock as a valuable source of affordable housing which should be preserved. There has been much talk about the difficulty of making this source 'sustainable" as such and not being replaced by new units to be occupied by others. There is clearly displacement which occurs when rent controlled housing stock is destroyed, creating severe hardships on the tenants who lose their homes, many after decades of occupancy. If true long run solutions for creating more affordable housing are going to be achieved, the resolution of this issue must be part of these solutions. It can't be kicked further down the road or all of the rent controlled will be gone. The severity of that result rivals to San Francisco those of the consequences of global warming. There is a similar issue for the loss of neighborhood small business, which don't even have the partial protection of rent control, and yet the livelihoods of the families supported by these small businesses are at stake.

Paul Webber

1 [Planning Code - Inclusionary Affordable Housing Program]

2

3 **Ordinance amending the Planning Code to provide revised geographic, timing, pricing**  
 4 **and other requirements for the off-site alternative to the Inclusionary Affordable**  
 5 **Housing Fee; create a new option for off-site projects that qualify as Nonprofit Provider**  
 6 **Partner Projects; create a new alternative for project sponsors of smaller market-rate**  
 7 **projects to direct the Affordable Housing Fee to small sites projects; create an option**  
 8 **for project sponsors of on- and off-site housing to provide higher amounts of**  
 9 **affordable housing at higher levels of affordability termed “dialing up”; revise certain**  
 10 **definitions and operating procedures related to the Inclusionary Housing Program and**  
 11 **make conforming changes; and affirming the Planning Department’s determination**  
 12 **under the California Environmental Quality Act, and making findings of consistency**  
 13 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

18

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

20

21 Section 1. Findings.

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

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

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

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

12 Section 2. The Planning Code is hereby amended by revising Sections 401, 415.3,  
13 415.4, 415.5, 415.6, 415.7, 415.8, 415.9, 419.3, 419.4 and 419.5 and adding Section 415.7A,  
14 to read as follows:

15 **SEC. 401. DEFINITIONS.**

16 In addition to the specific definitions set forth elsewhere in this Article, the following  
17 definitions shall govern interpretation of this Article:

18 ~~"Affordable unit" or "affordable housing unit." A unit that is restricted as affordable under  
19 Section 415 et seq.~~

20 "Affordable to a Household" shall mean a purchase price adjusted for the household size  
21 indicated below that a household can afford to pay based on an annual payment for all housing  
22 costs, ~~as defined in California Code of Regulations ("CCR") Title 25, Section 6920, as amended from~~  
23 ~~time to time,~~ of 33% percent of the combined household Annual Gross Income ~~annual gross~~  
24 ~~income~~, assuming a down payment recommended by ~~the MOHCD Mayor's Office of Housing~~ in  
25 the Procedures Manual, and available financing, or a rent level adjusted for the household size

1 indicated below that does not exceed 30% ~~percent~~ of a household's combined annual gross  
 2 income. Where applicable, the purchase price or rent may be adjusted to reflect the absence  
 3 or existence of a parking space(s), subject to the Department's policy on unbundled parking  
 4 for Inclusionary Housing Units as specified in the Procedures Manual and amended from time  
 5 to time. In the case of Single Room Occupancy units and Group Housing units that are less than 350  
 6 square feet (both as defined in Section 102) such units shall be 75% of the maximum sales or rent level  
 7 for studio units.

<u>Number of Bedrooms (or, for live/work units square foot equivalency)</u>	<u>Number of Persons in Household</u>
<u>0 (Less than 600 square feet)</u>	<u>1</u>
<u>1 (601 to 850 square feet)</u>	<u>2</u>
<u>2 (851 to 1,100 square feet)</u>	<u>3</u>
<u>3 (1,101 to 1,300 square feet)</u>	<u>4</u>
<u>4 (More than 1,300 square feet)</u>	<u>5</u>

19  
 20 ~~"Affordable to qualifying households."~~

21 ~~— (A) With respect to owned units, the average purchase price on the initial sale of all~~  
 22 ~~affordable owned units in a housing project shall not exceed the allowable average purchase price.~~

23 ~~Each unit shall be sold:~~

24 ~~— (i) Only to first-time homebuyer households, as defined in this Section;~~

1           ~~——(ii) Only to households with an annual gross income equal to or less than the qualifying~~  
2 ~~income limits for a household of moderate income, adjusted for household size, except for the~~  
3 ~~exceptions set forth in Section 415.8(a)(4)(C), (D) and (E);~~

4           ~~——(iii) Only to households that meet the household size requirements, as defined in the~~  
5 ~~Procedures Manual;~~

6           ~~——(iv) On the initial sale, at or below the maximum purchase price, as defined in this~~  
7 ~~Section;~~

8           ~~——(v) On subsequent sales at or below the prices to be determined according to the formula~~  
9 ~~specified in the Procedures Manual in place at the time of the affordable unit owner's purchase, as~~  
10 ~~amended from time to time, such that the units remain affordable to qualifying households. The formula~~  
11 ~~in the Procedures Manual shall permit the seller to include certain allowable capital improvements in~~  
12 ~~the new maximum purchase price. The formula shall include a per unit cap on capital improvements of~~  
13 ~~10% of the resale price in order to maintain affordability. Special Assessments shall be added to the~~  
14 ~~resale price at an uncapped rate. Capital improvement requests shall be evaluated by the Mayor's~~  
15 ~~Office of Housing according to the formula specified in the Procedures Manual.~~

16           ~~——(B) With respect to rental units in an affordable housing project, the average annual rent~~  
17 ~~shall not exceed the allowable average annual rent. Each unit shall be rented:~~

18           ~~——(i) Only to households with an annual gross income equal to or less than qualifying~~  
19 ~~limits for a household of lower income adjusted for household size, as defined in this Section, except for~~  
20 ~~the exceptions set forth in Section 415.8(a)(4)(A) and (B);~~

21           ~~——(ii) Only to households that meet the household size requirements, as defined in the~~  
22 ~~Procedures Manual;~~

23           ~~——(iii) At or less than the maximum annual rent.~~

24           ~~——"Allowable average purchase price." A price for all affordable owned units of the size~~  
25 ~~indicated below that are affordable to a household of median income as defined in this Section,~~

1 ~~adjusted for the household size indicated below as of the date of the close of escrow, except for Single~~  
 2 ~~Room Occupancy units (as defined in Section 890.88), which shall be 75% of the maximum purchase~~  
 3 ~~price level for studio units, and, where applicable, adjusted to reflect the Department's policy on~~  
 4 ~~unbundled parking for affordable housing units as specified in the Procedures Manual and amended~~  
 5 ~~from time to time:~~

6 -

<i>Number of Bedrooms (or, for live/work units square foot equivalency)</i>	<i>Number of Persons in Household</i>
<i>0 (Less than 600 square feet)</i>	<i>1</i>
<i>1 (601 to 850 square feet)</i>	<i>2</i>
<i>2 (851 to 1,100 square feet)</i>	<i>3</i>
<i>3 (1,101 to 1,300 square feet)</i>	<i>4</i>
<i>4 (More than 1,300 square feet)</i>	<i>5</i>

14 -

15  
 16 ~~—"Allowable average annual rent." Annual rent for an affordable rental unit of the size~~  
 17 ~~indicated below that is 30 percent of the annual gross income of a household of low income as defined~~  
 18 ~~in this Section, adjusted for the household size indicated below except for Single Room Occupancy~~  
 19 ~~units (as defined in Section 890.88), which shall be 75% of the maximum rent level for studio units,~~  
 20 ~~and, where applicable, adjusted to reflect the Department's policy on unbundled parking for affordable~~  
 21 ~~housing units as specified in the Procedures Manual and amended from time to time:~~

22 -

<i>Number of Bedrooms (or, for live/work units square foot equivalency)</i>	<i>Number of Persons in Household</i>
<i>0 (Less than 600 square feet)</i>	<i>1</i>

1	1 (601 to 850 square feet)	2
2	2 (851 to 1,100 square feet)	3
3	3 (1,101 to 1,300 square feet)	4
4	4 (More than 1,300 square feet)	5

5 -  
6 ~~At no time can a rent increase, or can multiple rent increases within one year, exceed the percentage~~  
7 ~~change in Maximum Monthly Rent levels as published by MOH from the previous calendar year to the~~  
8 ~~current calendar year.~~

9 "Area Median Income" or "AMI." The unadjusted median income levels as calculated by  
10 MOHCD using data derived from the Department of Housing and Urban Development ("HUD") on  
11 an annual basis for the San Francisco area, adjusted solely for household size, but not high  
12 housing cost area.

13 "Annual gross income." Gross income as defined in California Code of Regulations Title  
14 25, Section 6914, as amended from time to time, except that MOHCD may, ~~in order to promote~~  
15 ~~consistency with the procedures of the San Francisco Redevelopment Agency,~~ develop an asset test  
16 that differs from the State definition if it publishes that test in the Procedures Manual.

17 \* \* \* \*

18 "Homeowner Household." A household in which any member owns any interest in a dwelling  
19 unit.

20 ~~"Household of low income." For purposes of Section 415 et seq., a household whose combined~~  
21 ~~annual gross income for all members does not exceed 55 percent of AMI.~~

22 ~~"Household of median income." For purposes of Section 415 et seq., a household whose~~  
23 ~~combined annual gross income for all members does not exceed 90 percent of AMI.~~



1           ~~"Household of moderate income." For purposes of Section 415 et seq., a household whose~~  
2 ~~combined annual gross income for all members does not exceed 110 percent of AMI.~~

3  
4           \* \* \* \*

5           "Inclusionary Housing Unit" or "Inclusionary Unit." A rental or ownership unit that is  
6 restricted as affordable under Section 415 et seq.

7           \* \* \* \*

8           ~~"Maximum annual rent." The maximum rent that a housing developer may charge any tenant~~  
9 ~~occupying an affordable unit for the calendar year. The maximum annual rent for an affordable~~  
10 ~~housing unit of the size indicated below shall be no more than 30 percent of the annual gross income~~  
11 ~~for a household of low income as defined in this Section, as adjusted for the household size indicated~~  
12 ~~below, except in the case of Single Room Occupancy units (as defined in Section 890.88), which shall~~  
13 ~~be 75% of the maximum rent level for studio units, as of the first date of the tenancy:~~

14           -

<i>Number of Bedrooms (or, for live/work units square foot equivalency)</i>	<i>Number of Persons in Household</i>
<i>0 (Less than 600 square feet)</i>	<i>1</i>
<i>1 (601 to 850 square feet)</i>	<i>2</i>
<i>2 (851 to 1,100 square feet)</i>	<i>3</i>
<i>3 (1,101 to 1,300 square feet)</i>	<i>4</i>
<i>4 (More than 1,300 square feet)</i>	<i>5</i>

22           -

1 ~~At no time can a rent increase, or can multiple rent increases within one year, exceed the~~  
 2 ~~percentage change in Maximum Monthly Rent levels as published by MOH from the previous calendar~~  
 3 ~~year to the current calendar year.~~

4 ~~—"Maximum purchase price." The maximum purchase price for an affordable owned unit of the~~  
 5 ~~size indicated below except in the case of Single Room Occupancy units (as defined in Section 890.88),~~  
 6 ~~which shall be 75% of the maximum purchase price level for studio units, that is affordable to a~~  
 7 ~~household of moderate income, adjusted for the household size indicated below, assuming an annual~~  
 8 ~~payment for all housing costs of 33 percent of the combined household annual gross income, a down~~  
 9 ~~payment recommended by MOH and set forth in the Procedures Manual, and available financing:~~

10 -

<i>Number of Bedrooms (or, for live/work units square foot equivalency)</i>	<i>Number of Persons in Household</i>
<i>0 (Less than 600 square feet)</i>	<i>1</i>
<i>1 (601 to 850 square feet)</i>	<i>2</i>
<i>2 (851 to 1,100 square feet)</i>	<i>3</i>
<i>3 (1,101 to 1,300 square feet)</i>	<i>4</i>
<i>4 (More than 1,300 square feet)</i>	<i>5</i>

18  
 19  
 20 ~~"Mayor's Office of Housing and Community Development" or "MOHCD." The Mayor's~~  
 21 ~~Office of Housing and Community Development, or its successor.~~

22 ~~"Median-income." 100% of Area Median Income, as defined herein.~~

23 ~~"Moderate-income." 80 - 120% of Area Median Income, as defined herein.~~

24 \* \* \* \*

1           “Nonprofit Provider Partner Project” shall mean an affordable housing project where a Non-  
2 profit Partner and a Sponsor of a Principal Project have entered into an agreement to provide Off-site  
3 units to satisfy the Off-site Inclusionary Housing requirements of a project subject to the Inclusionary  
4 Housing Program. The Director of MOHCD shall review and approve such Projects, including  
5 determining whether the Project has demonstrated that it has satisfactory funds necessary to commence  
6 construction and complete the Project.

7           “Nonprofit Partner” shall mean a nonprofit affordable housing provider or a group of  
8 nonprofit affordable housing developers that, in the case of a rental project, is eligible under the Tax  
9 Credit Allocation Committee (TCAC) as a tax credit-managing General Partner; and, in all cases, in  
10 the determination of the Director of MOHCD, as verified by a letter from MOHCD to the Director of  
11 the Planning Department, has (a) demonstrated, recent experience owning and/or managing affordable  
12 housing in San Francisco; (b) experience within the past five years of constructing housing of a  
13 comparable scale in San Francisco; and (c) sufficient financial capacity to undergo the off-site project.  
14 In the case where there is more than one Nonprofit Partner, then at least one of the Nonprofit Partners  
15 must meet each of the above requirements.

16           \* \* \* \*

17           "Off-site Unit." ~~An Inclusionary Housing Unit affordable to qualifying households~~  
18 ~~constructed pursuant to this Article 4 on a site other than the site of the Principal Project~~  
19 ~~principal project.~~

20           "On-site Unit." ~~An Inclusionary Housing Unit affordable to qualifying households~~  
21 ~~constructed pursuant to this Article 4 on the site of the Principal Project~~ ~~principal project.~~

22           ~~"Owned unit." A unit affordable to qualifying households which is a condominium, stock~~  
23 ~~cooperative, community apartment, or detached single-family home. The owner or owners of an owned~~  
24 ~~unit must occupy the unit as their primary residence.~~

25           \* \* \* \*

1           "Project Sponsor" or "Sponsor." An applicant seeking approval for construction of a  
2 development project subject to this Article, such applicant's successor and assigns, and/or any entity  
3 which controls or is under common control with such applicant.

4           \* \* \* \*

5           Q

6           "Qualified Household." Defined in Sections 415.6 (d) and 415.7 (e).

7           "Qualifying Household." Defined in Sections 415.6 (d) and 415.7 (e).

8           \* \* \* \*

9           ~~"Rental unit." A unit affordable to qualifying households which is not a condominium, stock~~  
10 ~~cooperative, or community apartment.~~

11          \* \* \* \*

12          "Residential Floor Area." The area within the inside face of the walls enclosing a dwelling unit,  
13 including closets and the partitions that separate rooms that are within the same unit. Residential  
14 Floor Area shall not include common hallways, lobbies, amenity space, or storage areas located  
15 outside of individual dwelling units. Residential Floor Area within Group Housing is intended to  
16 capture all of the interconnected private and common living areas that would otherwise be included  
17 inside dwelling units, and to exclude nonessential, disconnected areas that are typically found on the  
18 ground floor or basement levels. Therefore, it shall only include the area within the inside face of the  
19 walls enclosing the Group Housing use, including bedrooms, closets, bathrooms, kitchens, common  
20 hallways, living rooms, and other common living areas. It shall not include spaces that are located  
21 outside of, or otherwise disconnected from, living areas within the Group Housing use, such as  
22 hallways, lobbies, stairways, elevator shafts, accessory parking, storage areas, or other similar spaces.

23          \* \* \* \*

1           ~~"Sponsor" or "project sponsor." An applicant seeking approval for construction of a~~  
2 ~~development project subject to this Article, such applicant's successor and assigns, and/or any entity~~  
3 ~~which controls or is under common control with such applicant.~~

4           \* \* \* \*

5  
6           **SEC. 415.3. APPLICATION.**

7           (a) Notwithstanding any other provision to the contrary in this Code, Section 415.1 et  
8 seq. shall apply to any housing project that consists of ten or more units where an individual  
9 project or a phased project is to be undertaken and where the total undertaking comprises a  
10 project with ten or more units, even if the development is on separate but adjacent lots; and

11                 (1) Does not require Commission approval as a Conditional Use authorization  
12 or Planned Unit Development;

13                 (2) Requires Commission approval as a Conditional Use Authorization or  
14 Planned Unit Development;

15                 (3) Consists of Live/Work Units as defined by Section 102 of this Code; or

16                 (4) Requires Commission approval of replacement housing destroyed by  
17 earthquake, fire or natural disaster only where the destroyed housing included units restricted  
18 under the Inclusionary Affordable Housing Program or the City's predecessor inclusionary  
19 housing policy, condominium conversion requirements, or other affordable housing program.

20           (b) The effective date of these requirements shall be either April 5, 2002, which is the  
21 date that the requirements originally became effective, or the date a subsequent modification,  
22 if any, became operative. ~~The following table is designed to summarize the most significant~~  
23 ~~subsequent modifications to this Program and the dates those modifications went into effect.~~ The  
24 Planning Department and MOHCD~~the Mayor's Office of Housing~~ shall maintain a record for the  
25 public summarizing the most significant subsequent ~~various~~ amendments to this Program and

1 their effective or operative dates and make such information available on the City's website. To the  
 2 extent there is a conflict between ~~the following table or~~ any summary produced by the  
 3 Department or MOHCD and the provisions of the original implementing ordinances, the  
 4 implementing ordinances shall prevail.

5 *Table 415.3*

6 -

<i>Program Modification</i>	<i>Effective or Operative Date</i>
<p>7 8 9 10 11 12 13 14 15 16 17</p> <p><i>All projects with 5 or more units must participate in the Inclusionary Housing Program Section 415 (changed from a threshold of 10 units).</i></p> <p><i>Threshold changed back to 10 units or more such that the Section 415 et seq. no longer applies to buildings of 5-9 units.</i></p>	<p>10 11 12 13 14 15 16 17</p> <p><i>All projects that submitted a first application on or after July 18, 2006</i></p> <p><i>Any 5-9 unit project, regardless of when it submitted a first application, that has not received a first construction document as of January 15, 2013.</i></p>
<p>18 19 20 21 22 23 24 25</p> <p><i>Affordable Housing Percentages:</i></p> <ul style="list-style-type: none"> <li><i>• 20% Fee</i></li> <li><i>• 12% on-site*</i></li> <li><i>• 20% off-site*</i></li> </ul> <p><i>*Of total number of units</i></p> <p><i>(Percentages may vary in specific Area Plans or Special Use Districts. Please refer to those applicable Code Sections.)</i></p>	<p>18 19 20 21 22 23 24 25</p> <p><i>All projects that submitted a first application on or after July 18, 2006</i></p> <p><i>(For off-site and fee: except buildings of over 120 feet in height that meet the requirements of Section 415.7(a)(1)(C))</i></p>

1 \* \* \* \*

2  
3 **SEC. 415.4. IMPOSITION OF REQUIREMENTS.**

4 (a) **Determination of Requirements.** The Department shall determine the  
5 applicability of Section 415.1 *et seq.* to any development project requiring a First Construction  
6 Document ~~first construction document~~ and, if Section 415.1 is applicable, shall impose any such  
7 requirements as a condition of approval for issuance of the First Construction Document ~~first~~  
8 ~~construction document~~. The Pproject Sponsor shall supply any information necessary to assist  
9 the Department in this determination.

10 (b) **Notice to Development Fee Collection Unit and MOHCD of Requirements.**  
11 After the Department has made its final determination regarding the application of the  
12 affordable housing requirements to a development project pursuant to Section 415.1 *et seq.*, it  
13 shall immediately notify the Development Fee Collection Unit at DBI and MOHCD in addition to  
14 the other information required by Section 402(b) of this Article.

15 (c) **Payment of Affordable Housing Fee or Project Sponsor's Eligibility for and**  
16 **Selection of Alternative.** Prior to issuance of the First Construction Document ~~first construction~~  
17 ~~document~~ for a development project subject to the requirements of Section 415.1 *et seq.*, the  
18 Sponsor of the development project shall pay the Affordable Housing Fee set forth in Section  
19 415.5 or, if eligible to meet the requirements through an Alternative, prior to the time designated  
20 to select each Alternative, shall select one of the options listed in Section 415.5(gf).

21 (d) **Department Notice to Development Fee Collection Unit of Sponsor's Choice.**  
22 After the Sponsor has filled out a Declaration of Intent and, if necessary, an "Affidavit of  
23 Compliance with the Inclusionary Housing Program" Affidavit of Eligibility for an Alternative to the  
24 Affordable Housing Fee indicating how it will fulfill the affordable housing requirements of  
25

1 Section 415.1 *et seq.*, the Department shall immediately notify the Development Fee  
2 Collection Unit at DBI and MOHCD of the Sponsor 's choice.

3 (e) **Development Fee Collection Unit Notice to Department Prior to Issuance of**  
4 **the First Certificate of Occupancy.** The Development Fee Collection Unit at DBI shall  
5 provide notice in writing or electronically to the Department and MOHCD prior to issuing the  
6 first Certificate of Occupancy for any development project subject to Section 415.1 *et seq.* that  
7 has elected to fulfill all or part of its requirement with an option other than payment of the  
8 Affordable Housing Fee. If the Department or MOHCD notifies the Unit at such time that the  
9 Sponsor has not satisfied the requirements, the Director of DBI shall deny and all Certificates  
10 of Occupancy until the subject project is brought into compliance with the requirements of  
11 Section 415.1 *et seq.*

12 (f) **Process for Revisions of Determination of Program Requirements.** In the  
13 event that the Department or the Commission takes action affecting any development project  
14 subject to Section 415.1 *et seq.* and such action is subsequently modified, superseded,  
15 vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by court action,  
16 the procedures of Section 402(c) shall be followed.

17 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

18 Except as provided in Section 415.5(g), all development projects subject to this  
19 Program shall be required to pay an Affordable Housing Fee subject to the following  
20 requirements:

21 (a) **Payment of a Fee.** The fee is due and payable to the Development Fee Collection  
22 Unit at DBI for deposit into the Citywide Affordable Housing Fund at the time of and in no  
23 event later than issuance of the First Construction Document ~~first construction document~~, with an  
24 option for the Pproject Sponsor to defer payment to prior to issuance of the ~~first~~ First  
25 Certificate of Occupancy ~~certificate of occupancy~~ upon agreeing to pay a deferral surcharge that



1 would be deposited into the Downtown Park Fund, in accordance with Section 107A.13.15 of  
2 the San Francisco Building Code.

3 (b) **Amount of Fee.** The amount of the fee which may be paid by the Pproject  
4 Sponsor subject to this Program shall be determined by MOHCD utilizing the following  
5 factors:

6 (1) The number of units equivalent to the applicable off-site percentage of the  
7 number of units in the principal project. The applicable percentage shall be 20% percent or the  
8 percentage that applied to the project if the project is subject to the requirements of an earlier  
9 version of this Program due to the date it submitted its application or that percentage required  
10 in certain Special Use Districts or Area Plans or the requirements for buildings that are 120 feet or  
11 higher per Section 415.7(a)(1)(C). For the purposes of this Section 415.5, the City shall calculate  
12 the fee using the direct fractional result of the total number of units multiplied by the applicable  
13 percentage, rather than rounding up the resulting figure as required by Section 415.6(a).

14 (2) The affordability gap using data on the cost of construction of residential  
15 housing and the maximum purchase price for new ownership Inclusionary Housing Units allowed  
16 under Section 415.6 Maximum Purchase Price for the equivalent unit size. ~~As of the effective date of~~  
17 ~~this Ordinance No. 62-13,1~~ MOHCD shall use construction cost data from the "San Francisco  
18 Inclusionary Housing Program Financial Analysis 2012" prepared by Seifel Consulting. The  
19 Department and MOHCD shall update the technical report from time to time as they deem  
20 appropriate in order to ensure that the affordability gap remains current.

21 (3) No later than January 1 of each year ~~following the effective date of this~~  
22 ~~Ordinance No. 62-13,1~~ MOHCD shall adjust the fee. No later than December 1 ~~following the~~  
23 ~~effective date of this Ordinance No. 62-131~~ of each year, MOHCD shall provide the Planning  
24 Department, DBI, and the Controller with information on the adjustment to the fee so that it  
25 can be included in the Planning Department's and DBI's website notice of the fee adjustments

1 and the Controller's Citywide Development Fee and Development Impact Requirements  
2 Report described in Section 409(a). MOHCD shall index the fee annually based on the annual  
3 percent change in the Construction Cost Index for San Francisco as published by Engineering News-  
4 Record or a similar index selected by MOHCD. ~~MOH is authorized to develop an appropriate~~  
5 ~~methodology for indexing the fee, based on adjustments in the cost of constructing housing and the~~  
6 ~~Maximum Purchase Price for the equivalent unit size.~~ The method of indexing shall be published  
7 in the Procedures Manual.

8 (c) **Notice to Development Fee Collection Unit of Amount Owed.** Prior to issuance  
9 of the first construction document for a development project subject to Section 415.5, MOHCD  
10 or the Department shall notify the Development Fee Collection Unit at DBI electronically or in  
11 writing of its calculation of the amount of the fee owed.

12 (d) **Lien Proceedings.** If, for any reason, the Affordable Housing Fee imposed  
13 pursuant to Section 415.5 remains unpaid following issuance of the First Certificate of  
14 Occupancy, the Development Fee Collection Unit at DBI shall institute lien proceedings to  
15 make the entire unpaid balance of the fee, plus interest and any deferral surcharge, a lien  
16 against all parcels used for the development project in accordance with Section 408 of this  
17 Article and Section 107A.13.15 of the San Francisco Building Code.

18 (e) If a housing project is located in an Area Plan with an additional or specific  
19 affordable housing requirements such as those set forth in a special use district or section  
20 416, 417, and 419 or elsewhere in this code, the more specific provisions shall apply in lieu of  
21 or in addition to those provided in this Program, as applicable.

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

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

3 (A) increase the supply of housing affordable to Low-income or Moderate-  
4 income qualifying households ~~subject to the conditions of this Section; and~~

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

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

14 (2) **"Small Sites Funds."**

15 (A) **Designation of Funds.** MOHCD shall designate and separately  
16 account for 10% ~~percent~~ of all fees that it receives under Section 415.1 *et seq.*, excluding fees  
17 that are geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(1)(C), to  
18 support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOHCD shall  
19 continue to divert 10% ~~percent~~ of all fees for this purpose until the Small Sites Funds reach a  
20 total of \$15 million at which point, MOHCD will stop designating funds for this purpose. At  
21 such time as designated Small Sites Funds are expended and dip below \$15 million, MOHCD  
22 shall start designating funds again for this purpose, such that at no time the Small Sites Funds  
23 shall exceed \$15 million. When the total amount of fees paid to the City under Section 415.1  
24 *et seq.* totals less than \$10 million over the preceding 12 month period, MOHCD is authorized  
25 to temporarily divert funds from the Small Sites Fund for other purposes. MOHCD must keep

1 track of the diverted funds, however, such that when the amount of fees paid to the City under  
2 Section 415.1 *et seq.* meets or exceeds \$10 million over the preceding 12 month period,  
3 MOHCD shall commit all of the previously diverted funds and 10% ~~percent~~ of any new funds,  
4 subject to the cap above, to the Small Sites Fund.

5 (B) **Use of Small Sites Funds.** The funds shall be used exclusively to  
6 acquire or rehabilitate "Small Sites" defined as properties consisting of ~~less than 2 to~~ 25 units.  
7 Units supported by monies from the fund shall be designated as housing affordable to  
8 ~~qualifying~~ Low-income or Moderate-income households as defined in Section ~~401 415.1~~ for no  
9 less than 55 years. Properties supported by the Small Sites Funds must be either

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

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

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

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

1                    (~~DE~~) **Intent.** In adopting Section 415.5(f)(2) ~~this ordinance~~ regarding the  
2 Small Sites Funds, the Board of Supervisors does not intend to preclude MOHCD from  
3 expending other eligible sources of funding on Small Sites as described in this Section, or  
4 from allocating or expending more than \$15 million of other eligible funds on Small Sites.  
5                    (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD  
6 requires the ~~P~~project ~~S~~sponsor or its successor in interest to give preference in occupying  
7 units first to Residential Certificate of Preference Holders under the San Francisco  
8 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted  
9 September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in  
10 File No. 080521, who otherwise meet all of the requirements for a unit; and second to any  
11 Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the  
12 qualifications for the unit or assistance, provided that the following limitations shall apply to the  
13 Displaced Tenant preference: (~~iA~~) a Displaced Tenant may apply the preference to existing,  
14 currently-occupied developments only for three years from the date the landlord filed with the  
15 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to  
16 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California  
17 Government Code Section 7060 *et seq.* and the corresponding provisions of the San  
18 Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative  
19 Code Sections 37.9(a)(13) and 37.9A; (~~Bii~~) a Displaced Tenant may apply the preference to  
20 new developments going through the initial occupancy process only for six years from the  
21 date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from  
22 the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of  
23 the Rent Ordinance; and (~~Ciii~~) for any new residential development going through the initial  
24 occupancy process, the Displaced Tenant preference shall apply only to ~~twenty percent (20%)~~  
25 of the units in such development. The Displaced Tenant's preference shall still apply even if

1 such Displaced Tenant declines a unit offered through application of the preference, but upon  
2 accepting and occupying a unit obtained using the preference, such Displaced Tenant's  
3 preference terminates. Otherwise, it is the policy of the City to treat all households equally in  
4 allocating Inclusionary Housing Units~~affordable units~~ under this Program.

5 (g) **Alternatives to Payment of Affordable Housing Fee.**

6 (1) **Eligibility:** A Pproject Sponsor must pay the Affordable Housing Fee unless  
7 it qualifies for and chooses to meet the requirements of the Program through an Alternative  
8 provided in this Subsection. The Pproject Sponsor may choose one of the following  
9 Alternatives:

10 (A) **Alternative #1:** On-Site Units. Pproject Ssponsors may elect to  
11 construct Inclusionary Housing Units ~~affordable to qualifying households~~ on-site of the pPrincipal  
12 pProject pursuant to the requirements of Section 415.6.

13 (B) **Alternative #2:** Off-Site Units. Pproject Ssponsors may elect to  
14 construct Inclusionary Housing Units ~~affordable to qualifying households~~ at an alternative site  
15 within the City and County of San Francisco pursuant to the requirements of Section 415.7.  
16 Prior to Planning Commission or Planning Department approval, a Project Sponsor shall only be  
17 required to declare that they choose the off-site Alternative. The Project Sponsor shall provide a name  
18 and address of the off-site location prior to obtaining the Principal Project's First Construction  
19 Document. A Project Sponsor must also apply to and be approved by MOHCD for the ability to work  
20 with a Nonprofit Partner prior to obtaining the Principal Project's first construction document.

21 (C) **Alternative #3:** Small Sites. Qualifying Project Sponsors may elect to  
22 fund buildings as set forth in Section 415.7A.

23 (D) **Alternative #4:** Combination. Pproject Ssponsors may elect any  
24 combination of payment of the Affordable Housing Fee as provided in Section 415.5,  
25 construction of on-site Units as provided in Section 415.6, or construction of off-site Units

1 as provided in Section 415.7, provided that the Project Sponsor ~~project applicant~~ constructs or  
2 pays the fee at the appropriate percentage or fee level required for that option.

3 (2) **Qualifications:** If a Project Sponsor wishes to comply with the Program  
4 through one of the Alternatives described in subsection (g)(1) rather than pay the Affordable  
5 Housing Fee, ~~they~~ it must demonstrate that ~~they qualify~~ it qualifies for the Alternative to the  
6 satisfaction of the Department and MOHCD. A Project Sponsor may qualify for an  
7 Alternative by the following methods:

8 (iA) **Method #1 - Ownership Units.** All Inclusionary Housing  
9 Units ~~affordable units~~ provided under this Program shall be sold as ownership units and will  
10 remain ownership units for the Life of the Project ~~life of the project~~. ~~Project sponsors must submit~~  
11 ~~the 'Affidavit of Compliance with the Inclusionary Affordable Housing Program' to the Planning~~  
12 ~~Department prior to project approval by the Department or the Commission;~~ or

13 (iB) **Method #2 - Government Financial Contribution.** Submit to the  
14 Department a contract demonstrating that the project's On - or Off-site Units are not  
15 subject to the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.50  
16 because, under Section 1954.52(b), it has entered into an agreement with a public entity in  
17 consideration for a direct financial contribution or any other form of assistance specified in  
18 California Government Code Sections 65915 et seq. and it submits an Affidavit of such to the  
19 Department. All such contracts entered into with the City and County of San Francisco must  
20 be reviewed and approved by the Mayor's Office Housing and Community Development and  
21 the City Attorney's Office. All contracts that involve 100% affordable housing projects in the  
22 residential portion may be executed by the Mayor or the Director of MOHCD. Any contract  
23 that involves less than 100% affordable housing in the residential portion may be executed by  
24 either the Mayor, the Director of MOHCD or, after review and comment by MOHCD, the  
25 Planning Director. A Development Agreement under California Government Code Section

1 65864 et seq. and Chapter 56 of the ~~San Francisco~~ Administrative Code entered into between  
2 a ~~P~~project ~~S~~sponsor and the City and County of San Francisco may, but does not necessarily,  
3 qualify as such a contract.

4 (3) **Declaration of Intent.** The Planning Commission or the Department may not  
5 require a ~~P~~project ~~S~~sponsor to select a specific Alternative, but a Project Sponsor must make an  
6 affirmative election to pay the Affordable Housing Fee or to select an Alternative under this subsection  
7 (g) and demonstrate that it qualifies for such Alternative prior to the earlier of any neighborhood  
8 notification or project approval from the Planning Commission or Department through the submission  
9 of a form maintained by the Planning Department entitled “Affidavit of Compliance with the  
10 Inclusionary Housing Program.” If a project sponsor elects to meet the Program requirements through  
11 one of the Alternatives described in this subsection (1g), they must choose it and demonstrate that they  
12 qualify by submitting the “Affidavit of Compliance with the Inclusionary Housing Program” to the  
13 Planning Department prior to any project approvals from the Planning Commission or Department.  
14 The Affordable Housing Fee or Alternative will be a condition of project approval and the Fee or  
15 an Alternative will be recorded against the property in an NSR. Notwithstanding the foregoing,  
16 if a ~~P~~project ~~S~~sponsor qualifies for an Alternative described in this subsection (1g) and elects to  
17 construct the Inclusionary Housing Units~~affordable units~~ on- or off-site, they it must submit the  
18 'Affidavit of Compliance with the Inclusionary Housing Program' based on the fact that the  
19 units will be sold as ownership units or qualify for a waiver under the Costa Hawkins Rental  
20 Housing Act to provide rental units. A project sponsor who has elected to construct affordable  
21 ownership units on- or off-site may only elect to pay the Affordable Housing Fee up to the issuance of  
22 the first construction document if the project sponsor submits a new Affidavit establishing that the units  
23 will not be sold as ownership units. If a ~~P~~project ~~S~~sponsor fails to choose an Alternative before  
24 project approval by the Planning Commission or Planning Department or if a project becomes  
25 ineligible for an Alternative, the provisions of Section 415.5(a) through (f) shall apply.



1                   (4) Change in the Method of Meeting the Requirement. *If at any time, the project*  
2 *sponsor eliminates the on-site or off-site affordable ownership-only units, then the project sponsor must*  
3 *immediately inform the Department and MOH and pay the applicable Affordable Housing Fee plus*  
4 *interest and any applicable penalties provided for under this Code. If a project sponsor requests a*  
5 *modification to its conditions of approval for the sole purpose of complying with this Section, the*  
6 *Planning Commission shall be limited to considering issues related to Section 415 et seq. in considering*  
7 *the request for modification. A Project Sponsor may change its election of method of compliance in the*  
8 *following ways:*

9                   \_\_\_\_\_ (A) Prior to issuance of the First Construction Document, the Zoning  
10 Administrator may approve in writing a change (i) from the Affordable Housing Fee to an Alternative  
11 permitted under this subsection (g) or (ii) from any declaration of intent to the On-site Alternative.

12                   \_\_\_\_\_ (B) Prior to issuance of the First Certificate of Occupancy, a Project Sponsor  
13 who has submitted an Affidavit to provide On-site or Off-site Ownership Units who can establish that it  
14 is not selling the On- or Off-site Units as ownership units must immediately inform the Department and  
15 MOHCD and apply to the Department to (i) change to pay the applicable Affordable Housing Fee plus  
16 interest and any applicable penalties provided for under this Code or (ii) qualify to rent the units under  
17 subsection (g)(2).

18                   If a Project Sponsor requests a modification to its conditions of approval for the sole purpose of  
19 complying with this Section 415.5(g), the Planning Commission shall be limited to considering issues  
20 related to Section 415 et seq. in considering the request for modification.

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

22                   If a Pproject Ssponsor is eligible and elects to provide Oen-site Units pursuant to  
23 Section 415.5(g), the development project shall meet the following requirements:

24                   (a) **Number of Units:** The number of Inclusionary Housing Units~~units~~ constructed on-  
25 site shall be as follows:

1                   (1) The number of Inclusionary Housing Units~~units~~ constructed on-site shall  
2 generally be 12% of all units constructed on the project site. The Department shall require for  
3 housing projects covered by Section 415.3(a)(1), as a condition of Department approval of a  
4 project's building permit, or by Section 415.3(a)(2), (3) and (4), as a condition of approval of a  
5 Conditional Use Authorization or Planned Unit Development or as a condition of Department  
6 approval of a live/work project, that ~~12% percent~~ of all units constructed on the project site  
7 shall be Inclusionary Housing Units affordable to qualifying households so that a ~~P~~project ~~S~~sponsor  
8 must construct .12 times the total number of units produced in the ~~P~~principal ~~P~~project. If the  
9 total number of units is not a whole number, the ~~P~~project ~~S~~sponsor shall round up to the  
10 nearest whole number for any portion of .5 or above. Notwithstanding the foregoing, a Project  
11 Sponsor may elect to participate in the Dial program set forth in subsection (e).

12                   (2) **Specific Geographic Areas.** For any housing development that is located  
13 in an area with a specific affordable housing requirement set forth in a Special Use District or  
14 in any other section of the Code such as Section 419, the more specific housing requirement  
15 shall apply as long as it is consistent with Charter Section 16.110.

16                   (3) If the principal project has resulted in demolition, conversion, or removal of  
17 affordable housing units renting or selling to households at income levels and/or for a rental  
18 rate or sales price below corresponding income thresholds for Inclusionary Housing Units  
19 ~~affordable to qualifying households~~, the Commission or the Department shall require that the  
20 ~~P~~project ~~S~~sponsor replace the number of affordable units removed with units of a comparable  
21 number of bedrooms or provide that ~~12% percent~~ of all units constructed as part of the new  
22 project shall be Inclusionary Housing Units affordable to qualifying households, whichever is  
23 greater.

24                   (4) **Already Approved Projects.** Charter Section 16.110(g)(3) contains  
25 procedures for certain projects that have been approved but that have not received their first

1 construction document as defined in Section 107A.13.1 of the San Francisco Building Code  
2 by January 1, 2013 to modify their conditions of approval under limited circumstances.

3 (b) **Timing of Construction:** On-site ~~Units~~*affordable housing* required by this Section  
4 415.6 must be constructed, completed, ready for occupancy, and marketed no later than the  
5 market rate units in the ~~P~~*principal P*project.

6 (c) **Type of Housing:** All ~~O~~*n-site U*units constructed under this Section 415.6 must be  
7 provided as ownership units unless the ~~P~~*project S*sponsor meets the eligibility requirement of  
8 Section 415.5(g). All ~~O~~*n-site* units must be Inclusionary Housing Units Affordable to Qualifying  
9 Households. In general, Inclusionary Housing Units ~~affordable units~~ constructed under this  
10 Section 415.6 shall be proportional in unit type by bedroom count and comparable in-number of  
11 bedrooms, exterior appearance and overall quality of construction to market rate units in the  
12 principal project. A Notice of Special Restrictions shall be recorded prior to issuance of the  
13 first construction document and shall specify the number, location and sizes for all Inclusionary  
14 Housing Units ~~affordable units~~ required under this Subsection (c). The interior features in  
15 Inclusionary Housing Units ~~affordable units~~ should be generally the same as those of the market  
16 rate units in the principal project, but need not be the same make, model or type of such item  
17 as long as they are of good and new quality and are consistent with then-current standards for  
18 new housing. The square footage of Inclusionary Housing Units ~~affordable units~~ do not need to  
19 be same as or equivalent to those in market rate units in the ~~P~~*principal P*project, so long as it  
20 is consistent with then-current standards for new housing. Where applicable, parking shall be  
21 offered to the ~~affordable units~~ Inclusionary Housing Units subject to the terms and conditions of  
22 the Department's policy on unbundled parking for ~~affordable housing units~~ Inclusionary Housing  
23 Units as specified in the Procedures Manual and amended from time to time. On-site  
24 ~~affordable u~~Units shall be ownership units unless the project applicant meets the eligibility  
25 requirement of Section 415.5(g).

1           *(d) Income Requirements: All On-site Inclusionary Housing Units must be sold or rented to*  
2 *Qualified Households. A Qualified Household must:*

3           *(1) For ownership units, earn no more than an Annual Gross Income of 90% of AMI,*  
4 *except for the alternatives set forth in (e)(3) below.*

5           *(2) For rental units, earn no more than an Annual Gross Income of 55% of AMI, except*  
6 *for the alternatives set forth in (e)(3) below.*

7           *(3) Meet the household size requirements, as defined in the Procedures Manual.*

8           *(4) For ownership units, be a First-time Homebuyer household, as defined in Section*  
9 *401.*

10           *(5) For rental units, not be a Homeowner household, as defined in Section 401.*

11           *(e) Pricing Requirements: All On-site Inclusionary Housing Units shall adhere to the*  
12 *following pricing requirements.*

13           *(1) For ownership units upon initial sale, Inclusionary Housing Units shall be priced to*  
14 *be Affordable to a Household earning no more or less than 90% of AMI, except for the alternatives set*  
15 *forth in (e)(3) below.*

16           *(2) For ownership units on subsequent sale, Inclusionary Housing Units shall be priced*  
17 *at or below the prices determined by the formula specified in the Procedures Manual that reflects the*  
18 *change in AMI from the date of purchase to the date of resale, or the applicable standard set forth in*  
19 *the Procedures Manual in place at the time of the current Inclusionary Housing Unit owner's purchase.*

20           *(3) For rental units, Inclusionary Housing Units shall be priced to be Affordable to a*  
21 *Household earning no more or less than 55% of AMI, except for the alternatives set forth in (e)(3)*  
22 *below. MOHCD shall publish such monthly rent levels on an annual basis.*

23           *(4) Dial Alternative. The Dial program allows Project Sponsors to provide more*  
24 *Inclusionary Housing Units at a higher income level by “dialing up.” Dialing up meets the goals of*  
25 *expanding housing resources for households at slightly higher income levels, but still qualifying as Low*

1 or Moderate-Income households, and producing more units than would otherwise be created under the  
 2 Program. A Project Sponsor must declare the use of the Dial program, including the specific income  
 3 targets and affordable unit count, upon submission of the Inclusionary Housing Program Affidavit in  
 4 advance of project approval and such declaration will be recorded as a Condition of Approval. Any  
 5 change to a Project Sponsor's Dial Program election requires Planning Commission approval if the  
 6 original project required Planning Commission approval. Any project choosing the Dial program must  
 7 adhere to any underlying unit mix zoning requirements and cannot apply for any unit mix exception.

8 Dialing up is permitted for On-site projects in the following circumstances:

<b><u>On-site Units - Baseline 12%</u></b>			
	<u>Unit Requirement</u>	<u>Ownership AMI Target</u>	<u>Rental AMI Target</u>
<u>Baseline requirement</u>	<u>12%</u>	<u>90% of AMI</u>	<u>55% of AMI</u>
<u>Dial up</u>	<u>13%</u>	<u>Not available</u>	<u>70% of AMI</u>
<u>Dial up</u>	<u>15%</u>	<u>120% of AMI</u>	<u>Not available</u>
<u>Dial up</u>	<u>16%</u>	<u>Not available</u>	<u>90% of AMI</u>

<b><u>On-site Units - Baseline 14.4%</u></b>			
	<u>Unit Requirement</u>	<u>Ownership AMI Target</u>	<u>Rental AMI Target</u>
<u>Baseline requirement</u>	<u>14.4 %</u>	<u>90% of AMI</u>	<u>55% of AMI</u>
<u>Dial up</u>	<u>16%</u>	<u>Not available</u>	<u>70% of AMI</u>
<u>Dial up</u>	<u>18%</u>	<u>120% of AMI</u>	<u>Not available</u>
<u>Dial up</u>	<u>19%</u>	<u>Not available</u>	<u>90% of AMI</u>

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<b><u>On-site Units - Baseline 15%</u></b>			
	<u>Unit Requirement</u>	<u>Ownership AMI Target</u>	<u>Rental AMI Target</u>
<u>Baseline requirement</u>	<u>15%</u>	<u>90% of AMI</u>	<u>55% of AMI</u>
<u>Dial up</u>	<u>17%</u>	<u>Not available</u>	<u>70% of AMI</u>
<u>Dial up</u>	<u>19%</u>	<u>120% of AMI</u>	<u>Not available</u>
<u>Dial up</u>	<u>20%</u>	<u>Not available</u>	<u>90% of AMI</u>

<b><u>On-site Units - Baseline 16%</u></b>			
	<u>Unit Requirement</u>	<u>Ownership AMI Target</u>	<u>Rental AMI Target</u>
<u>Baseline requirement</u>	<u>16%</u>	<u>90% of AMI</u>	<u>55% of AMI</u>
<u>Dial up</u>	<u>18%</u>	<u>Not available</u>	<u>70% of AMI</u>
<u>Dial up</u>	<u>20%</u>	<u>120% of AMI</u>	<u>Not available</u>
<u>Dial up</u>	<u>21%</u>	<u>Not available</u>	<u>90% of AMI</u>

<b><u>On-site Units - Baseline 17.6%</u></b>			
	<u>Unit Requirement</u>	<u>Ownership AMI Target</u>	<u>Rental AMI Target</u>
<u>Baseline requirement</u>	<u>17.6%</u>	<u>90% of AMI</u>	<u>55% of AMI</u>
<u>Dial up</u>	<u>20%</u>	<u>Not available</u>	<u>70% of AMI</u>
<u>Dial up</u>	<u>22%</u>	<u>120% of AMI</u>	<u>Not available</u>
<u>Dial up</u>	<u>23%</u>	<u>Not available</u>	<u>90% of AMI</u>

1 On-site Inclusionary Housing Units that convert to ownership Inclusionary Housing Units after  
2 the unit was first rented under the Program are subject to the conversion AMI levels as published in the  
3 Procedures Manual.

4 (d) **Marketing the Units:** ~~The Mayor's Office of Housing and Community Development~~  
5 (~~"MOHCD"~~) shall be responsible for overseeing and monitoring the marketing of ~~affordable~~  
6 ~~units~~ Inclusionary Housing Units under this Section 415.6. In general, the marketing  
7 requirements and procedures shall be contained in the Procedures Manual as amended from  
8 time to time and shall apply to the Inclusionary Housing Units~~affordable units~~ in the project.  
9 MOHCD may develop occupancy standards for units of different bedroom sizes in the  
10 Procedures Manual in order to promote an efficient allocation of Inclusionary Housing  
11 Units~~affordable units~~. MOHCD may require in the Procedures Manual that prospective  
12 purchasers complete homebuyer education training or fulfill other requirements. MOHCD  
13 shall develop a list of minimum qualifications for marketing firms that market Inclusionary  
14 Housing Units~~affordable units~~ under Section 415.5 et seq., referred to the Procedures Manual  
15 as Below Market Rate (BMR units). No developer marketing units under the Program shall be  
16 able to market Inclusionary Housing Units~~affordable units~~ except through a firm meeting all of  
17 the minimum qualifications. The Notice of Special Restrictions or ~~C~~conditions of ~~A~~approval  
18 shall specify that the marketing requirements and procedures contained in the Procedures  
19 Manual as amended from time to time, shall apply to the Aaffordable Uunits in the project.

20 (1) **Lottery:** At the initial offering of Inclusionary Housing Units~~affordable units~~ in a  
21 housing project and when ownership units become available for re-sale in any housing project  
22 subject to this Program after the initial offering, MOHCD must require the use of a public  
23 lottery approved by MOHCD to select purchasers or tenants.

24 (2) **Preferences:** MOHCD shall create a lottery system that gives the following  
25 preferences:

1 (A) first to Residential Certificate of Preference Holders under the San  
2 Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as  
3 reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the  
4 Board in File No. 080521, who meet the qualifications of the Program;

5 (B) second to any Displaced Tenant, as defined in Administrative Code  
6 Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the  
7 following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant  
8 may apply the preference to existing, currently-occupied developments only for three years  
9 from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board  
10 ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant  
11 to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding  
12 provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent  
13 Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant  
14 may apply the preference to new developments going through the initial occupancy process  
15 only for six years from the date the landlord filed with the Rent Board a notice of intent to  
16 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and  
17 the corresponding provisions of the Rent Ordinance; and (iii) for any new residential  
18 development going through the initial occupancy process, the Displaced Tenant preference  
19 shall apply only to ~~twenty percent~~ (20%) of the units in such development; and

20 (C) third to people who live or work in San Francisco who meet the  
21 qualifications of the Program.

22 The Displaced Tenant's preference shall still apply even if such Displaced Tenant  
23 declines a unit offered through application of the preference, but upon accepting and  
24 occupying a unit obtained using the preference, such Displaced Tenant's preference  
25 terminates. MOHCD shall propose policies and procedures for implementing these



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

4 (eg) Development Subsidies. Individual Inclusionary Housing Units ~~affordable units~~  
5 constructed under Section 415.6 as part of an on-site project shall not have received  
6 development subsidies from any Federal, State or local program established for the purpose  
7 of providing affordable housing, and shall not be counted to satisfy any Inclusionary Housing  
8 Unit ~~affordable housing~~ requirement. Other units in the same on-site project may have  
9 received such subsidies. In addition, subsidies may be used, only with the express written  
10 permission by MOHCD, to deepen the affordability of an Inclusionary Housing Unit ~~affordable~~  
11 ~~unit~~ beyond the level of affordability required by this Program.

12 (fh) Projects Using California Debt Limit Allocation Tax-exempt Bond Financing.  
13 Notwithstanding the provisions of Section 415.6(eg) above, a project may use California Debt  
14 Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% tax credits under the  
15 Tax Credit Allocation Committee (TCAC) to help fund its obligations under this Inclusionary  
16 Affordable Housing Program ~~ordinance~~ as long as the project provides 20% ~~percent~~ of the units  
17 as Inclusionary Housing Units affordable to households at 50% ~~percent~~ of AMI Area Median  
18 Income for on-site housing, and also meets the relevant on-site requirement for the project under  
19 Section 415.6(a). The income table to be used for such projects when the units are priced at  
20 50% ~~percent~~ of AMI Area Median Income is the income table used by MOHCD for the  
21 Inclusionary Affordable Housing Program, not that used by TCAC or CDLAC. Except as  
22 provided in this subsection (h), all units provided under this Section 415.6 must meet all of the  
23 requirements of the Inclusionary Housing Program ~~this ordinance~~ and the Procedures Manual for  
24 on-site housing. When the terms of the tax-exempt bond financing have expired, the units shall be  
25

1 subject to the requirements for On-site Units for the remaining Life of the Project, including any  
2 additional units that were required as a stipulation of government financing.

3 (g) **Benefits:** If the Pproject Ssponsor is eligible for and elects to satisfy the affordable  
4 housing requirements through the production of on-site affordable housing in this Section  
5 415.6, the Pproject Ssponsor shall be eligible to receive a refund for only that portion of the  
6 housing project which is affordable for the following fees: a Conditional Use Authorization or  
7 other fee required by Section 352 of this Code, if applicable; an environmental review fee  
8 required by Administrative Code Section 31.21 and following 31.46B, if applicable; a building  
9 permit fee required by the Building Code and by Section 355 of this Code for the portion of the  
10 housing project that is affordable. The Pproject Ssponsor shall pay the building fee for the  
11 portion of the project that is market-rate.

12 The Controller shall refund fees from any appropriated funds to the Pproject Ssponsor  
13 on application by the Pproject Ssponsor. The application must include a copy of the Certificate  
14 of Occupancy for all Inclusionary Housing ~~Units~~ affordable to a qualifying household required by  
15 the Inclusionary Housing Program. It is the policy of the Board of Supervisors to appropriate  
16 money for this purpose from the General Fund.

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

18 If the Pproject Ssponsor is eligible and ~~selects~~ pursuant to Section 415.5(g) to provide  
19 Off-site Units to satisfy the requirements of Section 415.1 et seq., the Pproject Ssponsor  
20 shall notify the Planning Department and the ~~Mayor's Office of Housing and Community~~  
21 ~~Development~~ ("MOHCD") of its intent as early as possible. The Planning Department and  
22 MOHCD shall provide an evaluation of the project's compliance with this Section 415.7 prior to  
23 approval by the Planning Commission or Planning Department. There are two ways a Principal  
24 Project may propose to meet the off-site requirements: by meeting "Core off-site requirements," or by  
25 applying to MOHCD to develop a "Nonprofit Provider Partner Project" as defined in Section 401.

1 The development project shall meet the following requirements:

2 (a) **Number of Units:** ~~The number of units constructed off-site shall be as follows:~~

3 (1) ~~(A) Core Off-site projects: The number of units constructed off-site shall be as~~  
4 ~~follows:~~

5 \_\_\_\_\_ (A) For any housing development of any height that is located in an area  
6 with a specific affordable housing requirement, set forth in Section 419, or elsewhere in this  
7 Code, the more specific off-site housing requirement shall apply. Notwithstanding the foregoing,  
8 a Project Sponsor may elect to participate in the Dial program set forth in subsection (f).

9 (B) Buildings of 120 feet and under in height or buildings of over 120 feet  
10 in height that do not meet the criteria in Subsection (C) below: Except as provided in  
11 Subsection (A), the Department shall require for housing projects described in Section  
12 415.3(a)(1), (2), (3), and (4) 20% so that a project applicant must construct .20 times the total  
13 number of units produced in the principal project. If the total number of units is not a whole  
14 number, the project applicant shall round up to the nearest whole number for any portion of .5  
15 or above. Notwithstanding the foregoing, a Project Sponsor may elect to participate in the Dial  
16 program set forth in subsection (f).

17 (C) Buildings of over 120 feet in height. Except as provided in  
18 subsection (A) above, the requirements of this Subsection shall apply to any project that is  
19 over 120 feet in height and does not require a Zoning Map amendment or Planning Code text  
20 amendment related to its project approvals which (i) results in a net increase in the number of  
21 permissible residential units, or (ii) results in a material increase in the net permissible  
22 residential square footage as defined in Section 415.3(b)(2); or has not received or will not  
23 receive a Zoning Map amendment or Planning Code text amendment as part of an Area Plan  
24 adopted after January 1, 2006 ~~which~~ that: a. (i) results in a net increase in the number of  
25 permissible residential units, or b. (ii) results in a material increase in the net permissible

1 residential square footage as defined in Section 415.3(b)(2). The Department shall require for  
2 housing projects covered by this Subsection and Section 415.3(a)(1), as a condition of  
3 Planning Department approval of a project's building permit, or by this Subsection and by  
4 Section 415.3(a)(2), (3) and (4), as a condition of approval of a Conditional Use Authorization  
5 or Planned Unit Development or as a condition of Department approval of a live/work project,  
6 that 17% of all units constructed on the project site shall be Inclusionary Housing Units  
7 ~~affordable to qualifying households~~ so that a Pproject Ssponsor must construct .17 times the total  
8 number of units produced in the Pprincipal Pproject. If the total number of units is not a whole  
9 number, the Pproject Ssponsor shall round up to the nearest whole number for any portion of  
10 .5 or above. ~~Consistent with the conclusions of the MOH study authorized in Section 415.9(e), MOH~~  
11 ~~shall recommend and the Board of Supervisors shall consider whether the requirements of this~~  
12 ~~Subsection for buildings of over 120 feet in height shall continue or expire after approximately five~~  
13 ~~years from April 24, 2007. Notwithstanding the foregoing, a Project Sponsor may elect to participate~~  
14 ~~in the Dial program set forth in subsection (f)(4).~~

15 (2) Non-profit Provider Partner Projects. Such Projects must provide a minimum of  
16 20% or the project's applicable percentage requirement under Section 415.7(a)(1)(A) of the Principal  
17 Project units, but may meet their off-site requirement on a square footage basis and would be required  
18 to provide 20% of their Principal Project Residential Floor Area as Off-Site Units.

19 The off-site units must:

20 (A) Meet or exceed the weighted average of unit type by bedroom count of the  
21 Principal Project; and

22 (B) Provide at minimum the same total number of bedrooms as would have  
23 been provided in a bedroom mix proportional to the Principal Project under Subsection (a)(1)(B)  
24 above.

25 **(b) Timing of Construction:**

1           (1) Core Off-site projects. The Project Sponsor shall ensure that the off-site  
2 units are constructed, completed, ready for occupancy, and marketed no later than the market  
3 rate units in the Principal Project. ~~In no case shall the~~ The Principal Project shall not receive its  
4 First Certificate of Occupancy until the ~~Off-site~~ Off-site project has received its First Certificate of  
5 Occupancy.

6           (2) Nonprofit Provider Partner Projects. The Project Sponsor shall ensure that the Off-  
7 site Units are constructed, completed, ready for occupancy, and marketed no later than the market rate  
8 units in the Principal Project. The Principal Project shall not receive its First Certificate of  
9 Occupancy until the Off-site project has received its First Certificate of Occupancy.

10           (3) If the Director of MOHCD makes a recommendation to the Zoning Administrator,  
11 the Zoning Administrator may grant an exception within the time limits set forth in subsection (4) to the  
12 timing requirements above. MOHCD shall only recommend and the Zoning Administrator shall only  
13 grant an exception if the Project Sponsor has demonstrated that the requirements of the Inclusionary  
14 Affordable Housing Program will be met and if all of the following conditions are met:

15           (A) Prior to receiving its First Certificate of Occupancy for the Principal  
16 Project, the Project Sponsor provides the City with an irrevocable standby letter of credit, acceptable  
17 in form and substance and from a provider reasonably acceptable to MOHCD and the City Attorney's  
18 Office each of whose consent will not be unreasonably withheld, in the amount of the Affordable  
19 Housing Fee that would have been due from the Principal Project Sponsor under Section 415.5 plus  
20 interest and penalties from the date when it should have been paid until the last date of the requested  
21 extension, less any amount of equity that the Principal Project Sponsor has paid in cash that has  
22 already been spent on constructing the off-site project;

23           (B) The Off-site Project is entitled before the Principal Project obtains its First  
24 Construction Document; and

1                    (C) The following rules are met before the Principal Project obtains its First  
2 Certificate of Occupancy: (i) the Off-site Project parcel has been acquired by the Principal Project  
3 Sponsor, Nonprofit Provider Partner, or an entity that is owned or controlled by either such party; (ii)  
4 the Off-site Project has obtained its First Construction Document and has commenced construction;  
5 and (iii) a Notice of Special Restrictions reflecting the Off-site Project's conditions of approval,  
6 including but not limited to the requirements of Planning Code Section 415 et. al. and the Procedures  
7 Manual, has been recorded on the Off-site Project.

8                    (4) The maximum amount of time permitted for an exception is as follows:

9                    (A) Core Off-site Projects. The Off-site project must receive its First Certificate  
10 of Occupancy within one year of the date the Principal Project obtained its First Certificate of  
11 Occupancy.

12                    (B) Nonprofit Provider Partner Projects. The Off-site project must receive its  
13 First Certificate of Occupancy within two years of the date the Principal Project obtained its First  
14 Certificate of Occupancy. The Director of MOHCD may recommend that the Zoning Administrator  
15 grant an additional year in the case of projects that have demonstrated significant progress and can  
16 demonstrate ability to be completed within the additional extension period.

17                    (5) Failure to complete an off-site project within the time exception permitted per  
18 subsections (3) and (4) above shall result in forfeiting the Project Sponsor's letter of credit, but the  
19 Certificate of Occupancy for the Principal Project will not be withheld or withdrawn.

20                    (6) The Director of MOHCD may recommend that the Zoning Administrator allow  
21 exceptions to the timing requirements in subsections (4)(A) and (B) above if the CEQA decision,  
22 building permit, or other entitlement for the off-site project is appealed or the off-site project is the  
23 subject of a later court challenge.

24                    **(c) Location of off-site housing:** The project sponsor must insure that off-site units are  
25 located within one mile of the principal project.

1 (1) Core Off-site projects. MOHCD shall not permit a Core Off-site project unless the  
2 off-site units are located within a one-mile radius of the Principal Project, or MOHCD, in consultation  
3 with the Planning Department, determines that the off-site project is within the same neighborhood as  
4 the Principal Project using a definition of “neighborhood” in common use by the Planning  
5 Department, such as the Planning Department’s 37-neighborhood notification map. If the Director of  
6 MOHCD makes an affirmative recommendation, the Zoning Administrator may allow the off-site  
7 project to be located an additional one quarter mile beyond the one-mile radius.

8 (2) Nonprofit Provider Partner Projects. The requirements for location of Off-site  
9 housing are the same as for the Core Off-site projects.

10 **(d) Type of Housing:**

11 (1) Core Off-site projects. All Off-site Units constructed under this Section 415.7 must  
12 be provided for the Life of the Project. All off-site units constructed under this Section must be  
13 provided as ownership housing ~~for the life of the project~~ unless the project applicant meets the  
14 eligibility requirement of Section 415.5(g). ~~If offered for ownership, all off-site units must be~~  
15 ~~affordable to households earning no more than 70 percent of the AMI, or if offered for rent, Affordable~~  
16 ~~to Qualifying Households at the rental level.~~ Nothing in this Section shall limit a Pproject Sponsor  
17 from meeting the requirements of this Section through the construction of units in a limited  
18 equity or land trust form of ownership if such units otherwise meet all of the requirements for  
19 off-site housing. In general, Off-site Units constructed under Section 415.7 shall be  
20 ~~proportional in unit type by bedroom count and~~ comparable in number of bedrooms, ~~exterior~~  
21 ~~appearance~~ and overall quality of construction to market rate units in the Principal Project  
22 ~~principal project~~. The total square footage of the Off-site Units ~~off-site affordable units~~  
23 constructed under Section 415.7 shall be no less than the calculation of the total square  
24 footage of the on-site market-rate units in the Principal Project ~~principal project~~ multiplied by  
25 the relevant on-site percentage requirement for the project specified in Section 415.7. The

1 Notice of Special Restrictions or conditions of approval shall include a specific number of units  
 2 at specified unit sizes - including number of bedrooms and minimum square footage - for  
 3 Inclusionary Housing Units~~affordable units~~. The interior features in Inclusionary Housing  
 4 Units~~affordable units~~ should generally be the same as those of the market rate units in the  
 5 Principal Project ~~principal project~~ but need not be the same make model or type of such item  
 6 as long as they are of new and good quality and are consistent with then-current standards for  
 7 new housing and so long as they are consistent with the "Quality Standards for Off-Site  
 8 Inclusionary Affordable Housing Units" found in the Procedures Manual. Where applicable,  
 9 parking shall be offered to the Inclusionary Housing Units~~affordable units~~ subject to the terms  
 10 and conditions of the Department's policy on unbundled parking for Inclusionary Housing  
 11 Units~~affordable housing units~~ as specified in the Procedures Manual and amended from time to  
 12 time. If the residential units in the Pprincipal Pproject are live/work units which do not contain  
 13 bedrooms or are other types of units which do not contain bedrooms separated from the living  
 14 space, the Offoff-site Uunits shall be comparable in size according to the following equivalency  
 15 calculation between live/work and units with bedrooms:

Number of Bedrooms (or, for live/work units square foot equivalency)	Number of Persons in Household
0 (Less than 600 square feet)	1
1 (601 to 850 square feet)	2
2 (851 to 1,100 square feet)	3
3 (1,101 to 1,300 square feet)	4
4 (More than 1,300 square feet)	5

22  
 23 (2) Nonprofit Provider Partner Projects. The requirements for location of Off-site  
 24 housing are the same as for the Core Off-site projects.

25



1           (e) **Income Requirements:** All Off-site Inclusionary Housing Units must be sold or rented to  
2 Qualified Households. A Qualified Household must:

3                   (1) For ownership units, earn no more than an Annual Gross Income of 90% of AMI,  
4 except for as provided in the Dial in (e)(4) below.

5                   (2) For rental units, earn no more than an Annual Gross Income of 55% of AMI, except  
6 for the as provided in the Dial in (e)(4) below.

7                   (3) Meet the household size requirements, as defined in the Procedures Manual.

8                   (4) For ownership units, be a First-time Homebuyer household, as defined in Section  
9 401.

10                  (5) For rental units, not be a Homeowner household, as defined in Section 401.

11           (f) **Pricing Requirements:** All Off-site Inclusionary Housing Units shall adhere to the  
12 following pricing requirements.

13                   (1) For ownership units upon initial sale, Inclusionary Housing Units shall be priced to  
14 be Affordable to a Household earning no more or less than 90% of AMI, except for as provided in the  
15 Dial in (e)(4) below.

16                   (2) For ownership units on subsequent sale, Inclusionary Housing Units shall be priced  
17 at or below the prices determined by the formula specified in the Procedures Manual that reflects the  
18 change in AMI from the date of purchase to the date of resale, or the applicable standard set forth in  
19 the Procedures Manual in place at the time of the current Affordable Housing Unit owner's purchase.

20                   (3) For rental units, Inclusionary Housing Units shall be priced to be Affordable to a  
21 Household earning no more or less than 55% of AMI, except as provided in the Dial in (e)(4) below.  
22 MOHCD shall publish such monthly rent levels on an annual basis. At no time can a rent increase, or  
23 can multiple rent increases within one year, exceed the percentage change in the monthly rent levels as  
24 published by MOHCD from the previous calendar year to the current calendar year.

1                   (4) Dial Alternative. The Dial program allows Project Sponsors to provide more  
2 Inclusionary Housing Units at a higher income level by “dialing up.” Dialing up meets the goals of  
3 expanding housing resources for households at slightly higher income levels, but still qualifying as Low  
4 or Moderate Income households, and producing more units than would otherwise be created under the  
5 Program. A Project Sponsor must declare the use of the Dial program, including the specific income  
6 targets and affordable unit count, upon submission of the Inclusionary Housing Program Affidavit in  
7 advance of project approval and such declaration will be recorded as a Condition of Approval. Any  
8 change to a Project Sponsor’s Dial Program election requires Planning Commission approval if the  
9 original project required Planning Commission approval. Any project choosing the Dial program must  
10 adhere to any underlying unit mix zoning requirements and cannot apply for any unit mix exception.

11                   Dialing up is permitted for Off-site projects in the following circumstances:

12

<b><u>Off-site Units - Baseline 20%</u></b>			
	<u>Unit Requirement</u>	<u>Ownership AMI Target</u>	<u>Rental AMI Target</u>
<u>Baseline requirement</u>	<u>20%</u>	<u>90% of AMI</u>	<u>55% of AMI</u>
<u>Dial up</u>	<u>23%</u>	<u>Not available</u>	<u>70% of AMI</u>
<u>Dial up</u>	<u>30%</u>	<u>Not available</u>	<u>90% of AMI</u>
<u>Dial up</u>	<u>31%</u>	<u>120% of AMI</u>	<u>Not available</u>

20

<b><u>Off-site Units - Baseline 17%</u></b>			
	<u>Unit Requirement</u>	<u>Ownership AMI Target</u>	<u>Rental AMI Target</u>
<u>Baseline requirement</u>	<u>17%</u>	<u>90% of AMI</u>	<u>55% of AMI</u>
<u>Dial up</u>	<u>20%</u>	<u>Not available</u>	<u>70% of AMI</u>

<u>Dial up</u>	<u>26%</u>	<u>120% of AMI</u>	<u>90% of AMI</u>
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<b><u>Off-site Units - Baseline 23%</u></b>			
	<u>Unit Requirement</u>	<u>Ownership AMI Target</u>	<u>Rental AMI Target</u>
<u>Baseline requirement</u>	<u>23%</u>	<u>90% of AMI</u>	<u>55% of AMI</u>
<u>Dial up</u>	<u>27%</u>	<u>Not available</u>	<u>70% of AMI</u>
<u>Dial up</u>	<u>35%</u>	<u>120% of AMI</u>	<u>90% of AMI</u>

<b><u>Off-site Units - Baseline 25%</u></b>			
	<u>Unit Requirement</u>	<u>Ownership AMI Target</u>	<u>Rental AMI Target</u>
<u>Baseline requirement</u>	<u>25%</u>	<u>90% of AMI</u>	<u>55% of AMI</u>
<u>Dial up</u>	<u>29%</u>	<u>Not available</u>	<u>70% of AMI</u>
<u>Dial up</u>	<u>38%</u>	<u>120% of AMI</u>	<u>90% of AMI</u>

<b><u>Off-site Units - Baseline 27%</u></b>			
	<u>Unit Requirement</u>	<u>Ownership AMI Target</u>	<u>Rental AMI Target</u>
<u>Baseline requirement</u>	<u>27%</u>	<u>90% of AMI</u>	<u>55% of AMI</u>
<u>Dial up</u>	<u>32%</u>	<u>Not available</u>	<u>70% of AMI</u>
<u>Dial up</u>	<u>41%</u>	<u>120% of AMI</u>	<u>90% of AMI</u>

1 Off-site Inclusionary Housing Units that convert to ownership Inclusionary Housing Units after the unit  
2 was first rented under the Program are subject to the conversion AMI levels as published in the  
3 Procedures Manual.

4 (g) **Marketing the Units:**

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

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

1                                    (B2) **Preferences:** MOHCD shall create a lottery system that gives the  
2 following preferences:

3                                    (iA) first to Residential Certificate of Preference Holders under the  
4 San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program,  
5 as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of  
6 the Board in File No. 080521, who meet the qualifications of the Program;

7                                    (iiB) second to any Displaced Tenant, as defined in Administrative  
8 Code Section 24.8, who meets all of the qualifications for the unit for assistance, provided that  
9 the following limitations shall apply to the Displaced Tenant preference: ~~(i~~

10                                    ~~\_\_\_\_\_ a.)~~ a Displaced Tenant may apply the preference to  
11 existing, currently-occupied developments only for three years from the date the landlord filed  
12 with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent  
13 to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California  
14 Government Code Section 7060 et seq. and the corresponding provisions of the San  
15 Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative  
16 Code Sections 37.9(a)(13) and 37.9A; ~~(ii)~~

17                                    ~~\_\_\_\_\_ b.~~ a Displaced Tenant may apply the preference to new  
18 developments going through the initial occupancy process only for six years from the date the  
19 landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the  
20 rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the  
21 Rent Ordinance; ~~and (iii)~~

22                                    ~~\_\_\_\_\_ c.~~ for any new residential development going through the initial  
23 occupancy process, the Displaced Tenant preference shall apply only to ~~twenty percent (20%)~~  
24 of the units in such development; and

1                            ~~(iii.)~~ third to people who live or work in San Francisco who meet  
2 the qualifications of the Program. The Displaced Tenant's preference shall still apply even if  
3 such Displaced Tenant declines a unit offered through application of the preference, but upon  
4 accepting and occupying a unit obtained using the preference, such Displaced Tenant's  
5 preference terminates. MOHCD shall propose policies and procedures for implementing these  
6 preferences to the Planning Commission for inclusion in the Procedures Manual. Otherwise,  
7 it is the policy of the City to treat all households equally in allocating Inclusionary Housing  
8 Units~~affordable units~~ under this Program.

9                            (2) Nonprofit Provider Partner Projects. The Marketing Procedures shall be the same  
10 as those for the Core Off-site units.

11                            ~~(hf)~~ **Development Subsidies.**

12                            (1) Core Off-site units. Individual Inclusionary Housing Units~~affordable units~~  
13 constructed as part of a larger off-site project under Section 415.7 shall not receive  
14 development subsidies from any Federal, State or local program established for the purpose  
15 of providing affordable housing, and shall not be counted to satisfy any Inclusionary Housing  
16 Unit~~affordable housing~~ requirement for the off-site development. Other units in the same off-site  
17 project may receive such subsidies. In addition, subsidies may be used, only with the express  
18 written permission by MOHCD, to deepen the affordability of Inclusionary Housing Units~~an~~  
19 ~~affordable units~~ beyond the level of affordability required by this Program.

20                            (2) Nonprofit Provider Partner Projects. The limitations on the use of development  
21 subsidies shall be the same as those for the Core Off-site units.

22                            ~~(ig)~~ **Projects Using California Debt Limit Allocation Committee Tax-exempt Bond**  
23 **Financing.**

24                            (1) Core Off-site projects. Notwithstanding the provisions of Section 415.7~~(hf)~~  
25 above, a project may use California Debt Limit Allocation Committee (CDLAC) tax-exempt

1 bond financing and 4% credits under the Tax Credit Allocation Committee (TCAC) to help  
2 fund its obligations under this ordinance as long as the project provides a minimum of 20% 25  
3 ~~percent~~ of the units as Inclusionary Housing Units affordable at 50% of AMI area median income  
4 for off-site housing, and also meets the relevant off-site requirement for the projects per Section  
5 415.7(a). The income table to be used for such projects when the units are priced at 50%  
6 ~~percent of AMI area median income~~ is the income table used by MOHCD for the Inclusionary  
7 Housing Program, not that used by TCAC or CDLAC. Except as provided in this subsection,  
8 all units provided under this Section 415.7 must meet all of the requirements of this  
9 ~~ordinance~~ Section 415 and the Procedures Manual for off-site housing. When the terms of the tax-  
10 exempt bond financing have expired, the units shall be subject to the requirements for Off-site Units for  
11 the remaining Life of the Project, including any additional units that were required as a stipulation of  
12 government financing.

13 (2) Nonprofit Provider Partner Projects. The requirement for Core Off-site projects  
14 apply.

15 (j) Aggregation of Principal Project Off-site Units: As long as all of the other requirements of  
16 this Section 415.7 are met, any Core or Nonprofit Partner Provider Off-site project may include units  
17 to satisfy the off-site requirements of one or more Principal Projects.

18 **SEC. 415.7A. SMALL SITES AFFORDABLE HOUSING ALTERNATIVE.**

19 A Project Sponsors of a Principal Project comprised of up to 25 residential units may elect  
20 under Section 415.5(g) to meet its Inclusionary Affordable Housing requirement by designating its  
21 payment of the Affordable Housing Fee due under Section 415.5 into a Small Sites Program that  
22 MOHCD shall establish for this purpose. MOHCD shall expend the funds from a Principal Project on  
23 a Small Sites Project that meets the requirements set forth in Section 415.5(f)(2)(B) within the  
24 geographic area described in Section 415.7. If MOHCD is unable to identify a qualifying Small Sites  
25 Project and apply the fee to a Small Sites Project within the geographic area required in Section 415.7

1 within two years of the payment of the fee, such fee shall be released into the Affordable Housing Fund  
2 to fund other qualifying Small Sites Projects in San Francisco.

3 **SEC. 415.8. DURATION AND MONITORING OF AFFORDABILITY.**

4 (a) For any units permitted under the Program:

5 (1) All units constructed pursuant to Sections 415.6 (on-site alternative) and  
6 415.7 (off-site alternative) must be owner-occupied, as defined in the Procedures Manual, in  
7 the case of ownership units or occupied by Qualified Households~~qualified households~~ in the case  
8 of rental units.

9 (2) Units shall not remain vacant for a period exceeding 60 days without the  
10 written consent of MOHCD.

11 (3) All units constructed pursuant to Sections 415.6 and 415.7 must remain  
12 Inclusionary Housing Units~~affordable to qualifying households~~ for the Life of the Project~~life of the~~  
13 ~~project~~.

14 (4) The income levels specified in the Notice of Special Restrictions and/or  
15 Conditions of Approval~~conditions of approval~~ for the project shall be the required income  
16 percentages for the Life of the Project~~life of the project~~. Notwithstanding the foregoing, if  
17 approved by MOHCD and as provided in the Procedures Manual, an exception to the required  
18 income percentage may be made in the following cases:

19 (A) a rental unit that converts to an ownership unit, up to a maximum of  
20 120% of AMI;

21 (B) where there is an existing tenant, the household income may  
22 increase by up to 200% of the levels specified in the Notice of Special Restrictions or  
23 conditions of approval but at no time higher than Moderate Income;



1 (C) new ownership units where the ~~P~~project ~~S~~sponsor has used good  
2 faith efforts to secure a contract with a Qualified Household~~qualified buyer~~ but is unable to  
3 secure such a contract in a timely manner from the initiation of marketing;

4 (D) resale ownership units where the owner has used good faith efforts  
5 to secure a contract with a Qualified Household~~qualified buyer~~ but is unable to secure a buyer  
6 contract at a maximum resale price specified by MOHCD in a timely manner; or

7 (E) the qualifying income level for ~~new~~ ownership units may be set at  
8 10% above the income level stated in the Notice of Special Restrictions or Conditions of  
9 Approval~~conditions of approval~~.

10 (5) The price levels specified in Sections 415.6 (e)(1) and 415.7 (e)(1) shall apply  
11 except in the case where a Project Sponsor at the time of completion of the project makes a request to  
12 the Director of MOHCD and the Director approves the request in writing to sell the Inclusionary  
13 Housing Units at a lower price on initial sale.

14 (6) The Commission or the Department shall require all Housing Projects ~~housing~~  
15 ~~projects~~ subject to Section 415.1 et seq. to record a Notice of Special Restrictions with the  
16 Recorder of the City and County of San Francisco. The Notice of Special Restrictions must  
17 incorporate the affordability restrictions. All projects described in Section 415.3(a)(1) and  
18 415.3(a)(3) must incorporate all of the requirements of this Section 415.8 into the Notice for  
19 Special Restrictions, including any provisions required to be in the Conditions of  
20 Approval~~conditions of approval~~ for Housing Projects ~~housing projects~~ described in Section  
21 415.3(a)(2). These Section 415.3(a)(2) projects which are Housing Projects ~~housing projects~~  
22 ~~which that~~ go through the conditional use or planned unit development process shall have  
23 Conditions of Approval~~conditions of approval~~. The Conditions of Approval~~conditions of approval~~  
24 shall specify that project applicants shall adhere to the marketing, monitoring, and  
25 enforcement procedures outlined in the Procedures Manual, as amended from time to time., ~~in~~

1 ~~effect at the time of project approval. The Commission shall file the Procedures Manual in the case file~~  
2 ~~for each project requiring inclusionary housing pursuant to this Program.~~ The Procedures Manual  
3 ~~will~~ shall be referenced in the Notice of Special Restrictions for each project.

4 (b) For any units permitted to be ownership units under the Program, MOHCD~~the~~  
5 ~~Mayor's Office of Housing~~ shall:

6 (1) establish and implement a process for reselling an Inclusionary Housing  
7 Unit~~affordable unit~~ in the Procedures Manual;

8 (2) provide that owners may not change title on the unit without review and  
9 approval by MOHCD and according to guidelines published in the Procedures Manual.

10 (3) provide that owners must comply with refinancing procedures and limitations  
11 as published in the Procedures Manual.

12 (4) provide that, in order to retain all units restricted as affordable under this  
13 Program within the City's affordable housing stock, the specific procedures for passing an  
14 Inclusionary Housing Unit~~affordable unit~~ through inheritance are contained in the Procedures  
15 Manual. All transfers through inheritance must be reviewed and approved by MOHCD and, in  
16 all cases, the heir must acknowledge and agree to the provisions of the Program. The  
17 following households may inherit the ability to occupy a unit restricted under this Program:

18 (A) a spouse or registered domestic partner, regardless of income; or (B) a child of the  
19 owner if the child is a Qualifying Household~~qualifying household~~ for the unit. If the heir qualifies  
20 under one of these categories, the heir must occupy the unit or the heir must market and sell  
21 the unit at the restricted price through a public lottery process and retain the proceeds from  
22 the sale. If the heir does not qualify to occupy the unit, the heir must market and sell the unit  
23 at the restricted price to a Qualifying Household ~~qualified buyer~~ through a public lottery process.  
24 The heir would retain the proceeds of such sale.

1                   (5) Require that ~~affordable~~-rental Inclusionary Housing Units~~units~~ permitted by the  
2 Commission to be converted to ownership units must satisfy the requirements of the  
3 Procedures Manual, as amended from time to time, including that the units shall be sold at  
4 restricted sales prices to households meeting the income qualifications specified in the Notice  
5 of Special Restrictions or Conditions of Approval~~conditions of approval~~, with a right of first refusal  
6 for the occupant(s) of such units at the time of conversion. If the current tenant qualifies for  
7 and purchases the unit, the unit shall be sold at a sales price corresponding to the affordability  
8 level required for rental units or to the affordability level for the specific tenant household,  
9 whichever is higher, with a maximum allowable qualifying income level up to 120% of AMI. If  
10 the unit is sold to anyone else, the sales price shall correspond to the affordability level  
11 required for ownership units. Upon conversion to ownership, the units are subject to the  
12 resale and other restrictions of this Program for the Life of the Project~~life of the project~~, as  
13 defined in the Notice of Special Restrictions or Conditions of Approval~~conditions of approval~~ for  
14 the Project.

15                   (6) For ownership units approved pursuant to Sections 415.6 or 415.7, the  
16 Notice of Special Restrictions or Conditions of Approval~~conditions of approval~~ will include  
17 provisions restricting resale prices and purchaser income levels according to the formula  
18 specified in the Procedures Manual, as amended from time to time. ~~In the case that~~  
19 ~~subordination of the Affordability Conditions contained in a recorded Notice of Special Restrictions~~  
20 ~~may be necessary to ensure the Project Applicant's receipt of adequate construction and/or permanent~~  
21 ~~financing for the project, or to enable first time home buyers to qualify for mortgages, the project~~  
22 ~~applicant may follow the procedures for subordination of affordability restrictions as described in the~~  
23 ~~principal project's conditions of approval or in the Procedures Manual.~~—A release following  
24 foreclosure or other transfer in lieu of foreclosure may be authorized if required as a condition  
25 to buyer financing pursuant to the procedures set forth in the Procedures Manual.

1 (7) Purchasers of Inclusionary Housing Unit~~affordable units~~ shall secure the  
2 obligations contained in the Notice of Special Restrictions or Conditions of Approval~~conditions of~~  
3 ~~approval~~ by executing and delivering to the City a promissory note secured by a deed of trust  
4 encumbering the applicable Inclusionary Housing Unit~~affordable unit~~ as described in the  
5 Procedures Manual or by an alternative means if so provided for in the Procedures Manual,  
6 as amended from time to time.

7 (8) **Procedures For Units Unable To Resell.** The Board of Supervisors finds  
8 that certain requirements of this Program and the Procedures Manual may create hardship for  
9 owners of Inclusionary Housing Unit~~affordable units~~ restricted under this Program. However,  
10 the Board also recognizes that the requirements of this Program are important to preserve the  
11 long-term affordability of units restricted under the Program. In order to allow some relief for  
12 owners of Inclusionary Housing Unit~~affordable units~~ during a time of economic downturn, but to  
13 provide the maximum protection for the long-term affordability of the units, the Board directs  
14 MOHCD to analyze the following issues and, if it deems appropriate, to propose amendments  
15 to the Procedures Manual to address the issues:

16 (~~A~~) **Waiver of Re-Sale Requirements and Maximum Qualifying**  
17 **Income Level for New Buyers of Resale BMR Units.** The Board recognizes that the risk to  
18 low and moderate income homeowners during times of economic downturn can increase the  
19 risk of default and foreclosure of units restricted under this Program. The Board directs  
20 MOHCD to study ways to reduce such risks in the Inclusionary Housing Unit~~unit~~ context and, if  
21 it deems appropriate, to make recommendations to the Planning Commission to amend the  
22 Procedures Manual to allow MOHCD discretion, in certain limited circumstances, to waive  
23 requirements for owners of Inclusionary Housing Unit~~affordable units~~ who have used good faith  
24 efforts to secure a contract with a Qualified Buyer~~qualified buyer~~ but are unable to resell their  
25 unit in a timely manner. Such amendments to the Procedures Manual may include, but are

1 not limited to, authorizing MOHCD to make one or more allowances for owners of Inclusionary  
2 Housing Units~~affordable units~~ unable to resell such as: (i~~1~~) a one-time waiver of the First-time  
3 Homebuyer~~first-time homebuyer~~ rule for the purchasing household; (ii~~2~~) a one-time waiver of  
4 Qualifying Household~~qualifying household~~ size requirements for the purchasing household; (iii~~3~~)  
5 ~~and~~ a one-time waiver of owner occupancy rules to allow a temporary rental; -(iv~~4~~) a one-time  
6 modification of the asset test for the new buyer household; and (v~~5~~) allowing MOHCD  
7 discretion to increase the qualifying income level for the unit by up to 20% above the  
8 maximum income limit currently allowed by the Use Restrictions for the Inclusionary Housing  
9 Unit but at no time higher than 120% of AMI. MOHCD and the Commission shall set forth  
10 criteria for granting such allowances such as establishing a minimum time that the units must  
11 have been advertised by MOHCD without selling; establishing criteria related to unusual  
12 economic or personal circumstances of the owner; providing a maximum percentage for the  
13 increase above the maximum income limit currently allowed; providing that the increase may  
14 only be granted on a one-time basis; and requiring the owner to clearly establish that the  
15 Inclusionary Housing Unit~~BMR unit~~ is being resold at the original purchase price plus the current  
16 repricing mechanism under the Program which calculates the percentage change in AMI from  
17 the time of purchase to resale plus the commission and any eligible capital improvements or  
18 special assessments.

19 (2B) **Waiver of Maximum Qualifying Income Level For New Buyers of**  
20 **Initial Sale BMR Units.** The Board of Supervisors recognizes that the current Program  
21 provides that the income of a new buyer of a below market rate household cannot exceed the  
22 maximum income stated in the Planning Approval or Notice of Special Restrictions for the  
23 ~~BMR~~Inclusionary Housing Unit. Due to a less desirable development~~s~~ or geographic areas, a  
24 ~~P~~project ~~S~~sponsor is sometimes unable to find a buyer for an ~~BMR~~Inclusionary Housing Unit  
25 within the maximum income stated in the Planning Approval or Notice of Special Restrictions

1 for the Unit. This situation makes it difficult, if not impossible, for certain current owners of  
2 Inclusionary Housing Units ~~below market rate units~~ to sell their units. In order to minimize this  
3 situation, the Board of Supervisors directs MOHCD ~~the Mayor's Office of Housing~~ to study ways  
4 to address this issue and, if it deems appropriate, to make recommendations to the Planning  
5 Commission to amend the Procedures Manual to allow MOHCD to assist Project Sponsors  
6 who have used good faith efforts to secure a contract with a Qualified Buyer ~~qualified buyer~~ but  
7 who are unable to secure such a contract in a timely manner from the initiation of marketing.  
8 Such amendments may include allowing MOHCD discretion to increase the qualifying income  
9 level for the unit by up to 20% above the maximum income limit currently allowed by the Use  
10 Restrictions for the Unit but at no time higher than 120% of AMI. MOHCD and the Planning  
11 Commission shall establish limits to this or a similar proposal such as: providing a maximum  
12 percentage for the increase above the maximum income limit currently allowed; requiring that  
13 a certain period without securing a buyer would pass before such an allowance would be  
14 made; and providing that the increase may only be granted on a one-time basis.

15 (c) For any units permitted to be rental units under the Program, MOHCD shall  
16 establish:

17 (1) restrictions on lease changes and propose such restrictions to the  
18 Commission for inclusion in the Procedures Manual.

19 (2) additional eligibility criteria for subleasing and propose such restrictions to  
20 the Commission for inclusion in the Procedures Manual.

21 (3) criteria for continued eligibility for occupied rental units and propose such  
22 restrictions to the Commission for inclusion in the Procedures Manual.

23 (4) criteria for homeownership status and propose such restrictions to the  
24 Commission for inclusion in the Procedures Manual.

25

1 (5) criteria for granting affordable rental households the right of first refusal in  
2 purchasing an affordable unit that is converted from rental to ownership and propose such  
3 restrictions to the Commission for inclusion in the Procedures Manual.

4 (6) that at no time shall an annual increase exceed the actual allowable  
5 increase for that year. In cases where the rent has decreased, the tenant's rent must be  
6 decreased. In cases where the annual adjustments have not been applied year to year, the  
7 Project Owner may not take advantage of any increases that were not applied until the Unit is  
8 vacant and re-rented.

9 **SEC. 415.9. ENFORCEMENT PROVISIONS AND MONITORING OF PROGRAM.**

10 (a) A First Construction Document~~first construction document~~ or first Certificate of  
11 Occupancy, whichever applies, shall not be issued by the Director of DBI to any unit in the  
12 Principal Project~~principal project~~ until all of the ~~affordable housing~~ requirements of Sections  
13 415.1 et seq. are satisfied.

14 (b) If, after issuance of the first Certificate of Occupancy, the Commission or  
15 Department determines that a Pproject Ssponsor has failed to comply with any requirement in  
16 Section 415.1 et seq. or any reporting requirements detailed in the Procedures Manual, or has  
17 violated the Notice of Special Restrictions, the Commission, Department, or DBI may, until the  
18 violation is cured, ~~(1a)~~ revoke the Certificate of Occupancy for the Principal Project~~principal~~  
19 ~~project~~ or required Inclusionary Housing Units~~affordable units~~, ~~(2b)~~ impose a penalty on the  
20 project pursuant to Section 176(c) of this Code, and/or ~~(3e)~~ the Zoning Administrator may  
21 enforce the provisions of Section 415.1 et seq. through any means provided for in Section 176  
22 of this Code.

23 (c) The Department shall notify MOHCD of any housing project subject to the  
24 requirements of Section 415.1 et seq., including the name of the Pproject Ssponsor and the  
25 number and location of the Inclusionary Housing Units~~affordable units~~, within 30 days of the

1 Department's approval of a building, or site permit for the project. MOHCD shall provide all  
2 ~~P~~project ~~S~~sponsors with information concerning the City's first time home-buyer assistance  
3 programs and any other related programs MOHCD shall deem relevant to the Inclusionary  
4 Affordable Housing Program.

5 (d) The Department shall, as part of the annual Housing Inventory, report to the Board  
6 of Supervisors on the results of Section 415.1 et seq. including, but not limited to, a report on  
7 the following items:

8 (1) The number of, location of, and project applicant for housing projects which  
9 came before the Commission for a Conditional Use Authorization or Planned Unit  
10 Development, and the number of, location of, and project applicant for housing projects which  
11 were subject to the requirements of Section 415.1 et seq.;

12 (2) The number of, location of, and ~~P~~project ~~S~~sponsor for housing projects which  
13 applied for a waiver, adjustment, or reduction from the requirements of Section 415.1 et seq.  
14 pursuant to Section 406 of this Article, and the number of, location of, and ~~P~~project ~~S~~sponsor  
15 for ~~Housing Projects~~~~housing projects~~ which were granted such a waiver, adjustment, or  
16 reduction and, if a reduction, to what percentage;

17 (3) The number of, location of, and ~~P~~project ~~S~~sponsor for every Housing  
18 Project~~housing project~~ to which Section 415.1 et seq. applied and the number of market rate  
19 units and the number of affordable ~~On- and Off-~~~~and off-site~~ Units~~units~~ provided, including the  
20 location of all of the Inclusionary Housing Units~~affordable units~~; and

21 (e) A study is authorized to be undertaken under the direction of MOHCD  
22 approximately every five years to update the requirements of Section 415.1 et seq. MOHCD  
23 shall make recommendations to the Board of Supervisors and the Commission regarding any  
24 legislative changes. In the 2016 study, MOHCD shall specifically evaluate: (1) the Dial program to  
25 evaluate its impact on the production of Inclusionary Housing Units at the baseline AMI levels; and (2)



1 changes to the Off-site alternative including, but not limited to, timing, geography, and requirements  
2 for Nonprofit Provider Partner Projects. MOH shall specifically evaluate the different inclusionary  
3 housing requirements for developments of over 120 feet approximately five years from the enactment of  
4 the requirement or as deemed appropriate by MOH. MOHCD shall coordinate this report with the  
5 five-year evaluation by the Director of Planning required by Section 410 of this Article.

6 (g) Annual or Bi-annual Monitoring:

7 (1) MOHCD shall monitor and require occupancy certification for rental and  
8 ownership Inclusionary Housing Units~~affordable ownership and rental units~~ on an annual or bi-  
9 annual basis, as outlined in the Procedures Manual.

10 (2) MOHCD may require the owner of an Inclusionary Housing Unit~~affordable~~  
11 ~~rental unit~~, the owner's designated representative, or the tenant in an Inclusionary Housing  
12 Unit~~affordable unit~~ to verify the income levels of the tenant on an annual or bi-annual basis, as  
13 outlined in the Procedures Manual.

14 **SEC. 419.3. APPLICATION OF UMU AFFORDABLE HOUSING REQUIREMENTS.**

15 (a) Section 419.1 et seq. shall apply to any housing project located in the UMU Zoning  
16 District of the Eastern Neighborhoods, that is subject to the requirements of Sections 415 et  
17 seq.

18 (b) Additional UMU Affordable Housing Requirements to the Section 415 Inclusionary  
19 Affordable Housing Program Requirements. The requirements of Section 415 through 415.9  
20 shall apply subject to the following exceptions:

21 (1) For all projects sites designated as Tier A, a minimum of 14.4% ~~percent~~ of  
22 the total units constructed shall be Inclusionary Housing Units ~~affordable to and occupied by~~  
23 ~~qualifying persons and families~~ as defined in Section 415 et seq. elsewhere in this Code, so that a  
24 ~~P~~project ~~S~~sponsor must construct .144 times the total number of units produced in the  
25 Principal Project ~~principal project beginning with the construction of the tenth unit~~. If the total

1 number of units is not a whole number, the Sponsor shall round up to the nearest whole  
2 number for any portion of .5 or above.

3 (A) If the Project Sponsor is eligible for and elects pursuant to Section  
4 415.5(g) to build off-site units to satisfy the requirements of this program, the Sponsor shall  
5 construct ~~23% percent~~ so that a Sponsor must construct .23 times the total number of units  
6 produced in the Principal Project ~~principal project beginning with the construction of the tenth unit.~~  
7 If the total number of units is not a whole number, the Sponsor shall round up to the nearest  
8 whole number for any portion of .5 or above.

9 (B) If the Project Sponsor elects pursuant to Section 415.5 to pay the  
10 fee to satisfy the requirements of this program, the Sponsor shall meet the requirements of  
11 Section 415 according to the number of units required above if the Project Sponsor ~~project~~  
12 ~~applicant~~ were to elect to meet the requirements of this Section by off-site housing  
13 development. For the purposes of this Section 419.3, the City shall calculate the fee using the  
14 direct fractional result of the total number of units multiplied by the percentage of off-site  
15 housing required, rather than rounding up the resulting figure.

16 (2) For all project sites designated Tier B, a minimum of ~~16% percent~~ of the total  
17 units constructed shall be Inclusionary Housing Units as defined in Section 415 et seq. ~~affordable to~~  
18 ~~and occupied by qualifying persons and families as defined elsewhere in this Code~~, so that a Project  
19 Sponsor must construct .16 times the total number of units produced in the Principal Project  
20 ~~principal project beginning with the construction of the tenth unit.~~ If the total number of units is not  
21 a whole number, the Sponsor shall round up to the nearest whole number for any portion of  
22 .5 or above.

23 (A) If the Project Sponsor is eligible for and elects pursuant to Section  
24 415.5(g) to build off-site units to satisfy the requirements of this program, the Sponsor shall  
25 construct ~~25% percent~~ so that a Sponsor must construct .25 times the total number of units

1 produced in the Principal Project ~~principal project beginning with the construction of the tenth unit.~~  
2 If the total number of units is not a whole number, the Ssponsor shall round up to the nearest  
3 whole number for any portion of .5 or above.

4 (B) If the Pproject Ssponsor elects pursuant to Section 415.5(g) to pay the  
5 fee to satisfy the requirements of this program, the Ssponsor shall meet the requirements of  
6 Section 415 according to the number of units required above if the Ssponsor were to elect to  
7 meet the requirements of this Section 419.3 by off-site housing development. For the  
8 purposes of this Section, the City shall calculate the fee using the direct fractional result of the  
9 total number of units multiplied by the percentage of off-site housing required, rather than  
10 rounding up the resulting figure.

11 (3) For all project sites designated Tier C, a minimum of 17.6% ~~percent~~ of the  
12 total units constructed shall be Inclusionary Housing Units as defined in Section 415 et seq.  
13 ~~affordable to and occupied by qualifying persons and families as defined elsewhere in this Code~~, so  
14 that a Pproject Ssponsor must construct .176 times the total number of units produced in the  
15 Principal Project ~~principal project beginning with the construction of the tenth unit.~~ If the total  
16 number of units is not a whole number, the Ssponsor shall round up to the nearest whole  
17 number for any portion of .5 or above.

18 (A) If the Pproject Ssponsor is eligible for and elects pursuant to Section  
19 415.5(g) to build off-site units to satisfy the requirements of this program, the Ssponsor shall  
20 construct 27% ~~percent~~ so that a Ssponsor must construct .27 times the total number of units  
21 produced in the Principal Project ~~principal project beginning with the construction of the tenth unit.~~  
22 If the total number of units is not a whole number, the Ssponsor shall round up to the nearest  
23 whole number for any portion of .5 or above.

24 (B) If the Pproject Ssponsor elects pursuant to Section 415.5 to pay the  
25 fee to satisfy the requirements of this program, the Ssponsor shall meet the requirements of

1 Section 415 according to the number of units required above if the Sponsor were to elect to  
2 meet the requirements of this Section by off-site housing development. For the purposes of  
3 this Section, the City shall calculate the fee using the direct fractional result of the total  
4 number of units multiplied by the percentage of off-site housing required, rather than rounding  
5 up the resulting figure.

6 (c) Timing and Payment of Fee. Any fee required by Section 419.1 et seq. shall be  
7 paid to the Development Fee Collection Unit at DBI at the time of and in no event later than  
8 issuance of the First Construction Document~~first construction document~~, with an option for the  
9 Project Sponsor to defer payment to prior to issuance of the ~~first~~First Certificate of  
10 Occupancy~~certificate of occupancy~~ upon agreeing to pay a deferral surcharge in accordance with  
11 Section 107A.13.3 of the San Francisco Building Code.

12 **SEC. 419.4. IMPOSITION OF UMU AFFORDABLE HOUSING REQUIREMENTS.**

13 (a) The Department shall determine the applicability of Section 419.1 et seq. to any  
14 development project requiring a First Construction Document~~first construction document~~ and, if  
15 Section 419.1 et seq. is applicable, the additional requirements~~affordable housing required~~  
16 pursuant to Section 419.1 et seq. and shall impose these requirements as condition on the  
17 approval for issuance of the First Construction Document~~first construction document~~ for the  
18 development project. The Project Sponsor shall supply any information necessary to assist  
19 the Department in this determination.

20 (b) **Notice to Development Fee Collection Unit at DBI and MOHCD.** After the  
21 Department has made its final determination of the additional requirements~~affordable housing~~  
22 required pursuant to Section 419.1 et seq., it shall immediately notify the Development Fee  
23 Collection Unit at DBI and MOHCD of its determination in addition to the other information  
24 required by Section 402(b) of this Article.

1 (c) **Sponsor's Choice to Fulfill Requirements.** Prior to the earlier of any neighborhood  
2 notification or project approval from the Planning Commission or Planning Department ~~issuance of a~~  
3 ~~building or site permit~~ for a development project subject to the requirements of Section 419.1 et  
4 seq., the Sponsor of the development project shall select one of the options described in  
5 Section 419.3 above or the alternatives described in Section 419.5 below to fulfill the  
6 affordable housing requirements and notify the Department of their choice.

7 (d) **Department Notice to Development Fee Collection Unit of Sponsor Choice.**  
8 After the Sponsor has submitted to the Department the "Affidavit of Compliance with the  
9 Inclusionary Housing Ordinance" indicating how it will ~~notified the Department of their choice to~~  
10 fulfill the additional affordable housing requirements of Section 419.1 et seq., the Department  
11 shall immediately notify the Development Fee Collection Unit at DBI and MOHCD of the  
12 Sponsor's choice.

13 (e) **The Development Fee Collection Unit Notice to Department Prior to Issuance**  
14 **of the First Certificate of Occupancy.** The Development Fee Collection Unit at DBI shall  
15 provide notice in writing or electronically to the Department and MOHCD prior to issuing the  
16 first Certificate of Occupancy ~~certificate of occupancy~~ for any development project subject to  
17 Section 419.1 et seq. that has elected to fulfill its requirement with an option other than  
18 payment of the Affordable Housing Fee ~~an in-lieu fee~~. If the Department or MOHCD notifies the  
19 Unit at such time that the Sponsor has not satisfied the requirements, the Director of DBI  
20 shall deny any and all certificates of occupancy until the subject project is brought into  
21 compliance with the requirements of Section 419.1 et seq.

22 (f) **Process for Revisions of Determination of Requirements.** In the event that the  
23 Department or the Commission takes action affecting any development project subject to  
24 Section 419.1 et seq. and such action is subsequently modified, superseded, vacated, or  
25

1 reversed by the Department or the Commission, Board of Appeals, the Board of Supervisors,  
2 or by court action, the procedures of Section 402(c) of this Article shall be followed.

3 **SEC. 419.5. ALTERNATIVES TO THE INCLUSIONARY HOUSING COMPONENT.**

4 (a) **Alternatives to the Inclusionary Housing Component.** In addition to the  
5 alternatives specified in Section 415.5(9) the ~~P~~project ~~S~~sponsor may elect to satisfy the  
6 requirements of Section 415.5 by one of the alternatives specified in this Section 419.5. The  
7 ~~P~~project ~~S~~sponsor has the choice between the alternatives and the Planning Commission may  
8 not require a specific alternative. The ~~P~~project ~~S~~sponsor must elect an alternative before it  
9 receives project approvals from the Planning Commission or Planning Department and that  
10 alternative will be a condition of project approval. The alternatives are as follows:

11 (1) **Middle Income Alternative.** On sites with less than 50,000 square feet of  
12 total developable area, applicants may provide Inclusionary Housing Units for Middle-income  
13 Qualifying Households~~units as affordable to qualifying "middle income" households as follows:~~

14 (A) A minimum percent of the total units constructed shall be Inclusionary  
15 Housing Units affordable to and occupied ~~affordable to by qualifying "middle income"~~ Middle  
16 Income Qualifying Households~~households~~ upon initial sale, according to the schedule in Table  
17 419.5. If the total number of units is not a whole number, the project applicant shall round up  
18 to the nearest whole number for any portion of .5 or above. Units shall be Affordable to  
19 Households~~affordable to households~~ between 120% percent and 150% percent of AMI~~the San~~  
20 ~~Francisco Area Median Income~~, with an average affordability level of 135% percent of AMI for all  
21 units provided through this alternative.

22 (B) Where market rate sales prices exceed restricted sales prices, the  
23 difference between the market rate sales prices and the restricted sales prices shall be held  
24 by MOHCD~~the Mayor's Office of Housing~~ as a silent second mortgage according to the  
25 Procedures Manual. The City shall hold a deed of trust and promissory note for the second

1 mortgage. MOHCD shall hold this mortgage shall release it when the original note and  
2 proportional share of the appreciation are paid in full to the City.

3 (C) Units shall initially be sold at or below prices to be determined by  
4 MOHCD in the Conditions of Approval or Notice of Special Restrictions according to the  
5 formula specified in the Procedures Manual to make them affordable to Middle Income  
6 Households ~~middle-income households~~. Upon resale, the seller shall be permitted to sell the units  
7 at their market price. The City will waive its right of first refusal to the seller when the  
8 promissory note and deed of trust are paid, along with the City's share of the appreciation of  
9 the unit. The promissory note shall accrue no interest and shall require no monthly payments.

10 (D) Upon first resale, the seller shall have a right to keep a percentage of  
11 the total appreciation of the unit proportional to every year the original seller owns the unit as  
12 an owner occupant. The remainder of the proceeds of the sale, after the first mortgage, the  
13 second mortgage, and any other subordinate financing is paid off, shall be repaid to MOHCD.  
14 Detailed resale procedures shall be specified in the Middle Income Housing Procedures  
15 Manual published by MOHCD and approved by the Planning Commission. The Director of  
16 MOHCD shall amend the Procedures Manual as needed with the Commission's approval.

17 (E) The City shall monitor units provided under this option during the 2-  
18 and 5-year Monitoring Report specified in Section 342 of this Code ~~and in a separate resolution~~.  
19 Should this monitoring report indicate that units constructed under this program do not meet  
20 the programs stated goals of providing Inclusionary Housing Units for affordable housing to  
21 Middle Income Households, the Planning Department and MOHCD shall consider changes to  
22 this program, including, but not limited to, legislative changes.

23 (F) If the ~~P~~project ~~S~~ponsor elects to satisfy the requirements of Section  
24 415.5 and of this Section by the alternative specified above, the dwelling unit mix required by  
25 Section 207.6 may be waived provided the minimum percent of total units affordable to

1 qualifying Middle Income Households "~~middle-income~~" as required by Table 419.5 is increased by  
2 10%.

3 (2) **Land Dedication Alternative.** Applicants may dedicate a portion of the  
4 total developable area of the principal site to the City and County of San Francisco for the  
5 purpose of constructing units ~~affordable to~~ Affordable to Low-income and Moderate-income  
6 Households~~qualifying households~~. A minimum percentage of developable area, representing an  
7 equivalent percent of total potential units to be constructed, shall be dedicated to the City  
8 according the schedule in Table 419.5. To meet the requirements of this alternative, the  
9 developer must convey title to land in fee simple absolute to MOHCD according to the  
10 Procedures Manual, provided the dedicated site is deemed of equivalent or greater value to  
11 the principal site per those procedures and is in line with the following requirements:

12 (A) The dedicated site will result in a total amount of affordable  
13 housing~~inclusionary~~ units not less than ~~forty (40)~~ units. MOHCD may conditionally approve and  
14 accept dedicated sites which result in no less than ~~twenty five (25)~~ affordable housing units at its  
15 discretion.

16 (B) The dedicated site will result in a total amount of affordable  
17 housing~~inclusionary~~ units that is equivalent or greater than the minimum percentage of the units  
18 that ~~would~~will be provided on the principal site, as required by Table 419.5. MOHCD may also  
19 accept dedicated sites that represent the equivalent of or greater than the required  
20 percentage of units for all units that could be provided on a collective of sites within a one-mile  
21 radius, provided the total amount of affordable housing~~inclusionary~~ units provided on the  
22 dedicated site is equivalent to or greater than the total requirements for all principal sites  
23 participating in the collective, according to the requirements of Table 419.5.

24 (C) The dedicated site is suitable from the perspective of size,  
25 configuration, physical characteristics, physical and environmental constraints, access,



1 location, adjacent use, and other relevant planning criteria. The site must allow development  
2 of affordable housing that is sound, safe and acceptable.

3 (D) The dedicated site includes infrastructure necessary to serve the  
4 inclusionary units, including sewer, utilities, water, light, street access and sidewalks.

5 (E) The developer must submit full environmental clearance for the  
6 dedicated site before the land can be considered for conveyance, and before a first site or  
7 building permit may be conferred upon the principal project.

8 (F) The City may accept dedicated sites that vary from the minimum  
9 threshold provided such a dedication is deemed generally equivalent to the original  
10 requirement by the MOHCD ~~Mayor's Office of Housing~~.

11 (G) The City may accept dedicated sites that meet the above  
12 requirements in accordance with the Procedures Manual, in combination with fees or on-site  
13 units, provided such a combination is deemed generally equivalent by MOHCD to the original  
14 requirement.

15 (H) The project applicant has a letter from MOHCD verifying acceptance  
16 of site before it receives project approvals from the Planning Commission or Planning  
17 Department, which shall be used to verify dedication as a condition of approval.

18 (I) If the Pproject Ssponsor elects to satisfy the requirements of Section  
19 415.5 and of this Section by the alternative specified above, the dwelling unit mix required by  
20 Section 207.6 may be waived.

21 (J) The Land Dedication Alternative may be satisfied through the  
22 dedication to the City of air space above or adjacent to the project, upon the approval of  
23 MOHCD, or a successor entity, and provided the other requirements of subsection (a)(2)(A)-(I)  
24 are otherwise satisfied.

1 **Table 419.5**

2 **HOUSING REQUIREMENTS FOR THE UMU DISTRICT**

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<b>Tier</b>	<b>On-Site Housing Requirement</b>	<b>Off-Site/<del>In-</del> Lieu Fee Requirement</b>	<b>Middle Income Alternative*</b>	<b>Land Dedication Alternative for sites that have less than 30,000 square feet of developable area</b>	<b>Land Dedication Alternative for sites that have at least 30,000 square feet of developable area</b>
A	14.4%	23%	30%	35%	30%
B	16%	25%	35%	40%	35%
C	17.6%	27%	40%	45%	40%

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14 \*Requirement increases by 5% if dwelling unit mix required by Section 207.6 is waived.

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16 Section 3. Effective Date. This ordinance shall become effective 30 days after

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

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

19 of Supervisors overrides the Mayor's veto of the ordinance.

20

21 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors

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

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

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

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

3

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

6 By: SUSAN CLEVELAND-KNOWLES  
7 Deputy City Attorney

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