



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary

PLANNING CODE TEXT AMENDMENTS INCLUSIONARY AFFORDABLE HOUSING PROGRAM

INFORMATIONAL HEARING DATE: MARCH 9, 2017

EXPIRATION DATE: MAY 28, 2017

Project Name: Inclusionary Affordable Housing Program (Sec 415)
Amendments
Case Number: 2017-001061PCA

Initiated by: **Supervisors Kim and Peskin**, Introduced December 13, 2016
Version 2, Introduced February 28, 2017
Inclusionary Affordable Housing Fee and Requirements
[Board File No. 161351]

Initiated by: **Supervisors Safai, Breed, and Tang** Introduced February 28, 2017
Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements
[Board File No. 170208]

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TWO PENDING PROPOSALS AMENDING THE INCLUSIONARY AFFORDABLE HOUSING REQUIREMENTS

On December 13, 2016, Supervisor Kim and Supervisor Peskin introduced “Inclusionary Affordable Housing Fee and Requirements” [BF 161351]. This ordinance was substituted on February 28, 2017 and within this report will be referred to as **“Proposal A: Supervisor Kim and Supervisor Peskin.”** Supervisor Safai, Supervisor Breed, and Supervisor Tang introduced “Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements” [Board File No. 170208] on February 28, 2017. This report will refer to this ordinance as **“Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang”**.

Both of these proposed Ordinances will be before the Planning Commission on March 23, 2017 so that the Commission may make a recommendation to the Board of Supervisors as required by Planning Code Section 302. In preparation for that hearing, the Commission has requested an informational hearing to be scheduled for March 9, 2017. This report has been prepared for that informational hearing. Due to the complexity of this report, it includes both a Table of Contents and a pullout summary chart that compares the two proposals.

The last page of this report is that summary chart titled, “Exhibit G: Comparison Table of Proposed Amendments to Section 415.”

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EXHIBITS

Exhibit A:	Board of Supervisors File No.161351. Inclusionary Affordable Housing Fee and Requirements. Introduced by Supervisor Kim and Supervisor Peskin.
Exhibit B:	Board of Supervisors File No. 170208. Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements. Introduced by Supervisor Safai, Supervisor Breed, and Supervisor Tang.
Exhibit C:	Current Grandfathered and UMU Requirements
Exhibit D:	Proposal A: Grandfathering and UMU Requirements
Exhibit E:	Proposal B: Grandfathering and UMU Requirements
Exhibit F:	Housing Production, Housing Need, and Income Changes
Exhibit G:	Comparison Table of Proposed Amendments to Section 415

I. INTRODUCTION

A. HISTORY OF SAN FRANCISCO'S INCLUSIONARY AFFORDABLE HOUSING PROGRAM

The Inclusionary Affordable Housing Program is one of the City's key tools for increasing the availability of affordable housing dedicated to low and moderate income San Franciscans, and has resulted in more than 4,649 units of permanently affordable housing since its adoption. Units have been created through four primary means: 1) on-site units within market rate developments; 2) in-lieu fees that fund units in 100% affordable housing development; 3) off-site developments; and 4) land dedication. Inclusionary housing is distinguished from other affordable housing programs in that it provides new affordable units without the use of public subsidies. For this reason, the program can address the growing needs of low, moderate, and middle income households that cannot be served by other common affordable housing funding sources, such as federal Low Income Housing Tax Credits.

From 1992 until 2002 the City required inclusionary affordable units for certain projects of 10 units or more that received conditional use approvals. The City adopted an Inclusionary Housing Ordinance in 2002 that set requirements on market rate development to include affordable units at 12% of the total¹.

The City prepared a Nexus Study in 2007 in support of the program. The report demonstrated the necessity of affordable housing in order to mitigate the impacts of market rate housing, and the inclusionary requirements were increased to 15% of total units. The City's inclusionary housing requirements are codified in Section 415 of the Planning Code. The City updated that nexus analysis in 2016².

¹ Inclusionary Affordable Housing Program, [Board File 00-1262/ Ord. No. 37-02], approved April 5, 2002. Available at: <https://sfgov.legistar.com/View.ashx?M=F&ID=2607162&GUID=834416F9-DCED-42CF-A972-81D26DED2D9F>

²City & County of San Francisco, prepared by Keyser Marston Associates, Inc. "Residential Affordable Housing Nexus Analysis", November 2016. Retrieved on February 21, 2017, retrieved from:

Inclusionary requirements are one of several funding sources for the city's affordable housing program. Prior to 2011, the San Francisco Redevelopment Authority had been the city's largest provider of affordable housing funds. In 2011 Governor Jerry Brown and the state legislature dissolved Redevelopment Agencies throughout the state. In 2012, in response to this loss and the slowing of housing development during the Great Recession, the voters amended the San Francisco Charter to create the Affordable Housing Trust Fund, which included a provision to lower and to set the on-site inclusionary requirement at 12%. As a Charter amendment, the Inclusionary rate could only be revised again by the voters.

In March 2016, the Board of Supervisors unanimously adopted a resolution³ declaring that it shall be City policy to maximize the economically feasible percentage of inclusionary affordable housing in market rate housing development. In June, as housing prices rose drastically, San Francisco voters approved a Charter Amendment (Proposition C), which restored the City's ability to adjust affordable housing requirements for new development by ordinance.

The passage of the Proposition C then triggered the provisions of the so-called "trailing ordinance" [BF 160255, Ord. 76-16⁴], adopted by the Board of Supervisors in May 2016, which amended the Planning and Administrative Codes to 1) increase the Inclusionary Affordable Housing requirements, pending further action by the Board of Supervisors; 2) require an Economic Feasibility Study by the Office of the Controller; and 3) establish an Inclusionary Housing Technical Advisory Committee (TAC) to advise the Controller.

<http://commissions.sfplanning.org/cpcpackets/2016%20%20Residential%20Affordable%20Housing%20News%20Analysis.pdf>

³ Establishing City Policy Maximizing a Feasible Inclusionary Affordable Housing Requirement [Board File No 160166, Reso. No. 79-16], approved March 11, 2016. Available at:

<https://sfgov.legistar.com/View.ashx?M=F&ID=4302571&GUID=8243D8E2-2321-4832-A31B-C47B52F71DB2>

⁴ The ordinance titled, "Inclusionary Affordable Housing Fee and Requirements; Preparation of Economic Feasibility Report; Establishing Inclusionary Housing Technical Advisory Committee," was considered by the Planning Commission on March 31, 2016. The Commission's recommendations are available here:

<https://sfgov.legistar.com/View.ashx?M=F&ID=4387468&GUID=8D639936-88D9-44E0-B7C4-F61E3E1568CF>

II. EXISTING INCLUSIONARY AFFORDABLE HOUSING PROGRAM

In June 2016, San Francisco voters approved Proposition C restoring the ability of the Board of Supervisors, by ordinance, to set and change the inclusionary or affordable housing obligations for qualifying market rate housing developments and to adopt definitions for inclusionary and affordable housing programs. The key provisions of the Inclusionary Affordable Housing Program (Section 415 of the Planning Code) as currently in effect are summarized below.

A. APPLICATION

Housing development projects of **10 units or more** are required to contribute to the creation of housing affordable to low and moderate income households through the payment of the Affordable Housing Fee. Alternatively, the project sponsor may choose to meet the requirement through one of three alternatives: 1) provide affordable units on-site; 2) provide affordable units off-site; or 3) a combination of fee payment plus construction of on-site or off-site units⁵. Larger housing development projects of **25 units or more** are subject to a higher fee and inclusionary requirements.

⁵ Planning Code Section 419 affords some additional options for projects that are within either the UMU or Mission NCT Zoning District, such as land dedication and a middle income alternative. Further, Section 415.5(f)(2) enables MOHCD to spend 10% of the funds deposited into the fund on the small sites acquisition and rehabilitation program.

B. INCOME LEVELS

Projects that elect to fulfill their Section 415 requirement through either the on-site or off-site Alternatives (outlined below), are required to provide below-market rate units dedicated to a mix of “low income” and “moderate” or “middle income” households, as defined:

“Low income” households are defined as households whose total household income does not exceed:

- 55% of Area Median Income (AMI) for **rental** units, or
- 80% of AMI for the purchase of **ownership** units.

“Moderate” or “Middle Income” households are defined as households whose total household income does not exceed:

- 100% of AMI for **rental** units, or
- 120% of AMI for the purchase of **ownership** units.

The required income mix varies between the on-site and off-site alternatives, as detailed below.

C. AFFORDABLE HOUSING FEE OR OFF-SITE ALTERNATIVE REQUIREMENT

For projects that elect to pay the Affordable Housing Fee or meet the requirement through the off-site alternative, the requirement is as follows:

Smaller projects of 10 – 24 units are required to pay a fee or provide off-site units equivalent to **20%** of the total number of units produced in the principal project.

Larger project of 25 or more units are required to pay a fee or provide off-site units equivalent to **33%** of the total number of units produced in the principal project. Off-site units must be affordable to a mix of low and moderate income households, with:

- 20% of off-site units affordable to **low income households** (55% of AMI for rental, or 80% of AMI for ownership units), and
- 13% of off-site units affordable to **moderate income households** (100% of AMI for rental, or 120% of AMI for ownership units).

Calculation of Fee

The dollar amount of fee is assessed on a **per unit basis**, as determined by the Mayor's Office of Housing and Community Development (MOHCD) based on the affordability gap using data on the cost of construction of residential housing and the maximum purchase price for the equivalent unit size.

D. ON-SITE ALTERNATIVE

A project sponsor may elect to construct affordable units in the principal project in lieu of paying the Affordable Housing Fee, as follows:

Smaller projects of 10 – 24 units are required to dedicate **12%** of the total units constructed on-site as affordable to **low income households** (55% of AMI for rental, or 80% of AMI for ownership units).

Larger project of 25 or more units are required to dedicate **25%** of the total units constructed on-site as affordable to a mix of **low and moderate income** households:

- **15%** of on-site units affordable to **low income households** (55% of AMI for rental, or 80% of AMI for ownership units), and
- **10%** of on-site units affordable to **low or moderate income households** (100% of AMI for rental, or 120% of AMI for ownership units).⁶

⁶ Note that some variation may apply in the application of AMI limits. In the case of rental units financed with low-income housing tax credits and tax-exempt bonds, MOHCD allows the developer to lower AMIs to 50% or less in order to comply with the applicable public financing requirements. In the case of ownership units, eligibility is extended to households up to 10% over the applicable AMI limit in order to accommodate the underwriting variations between first mortgage lenders, which are standard participants in BMR ownership transactions.

E. "GRANDFATHERING" PROVISION

Proposition C established temporary, or "grandfathering", provisions wherein certain projects which were already in the pipeline would maintain lower inclusionary requirements than those rates established in the trailing ordinance.

Smaller projects of 10 – 24 units are subject to the fee and inclusionary requirements that were in effect on January 12, 2016 (generally, 20% fee or off-site and 12% on-site), and are not affected by the "grandfathering" provision.

Larger projects of 25 units or more that are currently in the pipeline and filed an Environmental Evaluation Application (EEA) **on or before January 12, 2016** may be subject to a lower fee and inclusionary requirement, depending on where they are located and when their Environmental Evaluation (EE) application was accepted, as detailed in the table provided as Exhibit C.

If the project sponsor does not procure a building permit or site permit for construction of the affordable housing units by **December 7, 2018**, the development project is no longer grandfathered, and is subject to all applicable requirements in place at the time of the application submittal.

III. CONTROLLER'S ECONOMIC FEASIBILITY STUDY

A. BACKGROUND

The "trailing ordinance" [BF 160255, Ord. 76-16⁷] adopted in May 2016 established the requirement for an Economic Feasibility Study to be conducted by the Office of the Controller. The purpose of this study is to recommend the maximum economically feasible amount of the inclusionary rate for market rate housing developments, with additional guidance from the City's Nexus Study⁸. The Controller, in consultation with relevant City Departments and the Inclusionary Housing Technical Advisory Committee (TAC), is responsible for conducting the study every three years.

The TAC was established to provide input and advice to the Controller, the Mayor, the Planning Department, MOHCD and the Board of Supervisors regarding the content and recommendations of the Economic Feasibility Analysis report. The TAC was convened May 24, 2016 and met on eight occasions to review analysis provided by a qualified consultant team under the direction of the Controller's Office of Economic Analysis.

The Controller provided a set of preliminary economic feasibility recommendations⁹ to the Board of Supervisors on September 13, 2016 and issued a set of final recommendations on

⁷ The ordinance titled, "Inclusionary Affordable Housing Fee and Requirements; Preparation of Economic Feasibility Report; Establishing Inclusionary Housing Technical Advisory Committee," is available here: <https://sfgov.legistar.com/View.ashx?M=F&ID=4387468&GUID=8D639936-88D9-44E0-B7C4-F61E3E1568CF>

⁸ 2016 Residential Affordable Housing Nexus Analysis:

<http://commissions.sfplanning.org/cpcpackets/2016%20%20Residential%20Affordable%20Housing%20Nexus%20Analysis.pdf>

⁹ Office of the Controller. "Inclusionary Housing Working Group: Preliminary Report September 2016". September 13, 2016:

<http://sfcontroller.org/sites/default/files/Preliminary%20Report%20September%202016.pdf>

February 13, 2017 ¹⁰and was dissolved on February 1, 2017. The City's Chief Economist presented the TAC's recommendations to the Commission on February 23, 2017.

B. FINDINGS AND RECOMMENDATIONS

The Economic Feasibility Study (Study) was performed under the direction of the Controller's Office of Economic Analysis, with the support of a qualified consultant team, which provided national inclusionary policy research, economic feasibility analysis, and a housing simulation regression model to inform the TAC and the Controller's recommendations, which are summarized below.

1. Ownership Requirements Should Be Higher Than Rental Requirements

The economic feasibility findings of the Study found that under current market conditions typical ownership (i.e. condominium) projects could support a higher inclusionary requirement — roughly 2 percentage points more for the on-site alternative — than rental projects. Accordingly, the Controller recommended that inclusionary requirements vary by project tenure, with a higher requirement for ownership projects, to maximize production of inclusionary units.

2. Maximum Economically Feasible Inclusionary Requirements

Based on analysis by the consultant team, the Controller concluded that the range of inclusionary requirements that would be economically feasible for projects under current economic conditions as follows. The TAC endorsed this recommendation unanimously, though TAC members differed on where within this range the initial requirements should be set.

¹⁰ Office of the Controller. "Inclusionary Housing Working Group: Final Report," published February, 13 2017, with the consulting team of Blue Sky Consulting Group, Century Urban LLC, and Street Level Advisors. Available at:
<http://sfcontroller.org/sites/default/files/Documents/Economic%20Analysis/Final%20Inclusionary%20Housing%20Report%20February%202017.pdf>

	Maximum Feasible On-Site Requirement	Maximum Feasible Fee or Off-Site Equivalency
Rental Projects	14% to 18%	18% to 23%
Ownership Projects	17% to 20%	25% to 28%

It is critical to note that these ranges reflect the average economic performance for a range of prototypical projects reflecting common development types in San Francisco. While it is possible that some projects will be able to outperform these standard scenarios for a variety of reasons, the Study found that requirements beyond these maximums would cause typical projects to become economically infeasible. Further, economic conditions in outlying neighborhoods or on certain specific development sites may be less favorable than the optimal conditions assumed for the prototypes, meaning that feasibility in these neighborhoods or for certain project may be challenged even within these ranges.

3. City Should Adopt a Schedule of Increases to the Requirement

Much of the consultant analysis and discussion among TAC members focused on the interaction between inclusionary requirements and the market for buying and selling land in San Francisco. The expectation was that, in general, land prices would decrease over time in response to increased inclusionary requirements. However, it was recognized that in practice the response of the land market is uneven and difficult to predict, and that sudden increases in the inclusionary requirement could cause landowners to withhold land from the market, thus reducing residential development, at least in the short term.

TAC members agreed that inclusionary requirements should be phased in over a period of time long enough to allow the land market to adjust, and the Controller recommended that the City set a clear schedule which ramps up requirements over an extended period of time to provide the greatest amount of predictability for the housing market.

Based on analysis of housing and land market trends, the Controller specifically recommended an **increase to the inclusionary requirement by an increment of 0.5 percentage points per year, over a period of 15 years.**

4. Affordable Housing Fee Update

The consultants' analysis indicated that changing economic trends can impact the choice of qualifying projects between payment of the Affordable Housing Fee and the on-site alternative. While the TAC did not offer a recommendation as to whether any preference would be a desirable policy outcome, at the TAC meeting the consultant suggested that the fee methodology should be adjusted so that "it more closely tracks the cost of onsite development". The Controller's report simply stated that the City should conduct a new analysis to update the schedule of fees.

5. State Density Bonus Law

The TAC recognized that use of the State Density Bonus Law¹¹ (Bonus Law) would have important implications on the outcomes of the local Inclusionary Housing Program. The Bonus Law requires that local jurisdictions allow residential projects that provide certain levels of on-site affordable housing units to receive a "bonus" of up to 35% more residential density beyond what is permitted under the project's base zoning. The Bonus Law and court cases interpreting the law indicate that the project sponsor is entitled to provide this additional residential density as market rate housing.

The TAC expressed significant concern that eligible projects that receive additional density under the Bonus Law would, in effect, be providing a lower percentage of on-site inclusionary housing than required in Section 415, by virtue of the additional permitted density.

¹¹ California Government Code Section 65915:
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65915

- **Example:** A 100-unit project that elects the on-site alternative under current Section 415 requirements would provide 25 on-site inclusionary units, or 25% of the total ($25/100 = 25\%$). If this project also received a maximum State Bonus of 35%, the project would grow to 135 total units, and the 25 inclusionary units would account for only 18.5% of on-site units ($25/135 = 18.5\%$).

Because the use of the State Bonus is optional at the discretion of the project sponsor, the consultant team, TAC, and Controller's Office, in consultation with relevant City departments, sought to determine the frequency with which eligible project sponsors would seek the State Bonus. However, the Controller ultimately concluded that this frequency cannot be predicted with sufficient accuracy, due to multiple quantitative and qualitative factors that would likely influence the decision of project sponsors. For this reason, the Controller recommended that maximum inclusionary requirements be set at a level that did not require use of the Bonus Law.

The Controller recommended that qualifying projects providing on-site units and that receive additional density under the Bonus Law be required to pay the Affordable Housing Fee on any additional units authorized under the Bonus Law, similar to how the City imposes other impact fees for infrastructure and other City services.

IV. PROPOSED AMENDMENTS TO INCLUSIONARY PROGRAM

This section outlines the key provisions of two proposed packages of legislative amendments to Section 415.

PROPOSAL A: Supervisor Kim and Supervisor Peskin refers to Board File 161351, as introduced by Supervisors Kim and Peskin on December 13, 2016 with substitute legislation reintroduced on February 28, 2017.

PROPOSAL B: Supervisor Safai, Supervisor Breed, and Supervisor Tang refers to the Ordinance, introduced by Supervisors Safai , Breed, and Tang on February 28, 2017 [Board File Number 170208].

A. APPLICATION

No changes to the definition of qualifying projects is proposed. Both pieces of legislation propose requirements which would vary based on project size, within the following categories:

- Projects containing **fewer than 10 units** (no requirement)
- Smaller projects consisting of **10 – 24 units**
- Larger project consisting of **more than 25 units**

[NEXT PAGE]

B. INCOME LEVELS¹²

Proposal A: Supervisor Kim and Supervisor Peskin

“Low” and “moderate” income level requirements would, on average, serve the same income levels as under the current Inclusionary Program (55% or 80% AMI for “low income”, 100% or 120% AMI for “moderate income,” for rental or owner, respectively). However, income levels would be redefined based on a specified range and average income level served as follows:

For **smaller projects of 10 – 24 units**, on-site or off-site inclusionary units would be provided serving **“low” income** households at:

- **Rental:** between **45% - 65% AMI**, with inclusionary units affordable to households at **an average of 55% AMI**.
- **Ownership:** between **70% - 90% AMI**, with inclusionary units affordable to households at **an average of 80% AMI**.

For **larger projects of 25 or more units**, on-site or off-site inclusionary units would be provided serving a combination of **“low” income** households at:

- **Rental:** between **40% - 80% AMI**, with inclusionary units affordable to households at **an average of 55% AMI**.
- **Ownership:** between **60% - 100% AMI**, with inclusionary units affordable to households at **an average of 80% AMI**.

¹² The affordable rent described in this report will be the legislative percentages as described in each draft Ordinance. There is likely to be confusion about these affordable rents as the “legislative” area median income (AMI) percentages and the “actual” household AMI percentages which can be served through some flexibility in how MOHCD implements the program. Both sets of legislative sponsors at times describe their proposals as serving actual households with incomes that may be +/- 10% from the legislative rent numbers. While this is accurate, for simplicity and consistency, this report describes the legislative numbers.

And “**moderate**” income households at:

- **Rental:** between 80% - 120% AMI, with inclusionary units affordable to households at **an average of 100% AMI.**
- **Ownership:** between 100% - 140% AMI, with inclusionary units affordable to households at **an average of 120% AMI.**

The **required mix** of low and moderate income units for **larger projects** would vary between the on-site and off-site alternatives, as described in the following section. **Smaller projects** would continue to provide units only at the “low” income level.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

The level of affordability at which inclusionary units for the on-site and off-site alternatives must be provided would no longer be defined in Section 415 as “low” or “moderate” income.

For **smaller projects of 10 – 24 units**, on-site or off-site inclusionary units would be provided serving households at **80% of AMI for rental** projects, or **120% of AMI for ownership** projects. This could be considered as serving a single “tranche” or household income level.

For **larger projects of 25 or more units**, on- or off-site inclusionary units would be provided in three tranches. Qualifying projects that elect the on-site or off-site alternative would be required to designate inclusionary units affordable to households within a range of income levels and those units must average to an overall project affordability level, as follows:

- **Rental** projects must dedicate inclusionary units as affordable to households earning between **55% - 110% of AMI**, and inclusionary units provided by the project must be dedicated as affordable to households with **an average of 80% of AMI.** Units provided must meet the average and must also be equally distributed into three tranches: one priced to be affordable to households earning **55% of AMI**, another at **80% of AMI**, and a third at **110% of AMI.**

- **Ownership** projects must dedicate inclusionary units as affordable to households earning between **90% - 140% of AMI**, and inclusionary units provided by the project must be dedicated as affordable to households with **an average of 120% of AMI**. Again, units counted towards this average must be equally distributed in three tranches: one priced to be affordable to households earning **90% of AMI**, another at **120% of AMI**, and a third at **140% of AMI**.

In addition, note that under Proposal B, MOHCD would be authorized to reduce the average income target for rental projects that use California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% tax credits under the Tax Credit Allocation Committee (TCAC) in order to provide units affordable to low-income households below 60% or 50% of AMI, as permitted under the terms of these programs.

C. PERCENTAGE REQUIRED FOR AFFORDABLE HOUSING FEE OR OFF-SITE ALTERNATIVE

Requirement

For **smaller projects of 10 – 24 units**, no change is proposed to the current Affordable Housing Fee or off-site alternative requirement of **20%** of the total number of units in the principal project in either proposal.

For **larger projects of 25 or more units**, the requirement for projects that elect to pay the Affordable Housing Fee or the off-site alternative would be modified as follows (changes are underlined):

	Proposal A		Proposal B	
	Rental	Ownership	Rental	Ownership
Smaller Projects 10- 24 units	20% of units at 55% AMI average	20% of units at 80% AMI average	20% of units at 80% AMI average	20% of units at 120% AMI average
Larger Projects 25 + units	<u>30%</u> of units: <u>18%</u> at 55% AMI + <u>12%</u> at 100% AMI <i>*equivalent¹³ to 30% at 73% AMI</i>	<u>33%</u> of units: <u>18%</u> at 80% AMI + <u>15%</u> at 120% AMI <i>*equivalent to 33% at 98% AMI</i>	<u>23%</u> of units at <u>80%</u> AMI average <i>*equivalent to 23% at 80% AMI</i>	<u>28%</u> of units at <u>120%</u> AMI average <i>*equivalent to 28% at 120% AMI</i>

Calculation of Fee

The Planning Department will continue to assess the Affordable housing Fee, using the dollar amount as provided by the Mayor's Office of Housing and Community Development (MOHCD) under both proposals. However, the methodology used to set the fee amount and the assessment of the fee would be provided for differently under each proposal, as follows:

¹³ Note that the "equivalent" value listed under Proposal A is provided for informational purposes to the Planning Commission to allow for a direct comparison to the income averages outlined in Proposal B; this figure is arrived at simply by calculating the weighted average of income levels served (i.e. $18 \times 55 + 12 \times 100 / 30 = "30\% \text{ at } 73\% \text{ AMI}"$)

Proposal A: Supervisor Kim and Supervisor Peskin

Fee Amount Methodology

The amount of the fee would continue to be determined by MOHCD based on the affordability gap using data on the cost of construction of residential housing and the maximum purchase price for the equivalent unit size.

Currently, a single per unit fee is calculated for all building types. This proposal would amend Section 415 to require that MOHCD calculate the fee amount individually for three different building types, for both rental and ownership tenures. These six variations of building and tenure types would be defined as:

- Buildings of less than 55 feet in height; for both rental and ownership
- Buildings of between 55 and 85 feet in height; for both rental and ownership
- Buildings of greater than 85 in height; for both rental and ownership

This change is proposed to provide that projects of different building types, which may be able to support different levels of fee contribution, be assessed in a manner that maximizes the contribution of such projects to the Affordable Housing Trust Fund.

Assessment of Fee

As described by staff from MOHCD and the Office of Workforce and Economic Development (OEWD), the fee would continue to be assessed on a per unit basis, meaning that each unit would be assessed a fee amount that corresponds to the number of bedrooms of that unit. However, each per unit fee would be further adjusted to apply differently to units contained within buildings of the four types specified above.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

Fee Amount Methodology

The amount of the fee would be determined by MOHCD based on the affordability gap using data on MOHCD's actual cost of construction of affordable residential housing, and would no longer be determined by the maximum purchase price for the equivalent units size. MOHCD would continue to adjust the fee based on changes to their cost of construction. This change is proposed in order to tie the fee amount directly to MOHCD's cost of providing the affordable housing for which market-rate development generates a demand.

Assessment of Fee

The Affordable Housing Fee would no longer be assessed on a per unit basis. Instead, the fee would be assessed on the basis of residential gross square footage. This means that a project that elects to pay the fee will be assessed a fee amount that corresponds to the total residential gross square footage constructed, regardless of unit size. This change reflects the wide variation in unit sizes produced by different market-rate developers and is intended to ensure that larger units pay a correspondingly greater fee. This would be executed through a dollar per square foot equivalency to be found in the MOHCD Procedures Manual.

D. PERCENTAGE REQUIREMENT FOR THE ON-SITE ALTERNATIVE

A project sponsor may elect to construct affordable units in the principal project in lieu of paying the Affordable Housing Fee, as shown below. Note: Proposal A maintains the existing requirements while Proposal B changes the requirements from the existing Section 415 as shown with underlined text.

	Proposal A		Proposal B	
	Rental	Ownership	Rental	Ownership
Smaller Projects 10- 24 units	12% of units at 55% AMI average	12% of units at 80% AMI average	12% of units at 80% AMI	12% of units at 120% AMI
Larger Projects 25 + units	<u>24%</u> of units: 15% at 55% AMI + <u>9%</u> at 100% AMI <i>*equivalent to 25% at 73% AMI</i>	<u>27%</u> of units: 15% at 80% AMI + <u>12%</u> at 120% AMI <i>*equivalent to 25% at 96% AMI</i>	<u>18%</u> of units at <u>80%</u> AMI average (55 – 110% AMI)	<u>20%</u> of units at <u>120%</u> AMI average (90 – 140% AMI)

E. "GRANDFATHERING" PROVISION

Both proposals would maintain the temporary, or "grandfathering", provisions for projects in the development pipeline with EE applications accepted prior to **January 12, 2016**, with modifications as follows.

Proposal A: Supervisor Kim and Supervisor Peskin

No changes are proposed in the structure of the current Section 415 "grandfathering" provision, with the exception that projects above 120 feet in height would be subject to the proposed requirement for fee or off-site or 30%, rather than the current 33%.

The existing grandfathering provision provides that smaller projects are subject to the fee and inclusionary requirements that were in effect on January 12, 2016, and are not affected by the "grandfathering" provision. Larger projects currently in the pipeline are subject to a lower fee, on-site and off-site inclusionary requirement, depending on where they are located and when their Environmental Evaluation (EE) application was accepted. The applicable rates for "grandfathered" projects and projects in specific districts are summarized in Exhibit D.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

As above, smaller projects are subject to the fee and inclusionary requirements that were in effect on January 12, 2016, and would still not be affected by the "grandfathering" provision. Differentiated requirements would still be applied to larger projects of **25 or more units** in the development pipeline based on the date the project's EE application was accepted by the Planning Department. However, those requirements would be modified such that the requirement for the Affordable Housing Fee or off-site alternative would be the same as the rates for new projects (**23% for rental projects, or 28% for ownership projects**), **rather than the generally lower rates established by Proposition C for grandfathered projects**. Notably, this proposal contains no "grandfathering" rates for projects within the UMU zoning district and the South of Market Youth and Family Zone. Rather, inclusionary requirements for projects within the UMU zoning district and the South of Market Youth and Family Zone would continue as currently set in Planning Code Section [249.40A](#) and 419, or at the base requirements of 18% and 20% for the onsite alternative, and of 23% and 28% for the fee and off-site requirements (as noted in Sections C and D above), **whichever is higher**. The applicable rates for "grandfathered" projects and projects in specific districts are summarized in Exhibit E

F. FUTURE INCREASES TO INCLUSIONARY REQUIREMENT

Proposal A: Supervisor Kim and Supervisor Peskin

Annual Increase in Requirement

Starting January 1, 2018 MOHCD would increase all requirements by 0.75% annually, until such time as the requirements can no longer be increased without exceeding the City's most recently completed Nexus Study.

This proposal reflects the Controller's recommendation that the City set a clear schedule which ramps up requirements over an extended period of time to provide the greatest amount of predictability for the housing market. It should be noted, however, that the Controller recommended an annual increase of 0.5% per year for 15 years, while this proposal includes a higher annual increase, and the timeframe over which the requirement would reach the maximums would vary depending on the applicable limit, as defined in the Nexus Study.

Determination of Requirement

The proposal does not specify the stage in a project's entitlement process at which the inclusionary requirement would be determined. However the proposal does specify that projects there would be a **2 year deadline for the project to procure a First Construction Document** from the time that the project is approved, exclusive of time needed to settle any administrative appeals. Projects that do not meet this deadline would be subject to the inclusionary requirement in effect at the time that the First Construction Document is issued.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

Annual Increase in Requirement

Starting January 1, 2019, MOHCD would increase all requirements by 0.5% annually, until the requirements reach the following maximums:

- Fee and off-site max: 28% (rental) / 33% (owner)
- On-site: max: 23% (rental) / 25% (owner)

This proposal reflects the Controller's recommendation that the City set a clear schedule which ramps up requirements over an extended period of time to provide the greatest amount of predictability for the housing market. It should be noted, however, that the Controller

recommended a 0.5% annual increase over a period of 15 years, while this proposal would reach the maximum in a period of 10 years from the starting date, if the increase were implemented every year.

Determination of Requirement

A project's requirement would be determined on the date that the Planning Department accepts as complete the project's **Environmental Evaluation (EE) Application**. Starting at the time the project receives its entitlement and exclusive of time needed to settle any administrative appeals, there would be a **3 year deadline for the project to procure a First Construction Document**. Projects that do not meet this deadline would be subject to the inclusionary requirement in effect at the time that the First Construction Document is issued.

This three year deadline would be extended in the event of any litigation seeking to invalidate the project approval, for the duration of that litigation, as consistent with current Planning Department procedures (i.e. "tolling").

G. STATE DENSITY BONUS LAW PROVISIONS

As described in greater detail in the summary of the Controller's Study provided above, the State Density Bonus Law has important implications for the City's Inclusionary Housing Program.

Proposal A: Supervisor Kim and Supervisor Peskin

The proposal includes no additional fee requirements regarding the application of inclusionary requirements in cases where a project seeks and receives State Bonus. The inclusionary requirements proposed would make projects electing the on-site alternative eligible for the State Bonus. Supervisor Kim has stated that the intention of this legislation is to maximize the use of the State Bonus and apply local inclusionary requirements that are high enough to achieve levels of on-site inclusionary supported as economically feasible by the Controller's Study, under the assumption that most projects will seek and receive a maximum State Bonus of 35%.

This proposal, however, does add a requirement that project sponsors provide "reasonable documentation" to establish eligibility for a density bonus. Further, it would establish a requirement that the Planning Department shall provide information about the value of the

density bonus, concessions, and incentives for the bonus for any project seeking the bonus, and that would require that the Planning Department provide an annual report to the Planning Commission of the number of projects seeking the State Bonus in the development pipeline, beginning in 2018.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

This proposal would implement the Controller's recommendation. Qualifying projects providing on-site units and that receive additional density under the State Bonus Law would pay the Affordable Housing Fee on any additional units authorized under the State Bonus Law. Supervisors Safai, Breed, and Tang have stated that the intention is to allow projects to use the State Bonus where appropriate, while enabling feasibility for projects where the State Bonus is not a good fit.

H. UNIT MIX: BEDROOM REQUIREMENT

Currently, a dwelling unit mix is only required in the following zoning districts: RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use districts. Planning Code Section 207.6 generally requires a minimum of 40% two bedroom units OR a minimum of 30% three-bedroom units within projects of five or more units in these districts.

Proposal A: Supervisor Kim and Supervisor Peskin

This proposal would include modifications to Planning Code Section 415 to establish a required minimum dwelling unit mix for projects electing the **on-site option**. Projects electing the on-site alternative would be required to provide:

- No fewer than 40% of total units as two-bedroom units, AND
- No fewer than 20% of total units as three-bedroom units.

These modifications are intended to increase supply of family-sized units in projects subject to the Inclusionary Affordable Housing Program.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

This proposal would establish a new Section 207.7 of the Planning Code, similar to the existing section 207.6, to establish a required minimum dwelling unit mix for projects in certain areas, where such requirements currently do not apply. For projects where this new requirement would apply, generally those of 25 or more dwelling units located outside of the zoning districts listed above, the project would be required to provide:

- No fewer than 25% of total units as two-bedroom units, OR
- No fewer than 10% of units as three-bedroom units

These modifications are intended to increase supply of family-sized units in all new large housing projects, regardless of the application of the Inclusionary Affordable Housing Program.

V. POLICY ISSUES AND CONSIDERATIONS

This section summarizes the key policy issues and considerations before the Commission. The provisions of each proposal as outlined above are evaluated here in terms of the range of policy outcomes that may be realized by each proposal. This represents the analysis of Planning Department staff based on the findings and recommendations of the Controller's Economic Feasibility Study and best currently available information.

A. PROJECT FEASIBILITY

Inclusionary housing is unique among affordable housing funding sources in that it provides **additional affordable units without the use of public subsidy**. This is achieved by generally requiring that market rate projects pay a fee for the construction of affordable units, build them off-site, or build them on-site. In order for the principal project to provide these inclusionary units, that project must be economically feasible to develop. If not, both market rate units and inclusionary units will be forgone.

Inclusionary requirements are generally the costliest impact fee in the Planning Code. As such, these requirements impose an additional cost on projects that, depending on multiple economic factors, can potentially cause the project to become economically infeasible. A key consideration facing Commissioners is: **would either proposal cause projects to become economically infeasible?**

The Controller's Study, based on an economic feasibility analysis by the consultant team and with the support of the Technical Advisory Committee, concluded that the range of inclusionary requirements that is economically feasible for projects under current economic conditions are as follows^{14, 15}:

¹⁴The Controller's report determined economic feasibility as whether or not the value of a project would be sufficient to cover the cost of acquiring the development site. These maximums are presented as a range to reflect the fact that the price of land acquisition varies considerably. Please see the Controller's Study for greater detail.

	Maximum Feasible On-Site Requirement ¹⁶	Maximum Feasible Fee or Off-Site Equivalency
Rental Projects	14% to 18%	18% to 23%
Ownership Projects	17% to 20%	25% to 28%

The following table compares the proposed inclusionary requirements for **larger projects** to the maximum economically feasible rates reported by the Controller. Changes from the current Section 415 are underlined.

¹⁵ As noted previously, it is critical to note that these ranges reflect the average economic performance for a range of prototypical projects reflecting common development types in San Francisco. While it is possible that some projects will be able to outperform these standard scenarios for a variety of reasons, the Controller's Study found that requirements beyond these maximums would cause typical projects in San Francisco to become economically infeasible. Further, economic conditions in outlying neighborhoods may be less favorable than that assumed for the prototypes, meaning that feasibility in these neighborhoods may be challenged.

¹⁶ The maximum feasible on-site requirement as reported by the Controller was analyzed assuming the mix of low and moderate income units under the current program (15% low plus 10% moderate), which represents an average of 73% of AMI for rental inclusionary units, and 96% of AMI for ownership inclusionary units.

Current Program	25% on-site and 33% fee or off-site requirements exceed the maximum economically feasible requirement. Under the existing requirement, typical projects would become economically infeasible .
Proposal A	<i>Rental projects:</i> <u>24%</u> on-site and <u>30%</u> fee or off-site requirements exceed the maximum economically feasible requirement. Under the proposed requirement, typical projects would become economically infeasible . <i>Ownership projects:</i> <u>27%</u> on-site and 33% fee or off-site requirements exceed the maximum economically feasible requirement. Under the proposed requirement, typical projects would become economically infeasible .
Proposal B	<i>Rental projects:</i> <u>18%</u> on-site and <u>23%</u> fee or off-site requirements fall within the maximum economically feasible requirement. Under the proposed requirement, typical projects would remain economically feasible . <i>Ownership projects:</i> <u>20%</u> on-site and <u>28%</u> fee or off-site requirements fall within the maximum economically feasible requirement. Under the proposed requirement, typical projects would remain economically feasible .

B. HOUSING PRODUCTION AND HOUSING COST

A key consideration for policy makers will be to **determine how each proposal affects housing production and housing costs**. Exhibit F contains data demonstrating the growing income inequality in San Francisco and a hollowing out of the middle of the income spectrum. The interaction between these trends and housing production and costs is summarized below.

Housing Production in Relation to Housing Need

- Housing production has not kept pace with changes across a range of income groups: **San Francisco added at least 31,000 market rate units** from 1990 to 2015. Because households earning over 140% of AMI increased by 76,000, however, **the majority of higher income households are living in existing housing**.
- **San Francisco produced over 12,800 units affordable to Very Low, Low and Moderate income households earning from 0-120% of AMI** from 1990-2015 but **the loss of low and moderate income households continued over this time period**.

This data points to the need for **increased housing production across all income levels** to:

- 1) relieve the pressure on the existing housing stock caused by growth in high income households,
- 2) provide more housing opportunities than are currently available for households in the low and moderate income groups, and
- 3) augment the city's supply of housing for the lowest income households especially as part of ongoing efforts to address homelessness.

Housing Production

Given the City's struggle in keeping pace with housing demand for households at all income levels, including low, moderate, and above-moderate households, a key consideration facing Commissioners is: **how are the proposals likely to impact overall housing production?**

The Controller's Study includes the findings of a housing simulation regression model that was prepared by the consultant team and reviewed by the TAC. The summary table of this analysis is shown below¹⁷. This analysis found that **increases in inclusionary requirements would achieve an increase in production of affordable inclusionary units, but a net loss of new housing units in San Francisco.**

IMPACT OF INCREASED INCLUSIONARY HOUSING REQUIREMENTS:

Policy	Estimated housing production 2017 - 2031	Market-Rate Units	BMR Units	Overall housing prices relative to pre-Prop C
Pre Proposition C	31,460	27,685	3,775	0.00%
Post Proposition C, 17% Inclusionary	27,215	22,589	4,627	1.48%
Post Proposition C, 18% Inclusionary	26,732	21,920	4,812	1.64%
Post Proposition C, 19% Inclusionary	26,258	21,269	4,989	1.81%
Post Proposition C, 20% Inclusionary	25,794	20,635	5,159	1.97%
Post Proposition C, 25% Inclusionary	23,611	17,708	5,903	2.73%

¹⁷ Office of the Controller. "Inclusionary Housing Working Group: Preliminary Report September 2016". September 13, 2016:
<http://sfcontroller.org/sites/default/files/Preliminary%20Report%20September%202016.pdf>

Proposal A: Supervisor Kim and Supervisor Peskin

Comparing the proposed on-site requirements (24% for rental, or 27% for condo) to the findings shown above, this requirement would be likely to result in an **increase of approximately 2,100 affordable inclusionary units** compared with the former on-site requirement of 12% (purely as a point of reference), and a corresponding **decrease of nearly 10,000 market rate units**, resulting in a **net reduction of 7,900 housing units** over a 15 year period¹⁸.

It should be noted that this analysis is provided by Planning staff for the comparison purposed of Commissioners only, and is an approximation of the relative impact of the two proposals based on the information available from the Controller's Study.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

This proposal also provides for increased inclusionary requirements compared with the requirement in effect prior to the passage of Proposition C, to 18% on-site for rental projects or 20% on-site for ownership projects. According to the findings presented in the Controller's Study, this requirement would be likely to result in an **increase of between approximately 1,000 and 1,400 affordable inclusionary units** (depending on the share of rental versus ownership projects) compared with the former on-site requirement of 12% (as a point of reference), and a corresponding **reduction of between approximately 5,700 and 7,000 market rate units**, resulting in a **net reduction of between 4,700 and 5,700 housing units** over a 15 year period.

It should be noted that this analysis is provided by Planning staff for the comparison purposed of Commissioners only, and is an approximation of the relative impact of the two proposals based on the information available from the Controller's Study.

¹⁸ These estimates compare the 25% inclusionary row in the table to the pre-Prop C row. This roughly reflects the mid-point between the rental and condo requirements (24% and 27%) of 25.5% for comparison purposes only. A comparison of the 24% and 27% requirements is not available given this analysis.

Comparison of Proposals

As described in the analysis above, **both proposals would be projected to result in a net decrease in housing production in San Francisco over a 15 year period**, as compared with conditions under the Inclusionary Housing Program prior to the passage of Proposition C, as a common point of comparison. **Proposal A would establish higher requirements and would thus be likely to result in a greater net reduction in housing production than Proposal B.**

Housing Cost

These impacts on housing production will also have impacts on housing cost in San Francisco. In general, when the demand for housing units is greater than the availability of housing units, the cost of housing increases. The same housing simulation model provided in the Controller's Study also estimated that prices increase as production goes down.

Proposal A: Supervisor Kim and Supervisor Peskin

As described above, this proposal would be likely to result in a net reduction of approximately 7,900 housing units in San Francisco over a 15 year period as compared to the inclusionary requirement in effect prior to the passage of Proposition C. According to the analysis provided by the Controller's Study (above table), this reduction in housing production would result in a corresponding increase in annual housing costs of 2.73% for San Francisco households moving into new or existing market-rate units. Assuming a constant rate of households moving each year, this proposal is estimated to result in an **annual increase in housing costs of \$36.6 million, or \$775 per household per year**, over a 15 year period. Note that this reflects the projected cost increase to the majority of moving households that will not be able to access the City's limited supply of affordable units.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

This proposal would be likely to result in a net reduction of approximately 5,200 housing units (assuming an even split between rental and ownership households for the purpose of comparison) in San Francisco over a 15 year period as compared to the inclusionary requirement in effect prior to the passage of Proposition C. According to the analysis provided by the Controller's Study, this reduction in housing production would result in a corresponding increase in annual housing costs of 1.81% for San Francisco households moving into new or existing market-rate units. Assuming a constant rate of moving households, this proposal is estimated to result in an **annual increase in housing costs of \$24 million, or \$512**

per household per year, over a 15 year period. Note that this reflects the projected cost increase to the majority of moving households that will not be able to access the City's limited supply of affordable units.

Comparison of Proposals

As described in the analysis above, **both proposals would be projected to result in an annual increase in the cost of housing to San Franciscans who move households over a 15 year period**, as compared with conditions under the Inclusionary Housing Program prior to the passage of Proposition C, as a common point of comparison. **Proposal A would establish higher requirements and would thus be likely to result in a greater increase in the cost of housing to market-rate households than Proposal B.**

C. HOUSEHOLDS SERVED

The Inclusionary Housing Program offers the opportunity to leverage private development to serve low and moderate income households who are difficult to serve through other public programs. This section considers the two proposals in light of San Francisco's housing needs as defined by the Regional Housing Need Allocation (RHNA) and recent gains and losses of households at different income levels. Detailed data from San Francisco during the twenty-five year period from 1990-2015 is provided in Exhibit F. In summary, these indicate that over this time period:

- **San Francisco most struggled to meet RHNA housing production targets** for Low-income (50 – 80% AMI) or Moderate-income (80 – 120% AMI) groups, as compared with other income groups.
- **San Francisco has lost households** in the Very Low (30 – 50% AMI), Low (50 – 80% AMI), and Moderate (80 – 120% AMI) income groups. The City has actually gained households at the Extremely Low (below 30% AMI%) and High Income (over 140% AMI) levels.
- **Public affordable housing subsidies have focused on housing for Very Low and Low income households**, at or below 60% of AMI. This reflects the availability of significant state and federal funds available only to that income tier.
- **The City has least served Low and Moderate income households from 60 -120% of AMI.** This reflects the fact that virtually no state or federal funds exist to subsidize the production of units at this income level.

- **San Francisco has experienced a small decline** in the number of middle income households, from 120-140% AMI.

Given this context, a key consideration for Commissioners will be: **how do the proposed income targets address unmet affordable housing need**, which is most pronounced among Low to Moderate income households earning between 60% and 120% of AMI? For reference, the income levels served under the on-site alternative of each proposal are summarized below. Proposed changes from current Section 415 are underlined:

	Proposal A		Proposal B	
	Rental	Ownership	Rental	Ownership
Smaller Projects 10-24 unit	55% AMI average (<u>45 – 65% AMI</u>)	80% AMI average (<u>70 – 90% AMI</u>)	<u>80%</u> AMI	<u>120%</u> AM
Larger Projects 25 + units	<p><i>Low-income:</i> 55% AMI average (<u>45 – 65% AMI</u>)</p> <p><i>Moderate income:</i> 100% AMI average (<u>80 -120% AMI</u>)</p> <p>Equivalent¹⁹ Average: 72% AMI</p>	<p><i>Low-income:</i> 80% AMI average (<u>60 – 100% AMI</u>)</p> <p><i>Moderate income:</i> 120% AMI average (<u>100 -140% AMI</u>)</p> <p>Equivalent Average: 98% AMI</p>	<u>80%</u> AMI average (55 – 110% AMI)	<u>120%</u> AMI average (90 – 140% AMI)

¹⁹ Note that the “equivalent” value listed under Proposal A is provided for informational purposes to the Planning Commission to allow for a direct comparison to the income averages outlined in Proposal B; this figure is arrived at simply by calculating the weighted average of income levels served (i.e. $15 \times 55 + 9 \times 100 / 33 = “24\% \text{ at } 72\% \text{ AMI}”$)

Proposal A: Supervisor Kim and Supervisor Peskin

This proposal generally maintains the current “low” and “moderate” income tiers, with the significant change that these targets would be defined as an average AMI served by the project, with units falling within a specified range of income levels, as shown in the table above.

Considering the average incomes served (72% equivalent average for rental, 98% equivalent average for ownership), the proposal would serve households **in the middle** of both the Low Income (50 – 80% AMI) and Moderate Income (80 – 120% AMI) groups, and **would meet the demonstrated need of both income groups, while serving segments of both income groups that are least served by the City’s current affordable housing programs.** It should be noted that a portion of the ownership units provided in the moderate income tier under this proposal would extend to the 140% AMI level, which falls within the Middle-income group (120 - 140% AMI), where there is a less pronounced need.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

This proposal would generally raise the AMI levels served by the Inclusionary Program, and also define income levels as an average AMI served by the project, with units falling within a specified range of income levels, as shown in the table above. Considering the average incomes served, the proposal would serve households **at the upper end** of both the Low Income (50 – 80% AMI) and Moderate (80 – 120% AMI) groups, and **would meet the demonstrated need of both income groups, while serving segments of both income groups that are least served by the City’s current affordable housing programs.** It should be noted that a portion of the ownership units provided under this proposal would extend to the 140% AMI level, which falls within the Middle-income group (120 - 140% AMI), where there is a less pronounced need.

D. REQUIREMENT ALTERNATIVES (FEE/OFF-SITE VS ON-SITE)

Both proposals maintain the structure of the current Section 415, which requires that qualifying projects pay an Affordable Housing Fee, provide affordable units on-site, provide units off-site, or meet the requirement by a combination of the three options. Land-dedication or acquisition of existing rental housing serving low to moderate income households are additional alternatives to the Fee in certain zoning districts.

Consideration of The Two Proposals

A policy question facing Commissioners is: **would either proposal incentivize project sponsors to pay the fee or elect one of the alternatives?** According to the fee to on-site requirement equivalencies presented in the Controller's Study, the proposals would likely perform as follows:

Current Program	Economic impact of 25% on-site and 33% fee or off-site is equivalent . No clear incentive for any alternative over another in the existing program.
Proposal A	<i>Rental projects:</i> Economic impact of <u>24%</u> on-site <u>30%</u> fee or off-site is equivalent . No clear incentive for any alternative over another in the existing program. <i>Ownership projects:</i> Economic impact of <u>27%</u> on-site is greater than the impact of <u>33%</u> fee or off-site. Proposal creates an incentive for off-site inclusionary or fee for ownership projects.
Proposal B	<i>Rental projects:</i> Economic impact of <u>18%</u> on-site and <u>23%</u> fee or off-site is equivalent . No clear incentive for any alternative over another in the existing program. <i>Ownership projects:</i> Economic impact of <u>20%</u> on-site and <u>28%</u> fee or off-site is equivalent . No clear incentive for any alternative over another in the existing program.

E. AFFORDABLE HOUSING FEE CALCULATION

Both proposals would provide for modifications to the way in which the Affordable Housing Fee is calculated by MOHCD. A key consideration for Commissioners will be **what impact would each proposal have on fee revenue to the Affordable Housing Trust Fund?**

Proposal A: Supervisor Kim and Supervisor Peskin

This proposal calls for the calculation and application of the Affordable Housing Fee to vary based on the height and tenure of the project to which the fee is applied, as described previously in this report. As described, the stated intent of the legislative sponsors is to maximize the fee collection from projects of different scale, which may be able to support different fee levels. However, this would be a significant and previously untested method of determining the Affordable Housing Fee amount. Given the scope of proposed changes, at this time further analysis is needed to determine the impact of this proposed structure on the implementation and effectiveness of the fee program.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

This proposal would modify the calculation and application of the Affordable Housing Fee in two ways. First, it would provide that MOHCD calculate the dollar amount of the fee to **reflect the actual cost to the City of constructing affordable housing units**, rather than the current methodology which is based on the maximum purchase price for affordable ownership units. Second, the proposal would provide that the fee be applied to projects on a **per gross square footage basis**, rather than on a per unit basis as currently provided.

MOHCD staff has indicated that these modifications would directly link the impact of market-rate development in generating a demand for affordable housing with the fees necessary to address that impact, namely by producing additional affordable units.

F. STATE DENSITY BONUS LAW

The State Density bonus law offers up to a 35% market rate density bonus for projects that provide onsite affordable housing. Density benefits vary based on the percent and affordability of units – more density benefits are awarded to projects with greater affordability, and no density benefits are available for units priced above 120% AMI. The State Density Bonus Law only allows project sponsors to seek density benefits for one income category. The City can elect to offer greater density benefits than allowed by state law through a local density bonus ordinance that provides a density bonus for every qualified income level. In addition, project sponsors can elect to lower the income of the households served beyond what is required in the Inclusionary Requirements in order to achieve a higher bonus as allowed by the State Law. The tables below include a description of project or program changes that would enable projects to achieve the full state density benefits.

As discussed above, the Controller's Study found that the application of the State Density Bonus Law in San Francisco would impact outcomes of the local Inclusionary Housing Program to the extent that eligible project sponsors who elect the on-site alternative also choose to seek the State Bonus. A key consideration for Commissioners is **how would each proposal respond to the allowances of the State Density Bonus Law on the Inclusionary Housing Program?**

- Neither proposal enables a project sponsor to achieve the full state density bonus benefits, unless a project sponsors reduces AMIs served beyond those mandated in the proposals.
- Proposal A encourages the use of the State Density Bonus Law, however projects that cannot or do not use the State Density Bonus may not be feasible.
- Proposal B is neutral to the use of the State Density Bonus Law.
- The Department will calculate the amount of bonus each proposal affords. This work will likely be ready for discussion at the March 9 Informational Hearing.

Consideration of The Two Proposals

Proposal A: Supervisor Kim and Supervisor Peskin

Proposal A requires 24% or 27% on-site requirement, for rental or ownership projects respectively. The proposal includes no additional fee requirements in cases where a project seeks and receives a State Bonus. The granting of State Density Bonus units will increase the feasibility of projects. Given the Controller's Study found that **proposed rates are not otherwise feasible, it is likely that only projects that elect to pursue and can feasibly achieve the maximum state density bonus would prevail under this proposal. Notwithstanding other costs, site, or community considerations, Proposal A would encourage project sponsors to make full use of the State Density Bonus law.**

However, the proposal as drafted does not allow projects to receive the full 35% State Density Bonus, because the affordable units serve both low and middle income households. This means that the effective inclusionary rates with the State Density Bonuses are still outside the feasible range identified by the Controller's Study.

Further, the new provision requires that project sponsors provide "reasonable documentation" to establish eligibility for a density bonus may dissuade pursuit of the density bonus. Further, it would establish a requirement that the Planning Department shall provide information about the value of the density bonus, concessions, and incentives for the bonus—which would appear to require either the cooperative sharing by the developer of their pro forma and/or the hiring of an economic and real estate consultant by the Department to conduct this analysis.

Maximum State Density Bonus Available with Proposed Affordability*

Specific estimates are pending further calculation.

As noted above, the legislative sponsors have stated that the intention of this legislation is to maximize the use of the State Bonus, and apply local inclusionary requirements that are high enough to achieve levels of on-site inclusionary supported as economically feasible by the Controller's Study, under the assumption that most projects will seek and receive a maximum State Bonus of 35%. It should be noted that there are circumstances where the economics of construction would disincentive project sponsors from pursuing the state density allowances. For instance, when application of the density bonus would necessitate a change in building construction type, the costs of construction would rise significantly and may result in a lower

return on investment for the sponsor, even with the bonus units. In such circumstances, both the bonus project and the base project may become infeasible.

At the same time, Proposal A does not require additional Inclusionary Affordable Housing fees or other obligations to the bonus units. For projects that would be inclined to use the state density bonus, Proposal A provides this additional incentive to build and realize housing.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

This proposal would implement the Controller's recommendation that the Affordable Housing Fee apply to all market rate units. Projects that seek a State Density Bonus would provide a combination of onsite units and Affordable Housing Fees that are **within the range of feasibility identified by the Controllers report**. The rate of participation in the Inclusionary Affordable Housing Program (combination of units and fees) would generally constant regardless of whether a project sponsor elects to pursue a State Density Bonus – therefore **this proposal is generally neutral in regards to incentivizing the use of the State Density Bonus**.

Maximum State Density Bonus Available with Proposed Affordability*

Specific estimates are pending further calculation.

Proposal B is paired with a pending local density bonus program that seeks to boost affordability levels beyond the allowances of state law while also responding to local needs related to small business relocation, family-friendly housing, and San Francisco design expectations. This topic is discussed further near the end of this report in the section titled, "Additional Local Legislation".

G. UNIT MIX: BEDROOM REQUIREMENT

Both proposals would include provisions to require specific levels of two-bedroom and larger units for certain projects, which is an area not addressed in the current Inclusionary Housing Program. Currently, a dwelling unit mix is only required in the following zoning districts: RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use districts. Planning Code Section 207.6 generally requires a minimum of 40% two bedroom units OR a minimum of 30% three-bedroom units within projects of five or more units in these districts.

Proposal A: Supervisor Kim and Supervisor Peskin

This proposal would include modifications to Planning Code Section 415 to establish a required minimum dwelling unit mix for projects electing the **on-site option**. Projects electing the on-site alternative would be required to provide:

- No fewer than 40% of total units as two-bedroom units, AND
- No fewer than 20% of total units as three-bedroom units

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

This proposal would establish a new Section 207.7 of the Planning Code, similar to the existing section 207.6, to establish a required minimum dwelling unit mix for projects in certain areas, where such requirements currently do not apply. For projects where this new requirement would apply, generally those of 25 or more dwelling units located outside of the zoning districts listed above, the project would be required to provide:

- No fewer than 25% of total units as two-bedroom units, OR
- No fewer than 10% of units as three-bedroom units

Shared Policy Issues & Concerns for Both Proposal A & B

These modifications are proposed to support an adequate supply of family-sized units in new housing projects. That said, **these requirements could create barriers for low and middle income households due to increasing the costs of housing and due to the uncertainty that families will occupy these units, once built.**

Currently available data indicate that only 30% of 3+ bedroom units in San Francisco are actually occupied by families with children. The remaining 70% of these larger units are occupied by seniors (25%), couples or families without children (25%), single people (3%), and

unrelated individuals (13%)²⁰. A recent report by the SRO Families United Collaborative, 2015 SRO Families Report Living in the Margins: An analysis and Census of San Francisco Families Living in SROs, estimated that there are 699 families living in SROs, 457 of which are in Chinatown²¹. Anecdotally, MOHCD reports that even households with multiple children may prefer to double-up children in bedrooms in order to save on their housing costs. In addition, rents and sales prices for both market-rate and affordable units will be greater as the unit size increases. Because Proposal A establishes a higher overall requirement, mandates both two and three bedroom unit production, and applies to both small and large projects; these concerns are amplified for Proposal A.

H. ADDITIONAL LOCAL LEGISLATION

In addition to the proposed amendments to the Inclusionary Program discussed here, separate legislation is pending at the Board of Supervisors that would provide for additional inclusionary options above and beyond those contained in Section 415, for certain projects.

Supervisor Tang and Mayor Lee announced changes to a pending Ordinance²² [BF 150969] to create “HOME SF” on February 14, 2017, which is intended to compliment the Inclusionary Housing Program by providing for zoning conditions that would enable the production of additional on-site affordable units for family households in outlying neighborhoods.

²⁰ San Francisco Planning Department. “Housing for Families with Children”, January 17, 2017. pg 16, retrieved from: http://default.sfplanning.org/publications_reports/Family_Friendly_Briefing_01-17-17_FINAL.pdf.

²¹ SRO Families United Collaborative. “SRO Families Report Living in the Margins: An analysis and Census of San Francisco Families Living in SROs”, 2015. Available at: http://www.chinatowncdc.org/images/stories/NewsEvents/Newsletters/sro_families_report_2015_.pdf

²² The Planning Commission considered this pending Ordinance, previously known as the “Affordable Housing Bonus Program” at multiple hearing. The Commission moved the Ordinance to the Board on February 25, 2016 by passing Resolution Number 19578.

HOME SF would offer modified zoning controls for projects in density-controlled zoning districts in exchange for the provision of **30% of on-site units as permanently affordable**, including larger family household units. The legislation would broaden the range of households that can qualify for affordable housing. “HOME SF” would include **moderate income households earning an average of 80% AMI** for rental households and **120% AMI** for ownership units, in addition to those on-site units required by the Inclusionary Program.

“HOME SF” would also require projects to include **40% two-bedroom units** and provide incentives for project sponsors to provide three-bedroom units. The program would also encourage projects, especially those that elect to provide three-bedroom units, to include family friendly amenities such as bathtubs, stroller storage, and child friendly open space. Unlike the State Density Bonus law, this local proposal would tailor building massing to the San Francisco context with specific requirements and design guidelines that result buildings that scale to neighborhood controls, and includes incentives for family-friendly housing as well as small business relocation measures. It also propagates lot merger limits to neighborhoods that do not currently have such controls.

Consideration of The Two Proposals

Proposal A: Supervisor Kim and Supervisor Peskin

Proposal A is paired with the State Density bonus law, without local adaptation. See discussion above in Subsection F about the application of this existing law.

Proposal B: Supervisor Safai, Supervisor Breed, and Supervisor Tang

Proposal B is paired with a density bonus option that is adapted for San Francisco. This enables Proposal B to go above and beyond both the State requirements and the base affordability offered under Proposal B by incentivizing additional permanently affordable, while protecting the character of San Francisco’s neighborhoods. The total affordability for large projects could be raised from Proposals B’s base requirements of **18%** for large rental projects and **20%** for large ownership projects to **30% overall**. As noted previously, certain conditions may make bonus projects less financially attractive for project sponsors. Proposal B maintains the advantage of offering feasibility for both projects that do not take a bonus and for those who do utilize a bonus.

Beyond project feasibility, consideration of project design should also be considered. Buildings which use either the State Bonus law or a locally adapted law, like HOME SF, will sometimes be taller or of differing mass than the surrounding context. By encouraging the use of such a local law, bonus projects can be directed towards incentives and concessions that have been vetted to be more consistent with San Francisco character. For instance, the local program would constrain the bonus project in relation to rear-yard, exposure, and open space; while the State Law enables project sponsors to choose how to articulate their project, in consultation with Planning Staff. Further, the locally specific design guidelines²³ clarify how projects shall both maintain their size and adapt to their neighborhood context. While providing affordable housing is of paramount import, it is within the City's interest to direct projects pursuing a bonus into a form that best complements the City's aesthetic.

I. IMPLEMENTATION CONSIDERATIONS

Significant changes to the current structure of the Inclusionary Program are proposed. The Planning Department and MOHCD will be responsible for providing clear and reliable information and documents to the project sponsors and the general public that make clear the inclusionary requirements that apply to projects of different sizes, locations, and which began their entitlement process at different times. Staff will continue to identify implementation issues for discussion at the next hearing on the two proposals.

VI. REQUIRED COMMISSION ACTION

None. This is an informational report.

²³ Draft Design Guidelines for the local bonus program is available here: http://www.sf-planning.org/ftp/files/plans-and-programs/planning-for-the-city/ahbp/AHBP_Draft_Design_Guidelines.pdf

[Planning Code - Inclusionary Affordable Housing Fee and Requirements]

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; adding reporting requirements for density bonus projects; affirming the Planning Department's determination under the California Environmental Quality Act; making findings under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

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

Section 1. General Findings.

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

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

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

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

8
9 Section 2. Findings About Inclusionary Affordable Housing Requirements.

10 (a) The purpose of this ordinance is to adopt inclusionary or affordable housing
11 obligations following voter approval of Proposition C at the June 7, 2016 election to revise the
12 City Charter's inclusionary affordable housing requirements, which won overwhelming support
13 with 67.9% of the vote, and to update the provisions of the Planning Code that became
14 effective after the Charter Amendment passed.

15 (b) The San Francisco residential real estate market is one of the most expensive in
16 the United States. In February 2016, the California Association of Realtors reported that the
17 median priced home in San Francisco was \$1,437,500. This price is 222% higher than the
18 State of California median (\$446,460), and 312% higher than the national average
19 (\$348,900). While the national homeownership rate is approximately 63.8%, only
20 approximately 37% of San Franciscans own their own home. The majority of market-rate
21 homes for sale in San Francisco are priced out of the reach of low and moderate income
22 households. In 2015, the average rent was \$3,524, which is affordable to households earning
23 over \$126,864.

24 (c) The Board of Supervisors adopted San Francisco's General Plan Housing Element
25 in March 2015, and the California Housing and Community Development Department certified

1 it on May 29, 2015. The Housing Element states that San Francisco's share of the regional
2 housing need for years 2015 through 2022 includes 10,873 housing units for very-low and
3 low-income households and 5,460 units for moderate/middle-income households, and a total
4 production of 28,870 net new units, with almost 60% to be affordable for very-low, low- and
5 moderate/middle-income San Franciscans.

6 (d) In November 2016, the City provided the updated Residential Affordable Housing
7 Nexus Analysis that confirms and quantifies the impact of new market rate housing
8 development on the demand for affordable housing for households earning up to 120% of
9 area median income. The study demonstrates a need of 31.8% affordable housing for rental
10 housing, and 37.6% affordable housing for ownership housing, and a need of 24.1% onsite
11 affordable housing for rental housing, and 27.3% onsite affordable housing for ownership
12 housing for households with incomes up to 120% of Area Median Income.

13 (e) In February 2017, the Office of the Controller presented a study of the economic
14 feasibility of increased inclusionary housing requirements, entitled "Inclusionary Housing
15 Working Group: Final Report." The Controller's Office, supported by a contracted consulting
16 team of three firms and advised by a Technical Advisory Committee (TAC) with
17 representatives appointed by the Mayor and Board of Supervisors, developed several policy
18 recommendations, including: (1) that the City should impose different inclusionary housing
19 requirements on rental and for-sale (condominium) properties; (2) that the City can set the
20 initial onsite requirements at a maximum feasible amount of 18% for rental projects and 20%
21 for ownership projects; (3) that the City should commit to a 15-year schedule of increases to
22 the inclusionary housing rate, at a rate of 0.5% increase each year; and (4) that the City
23 should revise the schedule of Inclusionary housing fees to provide a more equivalent cost for
24 developers as the on-site requirements. The Controller's Office recommended updating the
25

1 fee percentage to 23% and 28% to create an equivalency to the recommended 18% and 20%
2 on-site requirements, with the City conducting the specific calculation of the fee itself.

3 (f) The Controller further acknowledged that application of the state-provided density
4 bonus could make a difference in the financial feasibility of housing development projects.

5 (g) In an effort to support a mix of both ownership project and rental projects, the City
6 is providing a direct financial contribution to project sponsors who agree to rent units for a
7 period of 30 years. The direct financial contribution is in the form of a reduction in the
8 applicable affordable housing requirement.

9
10 Section 3. The Planning Code is hereby amended by revising Sections 415.2, 415.3,
11 415.5, 415.6, and 415.7, and adding a new Section 415.11, to read as follows:

12 **SEC. 415.2 DEFINITIONS.**

13 See Section 401 of this Article. For purposes of Sections 415.3et seq., "low income"
14 households shall be defined as households whose total household income ~~does not exceed 55%~~
15 is 45% to 65% of Area Median Income for purposes of renting an affordable unit, or ~~80%~~ 70% to
16 90% of Area Median Income for purposes of purchasing an affordable unit, and "moderate
17 income" and "middle income" households shall mean households whose total household
18 income ~~does not exceed 100%~~ is 80% to 120% of Area Median Income for purposes of renting an
19 affordable unit, or ~~120%~~ 100% to 140% of Area Median Income for purposes of purchasing an
20 affordable unit. The Small Sites Fund, defined in Section 415.5(f)(2), and the Small Sites
21 Program may use Affordable Housing Fees to acquire sites and buildings consistent with the
22 income parameters of the Programs, as periodically updated and administered by MOHCD.

23 "Owned Unit" shall mean a dwelling unit that is a condominium, stock cooperative, community
24 apartment or detached single family home. The owner or owners of an owned unit must occupy the unit
25 as their primary residence.

1 “Rental Housing Project” shall mean a housing project consisting solely of Rental Units, as
2 defined in Section 401, which meets the following requirements:

3 (1) The units shall be rental housing for not less than 30 years from the issuance of the
4 certificate of occupancy pursuant to an agreement between the developer and the City. This agreement
5 shall be in accordance with applicable State law governing rental housing. All such agreements
6 entered into with the City must be reviewed and approved by the Planning Director and the City
7 Attorney’s Office, and may be executed by the Planning Director;

8 (2) The agreement shall be recorded against the property prior to issuance of the
9 certificate of occupancy.

10
11 **SEC. 415.3. APPLICATION.**

12 * * * *

13 (b) Any development project that has submitted a complete Environmental Evaluation
14 application prior to January 1, 2013 shall comply with the Affordable Housing Fee
15 requirements, the on-site affordable housing requirements or the off-site affordable housing
16 requirements, as applicable, in effect on January 12, 2016. For development projects that
17 have submitted a complete Environmental Evaluation application on or after January 1, 2013,
18 the requirements set forth in Planning Code Sections 415.5, 415.6, and 415.7 shall apply to
19 certain development projects consisting of 25 dwelling units or more during a limited period of
20 time as follows.

21 (1) If a development project is eligible and elects to provide on-site affordable
22 housing, the development project shall provide the following amounts of on-site affordable
23 housing. All other requirements of Planning Code Sections 415.1et seq. shall apply.

1 (A) Any development project that has submitted a complete
2 Environmental Evaluation application prior to January 1, 2014 shall provide affordable units in
3 the amount of 13% of the number of units constructed on-site.

4 (B) Any development project that has submitted a complete
5 Environmental Evaluation application prior to January 1, 2015 shall provide affordable units in
6 the amount of 13.5% of the number of units constructed on-site.

7 (C) Any development project that has submitted a complete
8 Environmental Evaluation application on or prior to January 12, 2016 shall provide affordable
9 units in the amount of 14.5% of the number of units constructed on-site.

10 (D) Any development project that submits an Environmental Evaluation
11 application after January 12, 2016, shall comply with the requirements set forth in Planning
12 Code Sections 415.5, 415.6 and 415.7, as applicable.

13 (E) Notwithstanding the provisions set forth in subsections (b)(1)(A), (B)
14 and (C) of this section 415.3, if a development project is located in a UMU Zoning District or in
15 the South of Market Youth and Family Zoning District, and is eligible and elects to provide on-
16 site units pursuant to Section 415.5(g), such development project shall comply with the on-site
17 requirements applicable within such Zoning Districts, as they existed on January 12, 2016,
18 plus the following additional amounts of on-site affordable units: (i) if the development project
19 has submitted a complete Environmental Evaluation application prior to January 1, 2014, the
20 Project Sponsor shall provide additional affordable units in the amount of 1% of the number of
21 units constructed on-site; (ii) if the development project has submitted a complete
22 Environmental Evaluation application prior to January 1, 2015, the Project Sponsor shall
23 provide additional affordable units in the amount of 1.5% of the number of units constructed
24 on-site; or (iii) if the development project has submitted a complete Environmental Evaluation
25

1 application on or prior to January 12, 2016, the Project Sponsor shall provide additional
2 affordable units in the amount of 2% of the number of units constructed on-site.

3 (F) Any development project that has submitted a complete
4 Environmental Evaluation application on or before January 12, 2016 and seeks to utilize a
5 density bonus under State Law shall use its best efforts to provide on-site affordable units in
6 the amount of 25% of the number of units constructed on-site and shall consult with the
7 Planning Department about how to achieve this amount of inclusionary affordable housing.

8 ~~Any project~~ An applicant seeking a density bonus under the provisions of State Law shall
9 provide reasonable documentation to establish eligibility for a requested density bonus, incentives or
10 concessions, and waivers or reductions of development standards. ~~prepare a report analyzing how the~~
11 ~~concessions and incentives requested are necessary in order to provide the required on-site affordable~~
12 ~~housing.~~

13 (2) If a development project pays the Affordable Housing Fee or is eligible and
14 elects to provide off-site affordable housing, the development project shall provide the
15 following fee amount or amounts of off-site affordable housing during the limited periods of
16 time set forth below. All other requirements of Planning Code Sections 415.1 et seq. shall
17 apply.

18 (A) Any development project that has submitted a complete
19 Environmental Evaluation application prior to January 1, 2014, shall pay a fee or provide off-
20 site housing in an amount equivalent to 25% of the number of units constructed on-site.

21 (B) Any development project that has submitted a complete
22 Environmental Evaluation application prior to January 1, 2015, shall pay a fee or provide off-
23 site housing in an amount equivalent to 27.5% of the number of units constructed on-site.

24 (C) Any development project that has submitted a complete
25 Environmental Evaluation application on or prior to January 12, 2016 shall pay a fee or

1 provide off-site housing in an amount equivalent to 30% of the number of units constructed
2 on-site.

3 (D) Any development project that submits an Environmental Evaluation
4 application after January 12, 2016 shall comply with the requirements set forth in Sections
5 415.5, 415.6, and 415.7, as applicable.

6 (E) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B)
7 and (C) of this Section 415.3, for development projects proposing buildings over 120 feet in
8 height, as measured under the requirements set forth in the Planning Code, except for
9 buildings up to 130 feet in height located both within a special use district and within a height
10 and bulk district that allows a maximum building height of 130 feet, such development projects
11 shall pay a fee or provide off-site housing in an amount equivalent to ~~33~~30% of the number of
12 units constructed on-site. Any buildings up to 130 feet in height located both within a special
13 use district and within a height and bulk district that allows a maximum building height of 130
14 feet shall comply with the provisions of subsections (b)(2)(A), (B) and (C) of this Section 415.3
15 during the limited periods of time set forth therein.

16 (F) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B)
17 and (C) of this section 415.3, if a development project is located in a UMU Zoning District or in
18 the South of Market Youth and Family Zoning District, and pays the Affordable Housing Fee
19 or is eligible and elects to provide off-site affordable housing pursuant to Section 415.5(g), or
20 elects to comply with a land dedication alternative, such development project shall comply
21 with the fee, off-site or land dedication requirements applicable within such Zoning Districts,
22 as they existed on January 12, 2016, plus the following additional amounts for the Affordable
23 Housing Fee or for land dedication or off-site affordable units: (i) if the development project
24 has submitted a complete Environmental Evaluation application prior to January 1, 2014, the
25 Project Sponsor shall pay an additional fee, or provide additional land dedication or off-site

affordable units, in an amount equivalent to 5% of the number of units constructed on-site; (ii) if the development project has submitted a complete Environmental Evaluation application prior to January 1, 2015, the Project Sponsor shall pay an additional fee, or provide additional land dedication or off-site affordable units, in an amount equivalent to 7.5% of the number of units constructed on-site; or (iii) if the development project has submitted a complete Environmental Evaluation application on or prior to January 12, 2016, the Project Sponsor shall pay an additional fee, or provide additional land dedication or off-site affordable units, in an amount equivalent to 10% of the number of units constructed on-site. Notwithstanding the foregoing, a development project shall not pay a fee or provide off-site units in a total amount greater than the equivalent of ~~33~~30% of the number of units constructed on-site.

(G) Any development project consisting of 25 dwelling units or more that has submitted a complete Environmental Evaluation application on or prior to January 12, 2016, and is eligible and elects to provide off-site affordable housing, may provide off-site affordable housing by acquiring an existing building to fulfill all or part of the requirements set forth in this Section 415.3 and in Section 415.7 with an equivalent amount of units as specified in this Section 415.3(b)(2), as reviewed and approved by the Mayor's Office of Housing and Community Development and consistent with the parameters of its Small Sites Acquisition and Rehabilitation Program, in conformance with the income limits for the Small Sites Program.

SEC. 415.5. AFFORDABLE HOUSING FEE.

* * * *

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

(1) The number of units equivalent to the applicable off-site percentage of the number of units in the principal project.

1 (A) For housing development projects consisting of 10 dwelling units or more,
2 but less than 25 dwelling units, tThe applicable percentage shall be 20%~~for housing development~~
3 ~~projects consisting of 10 dwelling units or more, but less than 25 dwelling units.~~

4 (B) ~~The applicable percentage for~~ For development projects consisting of
5 25 dwelling units or more, ~~the applicable percentage~~ shall be 33% if such units are Owned Units.

6 (C) For development projects consisting of 25 dwelling units or more, the
7 applicable percentage shall be 30% if such units are Rental Units in a Rental Housing Project. In the
8 event one or more of the Rental Units in the principal Rental Housing Project become ownership units,
9 each Rental Unit or the principal Rental Housing Project in its entirety, as applicable, shall pay to the
10 City the difference in the amount of the applicable inclusionary affordable housing fee so that the total
11 fee would be equivalent to the requirement for Owned Units, which is 33% of the number of total units
12 in the principal project, or such current percentage that has been adjusted annually by MOHCD.

13 (D) For housing developments consisting of 25 or more dwelling units, starting
14 on January 1, 2018, and no later than January 1 of each year thereafter, MOHCD shall increase the
15 applicable percentages set forth in 415.5(b)(1)(B) and 415.5(b)(1)(C) 0.75% each year. In any year
16 that the increase would result in a fee percentage that exceeds the maximum fee percentage in the
17 City's most recently completed Nexus Analysis, the annual increase shall not be applied. MOHCD
18 shall provide the Planning Department, DBI, and the Controller with information on the adjustment to
19 the on-site percentage so that it can be included in the Planning Department's and DBI's website notice
20 of the fee adjustments and the Controller's Citywide Development Fee and Development Impact
21 Requirements Report described in Section 409(a). For the purposes of this Section 415.5, the City shall
22 calculate the fee using the direct fractional result of the total number of units multiplied by the
23 applicable percentage, rather than rounding up the resulting figure as required by Section 415.6(a).

24 (2) The affordability gap shall be calculated using data on ~~the~~ MOHCD's cost ~~of~~
25 ~~construction of~~ to construct affordable residential housing for three different building heights, as

1 applicable: (A) up to 55 feet; (B) above 55 feet up to 85 feet; and (C) above 85 feet ~~and the Maximum~~
2 ~~Purchase Price for the equivalent unit size. The fee shall be calculated individually for these three~~
3 ~~different building types and two types of tenure, ownership and rental, rather than a single fee~~
4 ~~calculation uniformly applied to all types of projects.~~ The Department and MOHCD shall update
5 the technical report from time to time as they deem appropriate in order to ensure that the
6 affordability gap remains current and to reflect current costs of construction.

7 (3) For all housing developments, no ~~Ne~~ later than January 1 of each year,
8 MOHCD shall adjust the fee based on adjustments in the City's cost of constructing affordable
9 housing. MOHCD shall provide the Planning Department, DBI, and the Controller with
10 information on the adjustment to the fee so that it can be included in the Planning
11 Department's and DBI's website notice of the fee adjustments and the Controller's Citywide
12 Development Fee and Development Impact Requirements Report described in Section
13 409(a). MOHCD ~~is authorized to~~ shall develop an appropriate methodology for indexing the fee,
14 ~~based on adjustments in the cost of constructing housing and the Maximum Purchase Price for the~~
15 ~~equivalent unit size.~~ The method of indexing shall be published in the Procedures Manual and
16 shall be provided to the Board of Supervisors when it is updated.

17 (4) Specific Geographic Areas. For any housing development that is located in an
18 area with a specific affordable housing requirement set forth in a Special Use District, or in
19 any other section of the Code such as Section 419, the higher affordable housing requirement
20 shall apply.

21 (5) In the event the project sponsor does not procure a building permit or site permit for
22 construction of the principal project within two years (24 months) of the project's approval, the
23 development project shall comply with the inclusionary affordable housing requirements applicable
24 thereafter at the time when the project sponsor does proceed with pursuing a building permit. Such
25

1 time period shall be extended in the event of any litigation seeking to invalidate the City's approval of
2 such project, for the duration of the litigation.

3 * * * *

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

5 ~~The requirements set forth in this Section 415.6 will be reviewed when the City completes an~~
6 ~~Economic Feasibility Study.~~ If a project sponsor is eligible and elects to provide on-site units
7 pursuant to Section 415.5(g), the development project shall meet the following requirements:

8 (a) Number of Units. The number of units constructed on-site shall be as follows:

9 (1) For housing development projects consisting of 10 dwelling units or more, but less
10 than 25 dwelling units, the number of affordable units constructed on-site shall generally be
11 12% of all units constructed on the project site ~~for housing development projects consisting of 10~~
12 ~~dwelling units or more, but less than 25 dwelling units.~~ The affordable units shall all be affordable
13 to low- ~~and lower-~~ income households. Owned Units shall be affordable to households earning 70%
14 to 90% of Area Median Income, with an average affordable sales price set at 80% of Area Median
15 Income or less. Rental Units shall be affordable to households earning 45% to 65% of Area Median
16 Income, with an average affordable rent set at 55% of Area Median Income or less. ~~The number of~~
17 ~~units constructed on-site shall generally be 25% of all units constructed on the project site for housing~~
18 ~~development projects consisting of 25 dwelling units or more, with a minimum of 15% of the units~~
19 ~~affordable to low-income households and 10% of the units affordable to low- or moderate/middle-~~
20 ~~income households.~~

21 (2) For any housing development project consisting of 25 or more Owned Units, the
22 number of affordable units constructed on-site shall be 27% of all units constructed on the project site,
23 with a minimum of 15% of the units affordable to low- or lower-income households and 12% of the units
24 affordable to moderate/middle-income households. Owned Units for low- and lower-income
25 households shall be affordable to a range of households from 60% to 100% of Area Median Income,

1 with an average affordable sales price set at 80% of Area Median Income or less. Owned Units for
2 middle/moderate income households shall be affordable to a range of households from 100% to 140%
3 of Area Median Income, with an average affordable sales price set at 120% of Area Median Income or
4 less; provided that a middle/moderate income unit shall have a maximum sales price set at 100% of
5 Area Median Income for a single income household. MOHCD may reduce the average Area Median
6 Income upon request by the project sponsor.

7 (3) For any Rental Housing Project consisting of 25 or more Rental Units, the number
8 of affordable units constructed on-site shall generally be 24% of all units constructed on the project
9 site, with a minimum of 15% of the units affordable to low- or lower-income households and 9% of the
10 units affordable to moderate/middle-income households. Rental Units for low- and lower-income
11 households shall be affordable to a range of households earning from 40% to 80% of Area Median
12 Income, with an average affordable rent set at 55% of Area Median Income or less. Rental Units for
13 middle/moderate income households shall be affordable to a range of households earning from 80% to
14 120% of Area Median Income, with an average affordable rent set at 100% of Area Median Income or
15 less; provided that a middle/moderate income unit shall have a maximum rent set at 100% of Area
16 Median Income for a single income household. MOHCD may reduce the average Area Median Income
17 upon request by the project sponsor. MOHCD shall set forth in the Procedures Manual the
18 administration of rental units within this range.

19 (4) For buildings greater than 300 feet in height, an additional 5% of the on-site
20 residential units shall be affordable to qualifying households, with 60% of the additional affordable
21 units affordable to low- and lower-income households, and 40% of the additional affordable units
22 affordable to moderate/middle-income households.

23 (5) A minimum of 40% of the on-site affordable units shall consist of two bedroom units
24 and a minimum of 20% of the on-site affordable units shall consist of three bedrooms or larger. Units
25 shall have minimum floor areas that conform to the standards developed by the California Tax Credit

1 Allocation Committee (CTCAC) for affordable units. The total residential floor area devoted to the
2 affordable units shall not be less than the applicable percentage applied to the total residential floor
3 area of the principal project, provided that a 10% variation in floor area is permitted.

4 (6) In the event one or more of the Rental Units in the principal Rental Housing Project
5 become ownership units, each converted Rental Unit shall reimburse the City the proportional
6 difference between the amount of the then-current inclusionary affordable housing requirement for
7 Rental Units and Owned Units. If a Rental Housing Project is converted to an ownership housing
8 project in its entirety, an additional 3 percent of the units shall be designated as affordable to
9 qualifying households, apportioned between the required number of low- and lower-income and
10 moderate/middle-income on-site units in compliance with the requirements currently in effect at the
11 time of conversion.

12 (7) The Department shall require as a condition of Department approval of a
13 project's building permit, or as a condition of approval of a Conditional Use Authorization or
14 Planned Unit Development or as a condition of Department approval of a live/work project,
15 that 12%, ~~24%~~ or ~~27%~~ ^{25%}, as applicable, of all units constructed on the project site shall be
16 affordable to qualifying households so that a project sponsor must construct .12, ~~.24 or .27~~ ^{or}
17 ~~.25~~ times, as applicable, the total number of units produced in the principal project. If the total
18 number of units is not a whole number, the project sponsor shall round up to the nearest
19 whole number for any portion of .5 or above.

20 (8) Specific Geographic Areas. For any housing development that is located in
21 an area with a specific affordable housing requirement set forth in a Special Use District or in
22 any other section of the Code such as Section 419, the higher housing requirement shall
23 apply.

24 (9) If the principal project has resulted in demolition, conversion, or removal of
25 affordable housing units renting or selling to households at income levels and/or for a rental

1 rate or sales price below corresponding income thresholds for units affordable to low income
2 households, the Commission or the Department shall require that the project sponsor replace
3 the number of affordable units removed with units of a comparable number of bedrooms in
4 addition to compliance with the inclusionary requirements set forth in this Section 415.6 ~~or provide~~
5 ~~that 25% of all units constructed as part of the new project shall be affordable to low income or~~
6 ~~moderate/middle income households, whichever is greater.~~

7 (10) Annual indexing. The required on-site affordable housing to satisfy this section
8 415.6 shall increase by 0.75% annually for all development projects, beginning on January 1, 2018.
9 The increase shall be apportioned between the required number of low- and lower-income and
10 moderate/middle-income on-site units in proportion to the requirement currently in effect.

11 (11) Any development project that constructs on-site affordable housing units as set
12 forth in this Section 415.6 shall diligently pursue completion of such units. In the event the project
13 sponsor does not procure a building permit or site permit for construction of the principal project
14 within two years (24 months) of the project's approval, the development project shall comply with the
15 inclusionary affordable housing requirements applicable thereafter at the time when the project
16 sponsor procures a building permit. Such deadline shall be extended in the event of any litigation
17 seeking to invalidate the City's approval of such project, for the duration of the litigation.

18 (b) Timing of Construction. On-site affordable housing required by this Section 415.6
19 shall be constructed, completed, ready for occupancy, and marketed no later than the market
20 rate units in the principal project.

21 (c) Type of Housing.

22 (1) Equivalency of Units. All on-site units constructed under this Section 415.6
23 shall be provided as ownership units unless the project sponsor meets the eligibility
24 requirement of Section 415.5(g). ~~All on-site units must be affordable to low income households.~~ In
25 general, affordable units constructed under this Section 415.6 shall be comparable in number

1 of bedrooms, exterior appearance and overall quality of construction to market rate units in
 2 the principal project. A Notice of Special Restrictions shall be recorded prior to issuance of the
 3 first construction document and shall specify the number, location and sizes for all affordable
 4 units required under this subsection (c). The affordable units shall be evenly distributed
 5 throughout the building. For buildings over 120 feet in height, as measured under the
 6 requirements set forth in the Planning Code, the affordable units may be distributed
 7 throughout the lower 2/3 of the building, as measured by the number of floors. The interior
 8 features in affordable units should be generally the same as those of the market rate units in
 9 the principal project, but need not be the same make, model or type of such item as long as
 10 they are of good and new quality and are consistent with then-current standards for new
 11 housing. The square footage of affordable units does not need to be the same as or
 12 equivalent to that in market rate units in the principal project, so long as it is consistent with
 13 then-current standards for new housing. The affordable units are not required to be the same
 14 size as the market rate units, and may be 90% of the average size of the specific unit type.
 15 For buildings over 120 feet in height, as measured under the requirements set forth in the
 16 Planning Code, the average size of the unit type may be calculated for the lower 2/3 of the
 17 building, as measured by the number of floors. Where applicable, parking shall be offered to
 18 the affordable units subject to the terms and conditions of the Department's policy on
 19 unbundled parking for affordable housing units as specified in the Procedures Manual and
 20 amended from time to time. ~~On-site affordable units shall be ownership units unless the project~~
 21 ~~applicant meets the eligibility requirement of Section 415.5(9).~~

22 (2) Density Bonus Projects. An applicant seeking a density bonus under the provisions
 23 of State Law shall provide reasonable documentation to establish eligibility for a requested density
 24 bonus, incentives or concessions, and waivers or reductions of development standards. The Planning
 25 Department shall provide information about the value of the density bonus, concessions and incentives

for each density bonus project and include it in the Department's case report or decision on the application. In addition, beginning in January 2018, the Planning Department shall prepare an annual report to the Planning Commission about the number of density bonus projects, density bonus units and the kinds of density bonuses, concessions and incentives provided to each density bonus project.

* * * *

SEC. 415.7. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE

~~The requirements set forth in this Section 415.7 will be reviewed when the City completes an Economic Feasibility Study.~~ If the project sponsor is eligible and elects pursuant to Section 415.5(g) to provide off-site units to satisfy the requirements of Section 415.1 *et seq.*, the project sponsor shall notify the Planning Department and the Mayor's Office of Housing and Community Development ("MOHCD") of its intent as early as possible. The Planning Department and MOHCD shall provide an evaluation of the project's compliance with this Section 415.7 prior to approval by the Planning Commission or Planning Department. The development project shall meet the following requirements:

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

(1) For any housing development that is located in an area or Special Use District with a specific affordable housing requirement, set forth in Section 419 or elsewhere in this Code, the higher off-site housing requirement shall apply.

(2) For housing development projects consisting of 10 dwelling units or more but less than 25 units, the number of affordable units constructed off-site shall be 20%, so that a project applicant shall construct .20 times the total number of units produced in the principal project. If the total number of units is not a whole number, the project applicant shall round up to the nearest whole number for any portion of .5 or above. The off-site affordable units shall be affordable to low- and lower-income households. Owned Units shall be affordable to

1 households earning 60% to 90% of Area Median Income, with an average affordable sales price set at
2 80% of Area Median Income or less. Rental Units shall be affordable to households earning 40% to
3 80% of Area Median Income, with an average affordable rent set at 55% of Area Median Income or
4 less.

5 (3) For any housing development project consisting of 25 or more Owned Units, the
6 number of affordable units constructed off-site shall be 33% of all units constructed on the project site,
7 with a minimum of 18% of the units affordable to low- or lower-income households and 15% of the
8 units affordable to moderate/middle-income households. Owned Units for low- and lower-income
9 households shall be affordable to a range of households from 60% to 100% of Area Median Income,
10 with an average affordable sales price set at 80% of Area Median Income or less. Owned Units for
11 middle/moderate income households shall be affordable to a range of households from 100% to 140%
12 of Area Median Income, with an average affordable sales price set at 120% of Area Median Income or
13 less; provided that a middle/moderate income unit shall have a maximum sales price set at 100% of
14 Area Median Income for a single income household. MOHCD may reduce the average Area Median
15 Income upon request by the project sponsor.

16 (4) For any Rental Housing Project consisting of 25 or more Rental Units, the number
17 of affordable units constructed off-site shall generally be 30% of all units constructed on the project
18 site, with a minimum of 18% of the units affordable to low- or lower-income households and 12% of the
19 units affordable to moderate/middle-income households. Rental Units for low- and lower-income
20 households shall be affordable to a range of households earning from 45% to 65% of Area Median
21 Income, with an average affordable rent set at 55% of Area Median Income or less. Rental Units for
22 middle/moderate income households shall be affordable to a range of households earning from 80% to
23 120% of Area Median Income, with an average affordable rent set at 100% of Area Median Income or
24 less; provided that a middle/moderate income unit shall have a maximum rent set at 100% of Area
25 Median Income for a single income household. MOHCD may reduce the average Area Median Income

1 upon request by the project sponsor. MOHCD shall set forth in the Procedures Manual the
2 administration of rental units within this range.

3 (5) In the event one or more of the Rental Units in the principal Rental Housing Project
4 become ownership units, each converted Rental Unit, or the principal Rental Housing Project in its
5 entirety, as applicable, shall either (A) reimburse the City the proportional amount of the inclusionary
6 affordable housing fee, which would be equivalent to the current inclusionary affordable fee
7 requirement for Owned Units, or (B) provide additional off-site affordable units equivalent to the
8 current inclusionary requirements for Owned Units.

9 (6) The Department shall require as a condition of Department approval of a project's
10 building permit, or as a condition of approval of a Conditional Use Authorization or Planned Unit
11 Development or as a condition of Department approval of a live/work project, that 20%, 30% or 33%,
12 as applicable, of all units constructed on the project site shall be constructed off-site and affordable to
13 qualifying households so that a project sponsor must construct .20, .30 or .33 times, as applicable, the
14 total number of units produced in the principal project.

15 (7) For housing developments consisting of 25 or more dwelling units, starting on
16 January 1, 2018, and no later than January 1 of each year thereafter, MOHCD shall increase the
17 applicable percentages set forth in 415.7(a)(3) and 415.7(a)(4) 0.75% each year. In any year that the
18 increase would result in a fee percentage that exceeds the maximum fee percentage in the City's most
19 recently completed Nexus Analysis, the annual increase shall not be applied. The increase shall be
20 apportioned between the required number of low- and lower-income and moderate/middle-income on-
21 site units in proportion to the requirement currently in effect.

22 (8) Any development project that constructs off-site affordable housing units as set forth
23 in this Section 415.6 shall diligently pursue completion of such units. In the event the project sponsor
24 does not procure a building permit or site permit for construction of the principal project or the off-site
25 affordable housing project within two years (24 months) of the project's approval, the development

1 project shall comply with the inclusionary affordable housing requirements applicable thereafter at the
2 time when the project sponsor procures a building permit. Such deadline shall be extended in the event
3 of any litigation seeking to invalidate the City's approval of the principal project or off-site affordable
4 housing project for the duration of the litigation.

5 ~~For housing development projects consisting of 25 dwelling units or more, the number of units~~
6 ~~constructed off site shall be 33%, with 20% of the units affordable to low-income households and 13%~~
7 ~~of the units affordable to low- or moderate/middle-income households, so that a project applicant shall~~
8 ~~construct .33 times the total number of units produced in the principal project. If the total number of~~
9 ~~units is not a whole number, the project applicant shall round up to the nearest whole number for any~~
10 ~~portion of .5 or above.~~

11 (94) Specific Geographic Areas.

12 For any housing development that is located in an area with a specific
13 affordable housing requirement set forth in a Special Use District, or in any other section of
14 the Code such as Section 419, the higher affordable housing requirement shall apply.

15
16 * * * *

17 **SEC. 415.11. SEVERABILITY.**

18 If any subsection, sentence, clause, phrase, or word of this Section 415, or any application
19 thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court
20 of competent jurisdiction, such decision shall not affect the validity of the remaining portions or
21 applications of the Section. The Board of Supervisors hereby declares that it would have passed this
22 ordinance and each and every subsection, sentence, clause, phrase, and word not declared invalid or
23 unconstitutional without regard to whether any other portion of this Section or application thereof
24 would be subsequently declared invalid or unconstitutional.

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

5
6 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the "Note" that appears under
11 the official title of the ordinance.

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: _____
16 KATE H. STACY
17 Deputy City Attorney

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[Planning Code - Inclusionary Affordable Housing Fee and Dwelling Unit Mix Requirements]

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; to require minimum dwelling unit mix in all residential districts; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public necessity, convenience, and welfare under Planning Code Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

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

Section 1. General Findings.

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

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

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

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

9
10 Section 2. Findings About Inclusionary Affordable Housing Requirements.

11 (a) The purpose of this ordinance is to adopt new inclusionary or affordable housing
12 obligations following the process set forth in Section 415.10 of the Planning Code, and
13 elaborated upon in Ordinance No. 76-16, which required that the City study how to set
14 inclusionary housing obligations in San Francisco at the maximum economically feasible
15 amount in market rate housing development to create affordable housing. The inclusionary
16 affordable housing obligations set forth in this ordinance will supersede and replace any
17 previous requirements.

18 (b) The City's Inclusionary Affordable Housing Program is intended to share the need
19 to meet the demonstrated need for affordable housing in the City with private development
20 and to ensure that all housing needs are addressed as part of the City's land use controls.
21 However, setting the requirements at the right level is critical to increasing housing
22 opportunities, especially affordable opportunities. If inclusionary levels are set too low, the City
23 does not maximize new affordable housing units; if they are set too high, housing will not be
24 economically feasible for private development, and will not be built at all.

1 (c) From June 2016 from February 2017, the Controller's Office undertook a study that
2 recommended levels of inclusionary requirements that could be borne by market rate
3 development without impeding its feasibility. This process was guided by a Technical Advisory
4 Committee, and was open to the public. On February 13, 2017, the Controller's Office
5 published the Inclusionary Housing Working Group Final Report, a study that provided final
6 recommendations, which form the basis of the amendments proposed by this ordinance.

7 (d) As rents and sales prices outpace what is affordable to the typical San Francisco
8 family, the City faces a continuing shortage of affordable housing for not only very low and
9 low-income residents, but also for moderate and middle income families. To date, the majority
10 of the City's affordable housing production, including the majority of units produced through
11 the inclusionary housing program, has served primarily very low and low income households,
12 at or below 60% of area median income.

13 (e) In order to maximize the benefit of state and federal funds supporting affordable
14 housing construction, which are typically restricted to very low and low income households,
15 and to maximize the amount of affordable units constructed, the majority of the City's new
16 affordable housing production is likely to continue to focus on households at or below 60% of
17 area median income. However, new units produced through the City's Inclusionary Housing
18 Program do not typically avail themselves of state and federal funds, and therefore provide
19 the most cost-effective way to produce units for moderate and middle income families.

20 (f) The Board of Supervisors recognizes that this Inclusionary Housing Program is only
21 one small part of the City's overall strategy for providing affordable housing to very low, low,
22 moderate and middle income households. The City will continue to acquire, rehabilitate and
23 produce units through the Mayor's Office of Housing and Community Development, provide
24 rental subsidies, and provide homeownership assistance to continue to expand its reach to
25 households in need of affordable housing.

1 (g) The City will also continue to pursue innovative solutions to provide and stabilize
2 affordable housing in San Francisco, including programs such as HOME-SF which enhance
3 the existing Inclusionary Housing program by incentivizing projects that set aside 30% of on-
4 site units as permanently affordable, and 40% of units as family-friendly multiple bedroom
5 units.

6 (h) The City, through the Mayor's Office of Housing and Community Development, will
7 also continue to acquire, rehabilitate and produce units, provide rental subsidies, provide
8 homeownership assistance, and expand its reach to households in need of affordable
9 housing.

10 (i) In an effort to support a mix of both ownership project and rental projects, the City is
11 providing a direct financial contribution to project sponsors who agree to rent units for a period
12 of 30 years. The direct financial contribution is in the form of a reduction in the applicable
13 affordable housing requirement.

14 Section 3. The Planning Code is hereby amended by revising Sections 415.2, 415.3,
15 415.5, 415.6, and 415.7, and adding Section 415.11 to read as follows:

16 **SEC. 415.2. DEFINITIONS.**

17 In addition to the definitions set forth in See Section 401 of this Article, the following
18 definitions shall apply to Sections 415.1 et seq. "Owned Unit" shall mean a condominium, stock
19 cooperative, community apartment or detached single family home, and the owner or owners of an
20 owned unit must occupy the unit as their primary residence. "Rental Housing Project" shall mean a
21 housing project consisting solely of Rental Units, as defined in Section 401, that meets all of the
22 following requirements: (a) the units shall be rental housing for not less than 30 years from the
23 issuance of the certificate of occupancy pursuant to an agreement between the developer and the City,
24 in accordance with applicable State law governing rental housing, which is reviewed and approved by
25 the Planning Director and the City Attorney's Office and executed by the Planning Director; and (b)

1 the agreement described in subsection (a) shall be recorded against the property prior to issuance of
2 the certificate of occupancy.

3 ~~For purposes of Sections 415.3 et seq., "low income" households shall be defined as households~~
4 ~~whose total household income does not exceed 55% of Area Median Income for purposes of renting an~~
5 ~~affordable unit, or 80% of Area Median Income for purposes of purchasing an affordable unit, and~~
6 ~~"moderate income" and "middle income" households shall mean households whose total household~~
7 ~~income does not exceed 100% of Area Median Income for purposes of renting an affordable unit, or~~
8 ~~120% of Area Median Income for purposes of purchasing an affordable unit. The Small Sites Fund,~~
9 ~~defined in Section 415.5(f)(2), and the Small Sites Program may use Affordable Housing Fees to~~
10 ~~acquire sites and buildings consistent with the income parameters of the Programs, as periodically~~
11 ~~updated and administered by MOHCD.~~

12 **SEC. 415.3. APPLICATION.**

13 * * * *

14 (b) Any development project that has submitted a complete Environmental Evaluation
15 application prior to January 1, 2013 shall comply with the Affordable Housing Fee
16 requirements, the on-site affordable housing requirements or the off-site affordable housing
17 requirements, as applicable, in effect on January 12, 2016. ~~For development projects that have~~
18 ~~submitted a complete Environmental Evaluation application on or after January 1, 2013, the~~
19 ~~requirements set forth in Planning Code Sections 415.5, 415.6, and 415.7 shall apply to certain~~
20 ~~development projects consisting of 25 dwelling units or more during a limited period of time as follows.~~

21 (c) Any development project that has submitted a complete Environmental Evaluation
22 application after January 12, 2016, shall comply with the requirements set forth in Planning Code
23 Sections 415.5, 415.6 and 415.7, as applicable. The applicable amount of the inclusionary housing fee
24 or percentage required for the on-site or off-site alternatives shall be determined based upon the date
25 that the project sponsor has submitted a complete Environmental Evaluation application, provided that

1 a First Construction Document is issued within three years of the date the Development Application
2 procures a first discretionary development entitlement approval, which shall mean approval following
3 any administrative appeal to the relevant City board. In the event the project sponsor does not procure
4 a First Construction Document within three years of the date the development procured a first
5 development entitlement approval, including any administrative appeal to the relevant City board, the
6 development project shall comply with the inclusionary affordable housing requirements set forth in
7 Sections 415.5, 415.6, and 415.7 in effect at the time the First Construction Document is issued. Such
8 deadline shall be extended in the event of any litigation seeking to invalidate the City's approval of such
9 project, for the duration of the litigation.

10 (d) For development projects consisting of 25 dwelling units or more that have submitted a
11 complete Environmental Evaluation application on or after January 1, 2013 and prior to or on January
12 12, 2016, the requirements set forth in Planning Code Sections 415.5, 415.6, and 415.7 shall apply;
13 provided, however, that during the limited periods of times set forth in this subsection (d), the following
14 amounts of on-site affordable housing shall apply to development projects that are eligible and elect to
15 provide on-site affordable housing under Section 415.6.

16 ~~(1) If a development project is eligible and elects to provide on-site affordable housing,~~
17 ~~the development project shall provide the following amounts of on-site affordable housing. All other~~
18 ~~requirements of Planning Code Sections 415.1 et seq. shall apply.~~

19 (A1) Any development project that has submitted a complete
20 Environmental Evaluation application prior to January 1, 2014 shall provide affordable units in
21 the amount of 13% of the number of units constructed on-site.

22 (B2) Any development project that has submitted a complete
23 Environmental Evaluation application prior to January 1, 2015 shall provide affordable units in
24 the amount of 13.5% of the number of units constructed on-site.

1 (€3) Any development project that has submitted a complete
2 Environmental Evaluation application on or prior to January 12, 2016 shall provide affordable
3 units in the amount of 14.5% of the number of units constructed on-site.

4 ~~(D) Any development project that submits an Environmental Evaluation~~
5 ~~application after January 12, 2016, shall comply with the requirements set forth in Planning Code~~
6 ~~Sections 415.5, 415.6 and 415.7, as applicable.~~

7 ~~(E) Notwithstanding the provisions set forth in subsections (b)(1)(A), (B) and~~
8 ~~(C) of this section 415.3, if a development project is located in a UMU Zoning District or in the South~~
9 ~~of Market Youth and Family Zoning District, and is eligible and elects to provide on-site units pursuant~~
10 ~~to Section 415.5(g), such development project shall comply with the on-site requirements applicable~~
11 ~~within such Zoning Districts, as they existed on January 12, 2016, plus the following additional~~
12 ~~amounts of on-site affordable units: (i) if the development project has submitted a complete~~
13 ~~Environmental Evaluation application prior to January 1, 2014, the Project Sponsor shall provide~~
14 ~~additional affordable units in the amount of 1% of the number of units constructed on-site; (ii) if the~~
15 ~~development project has submitted a complete Environmental Evaluation application prior to January~~
16 ~~1, 2015, the Project Sponsor shall provide additional affordable units in the amount of 1.5% of the~~
17 ~~number of units constructed on-site; or (iii) if the development project has submitted a complete~~
18 ~~Environmental Evaluation application on or prior to January 12, 2016, the Project Sponsor shall~~
19 ~~provide additional affordable units in the amount of 2% of the number of units constructed on-site.~~

20 ~~(F) Any development project that has submitted a complete Environmental~~
21 ~~Evaluation application on or before January 12, 2016 and seeks to utilize a density bonus under State~~
22 ~~Law shall use its best efforts to provide on-site affordable units in the amount of 25% of the number of~~
23 ~~units constructed on-site and shall consult with the Planning Department about how to achieve this~~
24 ~~amount of inclusionary affordable housing. An applicant seeking a density bonus under the provisions~~
25

1 ~~of State Law shall prepare a report analyzing how the concessions and incentives requested are~~
2 ~~necessary in order to provide the required on-site affordable housing.~~

3 ~~(2) If a development project pays the Affordable Housing Fee or is eligible and elects to~~
4 ~~provide off-site affordable housing, the development project shall provide the following fee amount or~~
5 ~~amounts of off-site affordable housing during the limited periods of time set forth below. All other~~
6 ~~requirements of Planning Code Sections 415.1 et seq. shall apply.~~

7 ~~(A) Any development project that has submitted a complete Environmental~~
8 ~~Evaluation application prior to January 1, 2014, shall pay a fee or provide off-site housing in an~~
9 ~~amount equivalent to 25% of the number of units constructed on-site.~~

10 ~~(B) Any development project that has submitted a complete Environmental~~
11 ~~Evaluation application prior to January 1, 2015, shall pay a fee or provide off-site housing in an~~
12 ~~amount equivalent to 27.5% of the number of units constructed on-site.~~

13 ~~(C) Any development project that has submitted a complete Environmental~~
14 ~~Evaluation application on or prior to January 12, 2016 shall pay a fee or provide off-site housing in an~~
15 ~~amount equivalent to 30% of the number of units constructed on-site.~~

16 ~~(D) Any development project that submits an Environmental Evaluation~~
17 ~~application after January 12, 2016 shall comply with the requirements set forth in Sections 415.5,~~
18 ~~415.6, and 415.7, as applicable.~~

19 ~~(E) Notwithstanding the provisions set forth in subsections (b)(2)(A), (B) and~~
20 ~~(C) of this Section 415.3, for development projects proposing buildings over 120 feet in height, as~~
21 ~~measured under the requirements set forth in the Planning Code, except for buildings up to 130 feet in~~
22 ~~height located both within a special use district and within a height and bulk district that allows a~~
23 ~~maximum building height of 130 feet, such development projects shall pay a fee or provide off-site~~
24 ~~housing in an amount equivalent to 33% of the number of units constructed on-site. Any buildings up to~~
25 ~~130 feet in height located both within a special use district and within a height and bulk district that~~

1 ~~allows a maximum building height of 130 feet shall comply with the provisions of subsections (b)(2)(A),~~
2 ~~(B) and (C) of this Section 415.3 during the limited periods of time set forth therein.~~

3 ~~(F) Notwithstanding the provisions set forth in subsections (d)(1), (2), and (3)~~
4 ~~(b)(2)(A), (B) and (C) of this section 415.3, if a development project is located in a UMU Zoning~~
5 ~~District or in the South of Market Youth and Family Zoning District, and pays the Affordable Housing~~
6 ~~Fee or is eligible and elects to provide off-site affordable housing pursuant to Section 415.5(g), or~~
7 ~~elects to comply with a land dedication alternative, such development project shall comply with the fee,~~
8 ~~off-site or land dedication requirements applicable within such Zoning Districts, as they existed on~~
9 ~~January 12, 2016, plus the following additional amounts for the Affordable Housing Fee or for land~~
10 ~~dedication or off-site affordable units: (i) if the development project has submitted a complete~~
11 ~~Environmental Evaluation application prior to January 1, 2014, the Project Sponsor shall pay an~~
12 ~~additional fee, or provide additional land dedication or off-site affordable units, in an amount~~
13 ~~equivalent to 5% of the number of units constructed on-site; (ii) if the development project has~~
14 ~~submitted a complete Environmental Evaluation application prior to January 1, 2015, the Project~~
15 ~~Sponsor shall pay an additional fee, or provide additional land dedication or off-site affordable units,~~
16 ~~in an amount equivalent to 7.5% of the number of units constructed on-site; or (iii) if the development~~
17 ~~project has submitted a complete Environmental Evaluation application on or prior to January 12,~~
18 ~~2016, the Project Sponsor shall pay an additional fee, or provide additional land dedication or off-site~~
19 ~~affordable units, in an amount equivalent to 10% of the number of units constructed on-site.~~
20 ~~Notwithstanding the foregoing, a development project shall not pay a fee or provide off-site units in a~~
21 ~~total amount greater than the equivalent of 33% of the number of units constructed on-site.~~

22 ~~(G) Any development project consisting of 25 dwelling units or more that has~~
23 ~~submitted a complete Environmental Evaluation application on or prior to January 12, 2016, and is~~
24 ~~eligible and elects to provide off-site affordable housing, may provide off-site affordable housing by~~
25 ~~acquiring an existing building to fulfill all or part of the requirements set forth in this Section 415.3 and~~

1 ~~in Section 415.7 with an equivalent amount of units as specified in this Section 415.3(b)(2), as reviewed~~
2 ~~and approved by the Mayor's Office of Housing and Community Development and consistent with the~~
3 ~~parameters of its Small Sites Acquisition and Rehabilitation Program, in conformance with the income~~
4 ~~limits for the Small Sites Program.~~

5 ~~(3) During the limited period of time in which the provisions of Section 415.3(b) apply,~~
6 ~~for any housing development that is located in an area with a specific affordable housing requirement~~
7 ~~set forth in an Area Plan or a Special Use District, or in any other section of the Code such as Section~~
8 ~~419, with the exception of the UMU Zoning District or in the South of Market Youth and Family Zoning~~
9 ~~District, the higher of the affordable housing requirement set forth in such Area Plan or Special Use~~
10 ~~District or in Section 415.3(b) shall apply. Any affordable housing impact fee paid pursuant to an Area~~
11 ~~Plan or Special Use District shall be counted as part of the calculation of the inclusionary housing~~
12 ~~requirements contained in Planning Code Sections 415.1 et seq.~~

13 (45) Any development project that constructs on-site ~~or off-site~~ affordable
14 housing units as set forth in subsection (bd) of this Section 415.3 shall diligently pursue
15 completion of such units. In the event the project sponsor does not procure a building permit
16 or site permit for construction of the affordable housing units by December 7, 2018, the
17 development project shall comply with the inclusionary affordable housing requirements set
18 forth in Sections ~~415.5, 415.6, and 415.7, as applicable.~~ Such deadline shall be extended in the
19 event of any litigation seeking to invalidate the City's approval of such project, for the duration
20 of the litigation.

21 (~~ee~~) The new inclusionary affordable housing requirements contained in Sections
22 415.5, 415.6, and 415.7, as well as the provisions contained in Section 415.3(bd), shall not
23 apply to ~~(1) any mixed use project that is located in a special use district for which a height limit~~
24 ~~increase has been approved by the voters prior to January 12, 2016 to satisfy the requirements of~~
25 ~~Administrative Code Section 61.5.1, or (2) any mixed use project that has entered into a development~~

1 ~~agreement or other similar binding agreement with the City on or before January 12, 2016, or (3) any~~
2 housing development project that has procured a final first discretionary development
3 entitlement approval, which shall mean approval following any administrative appeal to the
4 relevant City board, on or before January 12, 2016. The inclusionary housing requirements for
5 these projects shall be those requirements contained in the projects' existing approvals.

6 (~~d~~) The City may continue to enter into development agreements or other similar
7 binding agreements for projects that provide inclusionary affordable housing at levels that may
8 be different from the levels set forth in Sections 415.1 et seq.

9 (~~g~~) Section 415.1 et seq., the Inclusionary Housing Program, shall not apply to:

10 (1) That portion of a housing project located on property owned by the United
11 States or any of its agencies or leased by the United States or any of its agencies, for a period
12 in excess of 50 years, with the exception of such property not used exclusively for a
13 governmental purpose;

14 (2) That portion of a housing project located on property owned by the State of
15 California or any of its agencies, with the exception of such property not used exclusively for a
16 governmental or educational purpose; or

17 (3) That portion of a housing project located on property under the jurisdiction of
18 the San Francisco Office of Community Investment and Infrastructure or the Port of San
19 Francisco where the application of Section 415.1 et seq. is prohibited by California or local
20 law.

21 (4) A 100% affordable housing project in which rents are controlled or regulated
22 by any government unit, agency or authority, excepting those unsubsidized and/or unassisted
23 units which are insured by the United States Department of Housing and Urban Development.
24 The Mayor's Office of Housing and Community Development must represent to the Planning
25 Commission or Planning Department that the project meets this requirement.

* * * *

(5) A Student Housing project that meets all of the following criteria:

* * * *

(C) The Mayor's Office of Housing and Community Development (MOHCD) is authorized to monitor this program. MOHCD shall develop a monitoring form and annual monitoring fee to be paid by the owner of the real property or the Post-Secondary Educational Institution or Religious Institutions, as defined in Section 102 of this Code. The owner of the real property and each Post-Secondary Educational Institution or Institutions shall agree to submit annual documentation to MOHCD and the Planning Department, on or before December 31 of each year, that addresses the following:

* * * *

(iii) The owner of the real property records a Notice of Special Restrictions (NSR) against fee title to the real property on which the Student Housing is located that states the following:

* * * *

d. The Post-Secondary Educational Institution is required to report annually as required in Subsection (g)(5)(C) above;

* * * *

SEC. 415.5. AFFORDABLE HOUSING FEE.

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

1 (a) Payment of a Fee. The fee is due and payable to the Development Fee Collection
2 Unit at DBI for deposit into the Citywide Affordable Housing Fund at the time of and in no
3 event later than issuance of the first construction document, with an option for the project
4 sponsor to defer payment to prior to issuance of the first certificate of occupancy upon
5 agreeing to pay a deferral surcharge that would be deposited into the Citywide Affordable
6 Housing Fund, in accordance with Section 107A.13.15 of the San Francisco Building Code.

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

9 (1) The number of units equivalent to the applicable off-site percentage of the
10 number of units in the principal housing project.

11 (A) The applicable percentage shall be 20% for housing development
12 projects consisting of 10 dwelling units or more, but less than 25 dwelling units.

13 (B) The applicable percentage for development projects consisting of 25
14 dwelling units or more shall be ~~33%~~ 28% if such units are Owned Units.

15 (C) The applicable percentage for development projects consisting of 25
16 dwelling units or more shall be 23% if such units are Rental Units in a Rental Housing Project.

17 (D) For housing developments consisting of 25 or more dwelling units, starting
18 on January 1, 2019, and no later than January 1 of each year thereafter, MOHCD shall increase the
19 applicable percentages set forth in 415.5(b)(1)(B) and 415.5(b)(1)(C) in increments of 0.5% each year,
20 until such requirements are 33% and 28%, respectively. In any year that the increase would result in a
21 fee percentage that exceeds the maximum fee percentage in the City's most recently completed Nexus
22 Analysis, the annual increase shall not be applied. MOHCD shall provide the Planning Department,
23 DBI, and the Controller with information on the adjustment to the on-site percentage so that it can be
24 included in the Planning Department's and DBI's website notice of the fee adjustments and the
25

1 Controller's Citywide Development Fee and Development Impact Requirements Report described in
2 Section 409(a).

3 ~~For the purposes of this Section 415.5, the City shall calculate the fee using the~~
4 ~~direct fractional result of the total number of units multiplied by the applicable percentage, rather than~~
5 ~~rounding up the resulting figure as required by Section 415.6(a).~~

6 (2) The affordability gap using data on ~~the~~ MOHCD's cost of construction of
7 residential housing ~~and the Maximum Purchase Price for the equivalent unit size~~. The Department
8 and MOHCD shall update the technical report from time to time as they deem appropriate in
9 order to ensure that the affordability gap remains current.

10 (3) For all housing development projects, no ~~Ne~~ later than January 1 of each year,
11 MOHCD shall adjust the fee based on adjustments in the cost of constructing housing. MOHCD
12 shall provide the Planning Department, DBI, and the Controller with information on the
13 adjustment to the fee so that it can be included in the Planning Department's and DBI's
14 website notice of the fee adjustments and the Controller's Citywide Development Fee and
15 Development Impact Requirements Report described in Section 409(a). MOHCD is
16 authorized to develop an appropriate methodology for indexing the fee, ~~based on adjustments in~~
17 ~~the cost of constructing housing and the Maximum Purchase Price for the equivalent unit size~~. The
18 method of indexing shall be published in the Procedures Manual.

19 ~~(4) For any housing development that is located in an area with a specific affordable~~
20 ~~housing requirement set forth in a Special Use District, or in any other section of the Code such as~~
21 ~~Section 419, the higher affordable housing requirement shall apply.~~

22 (4) MOHCD shall calculate, and the Planning Department shall impose the fee as a
23 dollar per square foot equivalency based on the total number of gross residential square feet in the
24 project. MOHCD shall publish the methodology for calculating gross residential square feet in its
25 Procedures Manual.

1 (5) The fee shall be imposed on any additional units or square footage authorized and
2 developed under California Government Code Sections 65915 et seq.

3 (c) Notice to Development Fee Collection Unit of Amount Owed. Prior to issuance of
4 the first construction document for a development project subject to Section 415.5, ~~MOH~~ the
5 Planning Department shall notify the Development Fee Collection Unit at DBI electronically or in
6 writing of its calculation of the amount of the fee owed.

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

13 (e) If a housing project is located in an Area Plan with an additional or specific
14 affordable housing requirements such as those set forth in a special use district or section
15 416, 417, and 419 or elsewhere in this code, the higher housing requirement shall apply. ~~more~~
16 ~~specific provisions shall apply in lieu of or in addition to those provided in this Program, as applicable.~~

17 (f) Use of Fees. All monies contributed pursuant to the Inclusionary Affordable Housing
18 Program shall be deposited in the Citywide Affordable Housing Fund ("the Fund"), established
19 in Administrative Code Section 10.100-49. The Mayor's Office of Housing and Community
20 Development ("MOHCD") shall use the funds collected under this Section in the following
21 manner:

22 (1) Except as provided in subsection (2) below, the funds collected under this
23 Section shall be used to:

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

1 (B) provide assistance to low and moderate income homebuyers; and
2 (C) pay the expenses of MOHCD in connection with monitoring and
3 administering compliance with the requirements of the Program. MOHCD is authorized to use
4 funds in an amount not to exceed \$200,000 every 5 years to conduct follow-up studies under
5 Section 415.9(e) and to update the affordable housing fee amounts as described above in
6 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated
7 through the annual budget process or supplemental appropriation for MOHCD.

8 (2) "Small Sites Funds."

9 (A) Designation of Funds. MOHCD shall designate and separately
10 account for 10% percent of all fees that it receives under Section 415.1et seq. that are
11 deposited into the Citywide Affordable Housing Fund, established in Administrative Code
12 Section 10.100-49, excluding fees that are geographically targeted such as those referred to
13 in Sections 415.5(b)(1) and 827(b)(1), to support acquisition and rehabilitation of Small Sites
14 ("Small Sites Funds"). MOHCD shall continue to divert 10% percent of all fees for this purpose
15 until the Small Sites Funds reach a total of \$15 million at which point, MOHCD will stop
16 designating funds for this purpose. At such time as designated Small Sites Funds are
17 expended and dip below \$15 million, MOHCD shall start designating funds again for this
18 purpose, such that at no time the Small Sites Funds shall exceed \$15 million. When the total
19 amount of fees paid to the City under Section 415.1et seq. totals less than \$10 million over
20 the preceding 12 month period, MOHCD is authorized to temporarily divert funds from the
21 Small Sites Fund for other purposes. MOHCD must keep track of the diverted funds, however,
22 such that when the amount of fees paid to the City under Section 415.1et seq. meets or
23 exceeds \$10 million over the preceding 12 month period, MOHCD shall commit all of the
24 previously diverted funds and 10% percent of any new funds, subject to the cap above, to the
25 Small Sites Fund.

1 (B) Use of Small Sites Funds. The funds shall be used exclusively to
2 acquire or rehabilitate "Small Sites" defined as properties consisting of 2-25 units. Units
3 supported by monies from the fund shall be designated as housing affordable to qualified
4 households consistent with the income qualifications of the Small Sites Acquisition and Rehabilitation
5 Program, as periodically updated and administered by MOHCD, ~~as set forth in Section 415.2~~ for no
6 less than 55 years. Properties supported by the Small Sites Funds must be:

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

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

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

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

23 (E) Intent. In establishing guidelines for Small Sites Funds, the Board of
24 Supervisors does not intend to preclude MOHCD from expending other eligible sources of
25

1 funding on Small Sites as described in this Section, or from allocating or expending more than
2 \$15 million of other eligible funds on Small Sites.

3 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD
4 requires the project sponsor or its successor in interest to give preference as provided in
5 Administrative Code Chapter 47.

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

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

11 (A) **Alternative #1: On-Site Units.** Project sponsors may elect to
12 construct units affordable to qualifying households on-site of the principal project pursuant to
13 the requirements of Section 415.6.

14 (B) **Alternative #2: Off-Site Units.** Project sponsors may elect to
15 construct units affordable to qualifying households at an alternative site within the City and
16 County of San Francisco pursuant to the requirements of Section 415.7.

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

19 (D) **Alternative #4: Combination.** Project sponsors may elect any
20 combination of payment of the Affordable Housing Fee as provided in Section 415.5,
21 construction of on-site units as provided in Section 415.6, or construction of off-site units as
22 provided in Section 415.7, provided that the project applicant constructs or pays the fee at the
23 appropriate percentage or fee level required for that option. Projects providing on-site units
24 under Section 415.6 and that qualify for and receive additional density under California Government
25

1 Code Section 65915 et seq. shall use Alternative #4 to pay the Affordable Housing Fee on any
2 additional square footage authorized under Section 65915.

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

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

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

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

4 (3) The Planning Commission or the Department may not require a
5 project sponsor to select a specific Alternative. If a project sponsor elects to meet the Program
6 requirements through one of the Alternatives described in subsection (g)(1), they must choose
7 it and demonstrate that they qualify prior to any project approvals from the Planning
8 Commission or Department. The Alternative will be a condition of project approval and
9 recorded against the property in an NSR. Notwithstanding the foregoing, if a project sponsor
10 qualifies for an Alternative described in subsection (g)(1) and elects to construct the affordable
11 units on- or off-site, they must submit the 'Affidavit of Compliance with the Inclusionary
12 Housing Program' based on the fact that the units will be sold as ownership units. A project
13 sponsor who has elected to construct affordable ownership units on- or off-site may only elect
14 to pay the Affordable Housing Fee up to the issuance of the first construction document if the
15 project sponsor submits a new Affidavit establishing that the units will not be sold as
16 ownership units. If a project sponsor fails to choose an Alternative before project approval by
17 the Planning Commission or Planning Department or if a project becomes ineligible for an
18 Alternative, the provisions of Section 415.5 shall apply.

19 (4) If at any time, the project sponsor eliminates the on-site or off-site affordable
20 ownership-only units, then the project sponsor must immediately inform the Department and
21 ~~MOH~~ MOHCD and pay the applicable Affordable Housing Fee plus interest and any applicable
22 penalties provided for under this Code. If a project sponsor requests a modification to its
23 conditions of approval for the sole purpose of complying with this Section, the Planning
24 Commission shall be limited to considering issues related to Section 415 et seq. in considering
25 the request for modification

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

2 ~~The requirements set forth in this Section 415.6 will be reviewed when the City completes an~~
3 ~~Economic Feasibility Study.~~ If a project sponsor is eligible and elects to provide on-site units
4 pursuant to Section 415.5(g), the development project shall meet the following requirements:

5 (a) Number of Units. The number of units constructed on-site shall be as follows:

6 (1) For any housing development project consisting of 10 dwelling units or more, but
7 less than 25 dwelling units, the ~~The~~ number of units constructed on-site shall generally be 12% of
8 all units constructed on the project site. Sales prices for ownership units shall be set such that they
9 are affordable to households earning 120% of Area Median Income. Rents for qualified rental housing
10 units shall be affordable to households earning 80% of Area Median Income. ~~for housing development~~
11 ~~projects consisting of 10 dwelling units or more, but less than 25 dwelling units. The affordable units~~
12 ~~shall be affordable to low-income households. The number of units constructed on-site shall generally~~
13 ~~be 25% of all units constructed on the project site for housing development projects consisting of 25~~
14 ~~dwelling units or more., with a minimum of 15% of the units affordable to low-income households and~~
15 ~~10% of the units affordable to low- or moderate/middle-income households. The Department shall~~
16 ~~require as a condition of Department approval of a project's building permit, or as a condition of~~
17 ~~approval of a Conditional Use Authorization or Planned Unit Development or as a condition of~~
18 ~~Department approval of a live/work project, that 12% or 25%, as applicable, of all units constructed on~~
19 ~~the project site shall be affordable to qualifying households so that a project sponsor must construct .12~~
20 ~~or .25 times, as applicable, the total number of units produced in the principal project. If the total~~
21 ~~number of units is not a whole number, the project sponsor shall round up to the nearest whole number~~
22 ~~for any portion of .5 or above.~~

23 (2) For any housing development project consisting of 25 or more Owned Units, the
24 number of affordable units constructed on-site shall generally be 20% of all units constructed on the
25 project site. Ownership housing units shall have an average affordable sales price set at 120% of Area

1 Median Income or less, with units equally distributed at 90% of Area Median Income, 120% of Area
2 Median Income and 140% of Area Median Income. MOHCD shall set forth in the Procedures Manual
3 the administration of ownership units at these affordability levels and the process for determining
4 applicant eligibility. MOHCD may also reduce the Area Median Income range required to maintain
5 pricing that is below-market in that neighborhood or at the request of the project sponsor.

6 (3) For any Rental Housing Project consisting of 25 or more Rental Units, the number
7 of affordable units constructed on-site shall generally be 18% of all units constructed on the project
8 site. Qualified rental housing units shall have an average affordable rent set at 80% or less of Area
9 Median Income, with units equally distributed among households earning 55% of Area Median Income,
10 80% of Area Median Income, and 110% of Area Median Income. MOHCD shall set forth in the
11 Procedures Manual the administration of rental units at these affordability levels and the process for
12 determining applicant eligibility. MOHCD may also reduce the Area Median Income range in order to
13 maintain pricing that is below market in that neighborhood or at the request of the project sponsor.

14 (4) Starting on January 1, 2019, and no later than January 1 of each year thereafter,
15 MOHCD shall increase the on-site requirements set forth in Sections 415.6(a)(2) and 415.6(a)(3) by
16 increments of 0.5% each year, until such requirements are 25% and 23%, respectively. MOHCD shall
17 provide the Planning Department, DBI, and the Controller with information on the adjustment to the
18 on-site percentage so that it can be included in the Planning Department's and DBI's website notice of
19 the fee adjustments and the Controller's Citywide Development Fee and Development Impact
20 Requirements Report described in Section 409(a).

21 (5) The Department shall require as a condition of Department approval of a project's
22 building permit, or as a condition of approval of a Conditional Use Authorization or Planned Unit
23 Development or as a condition of Department approval of a live/work project, that 12%, 18%, or 20%,
24 as applicable, or such current percentage that has been adjusted annually by MOHCD, of all units
25 constructed on the project site shall be affordable to qualifying households so that a project sponsor

1 must construct .12, .18, or .20 times, or such current number as adjusted annually by MOHCD as
2 applicable, the total number of units produced in the principal project. If the total number of units is
3 not a whole number, the project sponsor shall round up to the nearest whole number for any portion of
4 .5 or above.

5 (26) Specific Geographic Areas. For any housing development that is located in
6 an area with a specific affordable housing requirement set forth in a Special Use District or in
7 any other section of the Code such as Section 419, the higher housing requirement shall
8 apply.

9 ~~(3)~~ (7) If the principal project has resulted in demolition, conversion, or removal
10 of affordable housing units renting or selling to households at income levels and/or for a rental
11 rate or sales price below corresponding income thresholds for units affordable to low income
12 households, the Commission or the Department shall require that the project sponsor replace
13 the number of affordable units removed with units of a comparable number of bedrooms or
14 provide that ~~25%~~ 20% of all units constructed as part of the new project shall have sales prices
15 as set forth in 415.6(a)(2) for ownership projects, or rents as set forth in 415.6(a)(3) for rental projects,
16 ~~be affordable to low income or moderate/middle income households,~~ whichever is greater.

17 (b) Any On-site units provided through this Section 415.6 may be used to qualify for a density
18 bonus under California Government Code Section 65915, any ordinance implementing Government
19 Code Section 65915, or one of the Affordable Housing Bonus Programs currently proposed in an
20 ordinance in Board of Supervisors File No. 150969 or its equivalent if such ordinance is adopted.

21 (c) In the event the project sponsor is eligible for and elects to receive additional density under
22 California Government Code Section 65915, the Sponsor shall pay the Affordable Housing Fee on any
23 additional units or square footage authorized under that section in accordance with the provisions in
24 Section 415.5(g)(1)(D).

1 (~~bd~~) Timing of Construction. On-site affordable housing required by this Section 415.6
2 shall be constructed, completed, ready for occupancy, and marketed no later than the market
3 rate units in the principal project.

4 (~~ee~~) Type of Housing. All on-site units constructed under this Section 415.6 shall be
5 provided as ownership units unless the project sponsor meets the eligibility requirement of
6 Section 415.5(g). ~~All on-site units must be affordable to low income households.~~ In general,
7 affordable units constructed under this Section 415.6 shall be comparable in number of
8 bedrooms, exterior appearance and overall quality of construction to market rate units in the
9 principal project. A Notice of Special Restrictions shall be recorded prior to issuance of the
10 first construction document and shall specify the number, location and sizes for all affordable
11 units required under this subsection (~~e~~)(e). The affordable units shall be evenly distributed
12 throughout the building. For buildings over 120 feet in height, as measured under the
13 requirements set forth in the Planning Code, the affordable units may be distributed
14 throughout the lower 2/3 of the building, as measured by the number of floors. The interior
15 features in affordable units should be generally the same as those of the market rate units in
16 the principal project, but need not be the same make, model or type of such item as long as
17 they are of good and new quality and are consistent with then-current standards for new
18 housing. The square footage of affordable units does not need to be the same as or
19 equivalent to that in market rate units in the principal project, so long as it is consistent with
20 then-current standards for new housing. The affordable units are not required to be the same
21 size as the market rate units, and may be 90% of the average size of the specific unit type.
22 For buildings over 120 feet in height, as measured under the requirements set forth in the
23 Planning Code, the average size of the unit type may be calculated for the lower 2/3 of the
24 building, as measured by the number of floors. Where applicable, parking shall be offered to
25 the affordable units subject to the terms and conditions of the Department's policy on

1 unbundled parking for affordable housing units as specified in the Procedures Manual and
2 amended from time to time. ~~On-site affordable units shall be ownership units unless the project~~
3 ~~applicant meets the eligibility requirement of Section 415.5(9).~~

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

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

23 (2) Preferences. MOHCD shall create a lottery system that gives
24 preference according to the provisions of Administrative Code Chapter 47. MOHCD shall
25 propose policies and procedures for implementing these preferences to the Planning

Commission for inclusion as an addendum to ~~in~~ the Procedures Manual. Otherwise, it is the policy of the City to treat all households equally in allocating affordable units under this Program.

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

~~(f)~~ (h) Notwithstanding the provisions of Section ~~415.6(e)~~ 415.6(g) above, a project may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% tax credits under the Tax Credit Allocation Committee (TCAC) to help fund its obligations under Section 415.1 et seq~~this ordinance~~ as long as the project provides 20 percent of the units as affordable to households at 50 percent of Area Median Income for on-site housing or 10% of the units as affordable to households at 50% of Area Median Income, and 30% of the units as affordable to households at 60% of Area Median Income for on-site housing. The income table to be used for such projects when the units are priced at 50% or 60% percent of Area Median Income is the income table used by MOHCD for the Inclusionary Affordable Housing Program, not that used by TCAC or CDLAC. Except as provided in this subsection (h), all units provided under this Section must meet all of the requirements of Section 415.1 et seq~~this ordinance~~ and the Procedures Manual for on-site housing.

~~(g)~~ (i) Benefits. If the project sponsor is eligible for and elects to satisfy the affordable housing requirements through the production of on-site affordable housing in this Section 415.6, the project sponsor shall be eligible to receive a refund for only that portion of the

1 housing project which is affordable for the following fees: a Conditional Use authorization or
2 other fee required by Section 352 of this Code, if applicable; an environmental review fee
3 required by Administrative Code Section ~~31.46B~~ 31.22, if applicable; a building permit fee
4 required by Section 355 of this Code for the portion of the housing project that is affordable.
5 The project sponsor shall pay the building fee for the portion of the project that is market-rate.
6 An application for a refund must be made within six months from the issuance of the first
7 certificate of occupancy.

8 The Controller shall refund fees from any appropriated funds to the project sponsor on
9 application by the project sponsor. The application must include a copy of the Certificate of
10 Occupancy for all units affordable to a qualifying household required by the Inclusionary
11 Housing Program. It is the policy of the Board of Supervisors to appropriate money for this
12 purpose from the General Fund.

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

15 ~~The requirements set forth in this Section 415.7 will be reviewed when the City completes an~~
16 ~~Economic Feasibility Study.~~ If the project sponsor is eligible and elects pursuant to Section
17 415.5(g) to provide off-site units to satisfy the requirements of Section 415 .1et seq., the
18 project sponsor shall notify the Planning Department and the Mayor's Office of Housing and
19 Community Development ("MOHCD") of its intent as early as possible. The Planning
20 Department and MOHCD shall provide an evaluation of the project's compliance with this
21 Section 415.7 prior to approval by the Planning Commission or Planning Department. The
22 development project shall meet the following requirements:

23 (a) Number of Units: The number of units constructed off-site shall be as follows:
24
25

(1) For any housing development that is located in an area with a specific affordable housing requirement, set forth in Section 419 or elsewhere in this Code, the higher off-site housing requirement shall apply.

(2) For housing development projects consisting of 10 dwelling units or more but less than 25 units, the number of units constructed off-site shall be 20%, so that a project applicant shall construct .20 times the total number of units produced in the principal project. If the total number of units is not a whole number, the project applicant shall round up to the nearest whole number for any portion of .5 or above. ~~The off-site affordable units shall be affordable to low-income households.~~ Sales prices for ownership housing units shall be affordable to households earning 120% of Area Median Income. Rents for qualified rental housing units shall be affordable to households earning 80% of Area Median Income.

(3) For ownership housing development projects consisting of 25 dwelling units or more, the number of units constructed off-site shall be ~~33~~28% ~~with 20% of the units affordable to low-income households and 13% of the units affordable to low- or moderate/middle-income households,~~ so that a project applicant shall construct ~~.28~~.33 times the total number of units produced in the Principal Project. ~~principal project.~~ If the total number of units is not a whole number, the project applicant shall round up to the nearest whole number for any portion of .5 or above. Off-site ownership units shall have an average affordable sales price set at 120% of Area Median Income or less, with units equally distributed among households earning 90% of Area Median Income, 120% of Area Median Income, and 140% of Area Median Income. MOHCD shall set forth in the Procedures Manual the administration of sales prices at these income levels and the process for determining applicant eligibility. MOHCD may also reduce the Area Median Income range required to maintain pricing that is below market in that neighborhood or at the request of the project sponsor.

(4) For Rental Housing Projects consisting of 25 dwelling units or more, the number of units constructed off-site shall be 23%, so that a project applicant shall construct .23 times the total

1 number of units produced in the Principal Project. If the total number of units is not a whole number,
2 the project applicant shall round up to the nearest whole number for any portion of .5 or above.
3 Qualified rental housing units shall have an average affordable rent set at 85% or less of Area Median
4 Income, with units equally distributed among households earning 55% of Area Median Income, 80% of
5 Area Median Income, and 120% of Area Median Income. MOHCD shall set forth in the Procedures
6 Manual the administration of rents at these affordability levels and the process for determining
7 applicant eligibility. MOHCD may also reduce the Area Median Income range required to maintain
8 pricing that is below market in that neighborhood, or at the request of the project sponsor.

9 (5) Starting on January 1, 2019, and no later than January 1 of each year thereafter,
10 MOHCD shall increase the percentages set forth in Sections 415.7(a)(3) and 415.7(a)(4) in increments
11 of 0.5% each year, to a maximum percentage of 33% for Owned Units and 28% for Rental Units. If the
12 total number of units is not a whole number, the project applicant shall round up to the nearest whole
13 number for any portion of .5 or above.

14 ~~(4) For any housing development that is located in an area with a specific affordable~~
15 ~~housing requirement set forth in a Special Use District, or in any other section of the Code such as~~
16 ~~Section 419, the higher affordable housing requirement shall apply.~~

17 (b) Timing of Construction: The project sponsor shall ensure that the off-site units are
18 constructed, completed, ready for occupancy, and marketed no later than the market rate
19 units in the principal project. In no case shall the Principal Project receive its first certificate of
20 occupancy until the off-site project has received its first certificate of occupancy.

21 (c) **Location of off-site housing:** The off-site units shall be located within one mile of
22 the principal project.

23 (d) **Type of Housing:** All off-site units constructed under this Section 415.7 shall be
24 provided as ownership housing for the life of the project unless the project applicant meets the
25 eligibility requirement of Section 415.5(g). Nothing in this Section shall limit a project sponsor

1 from meeting the requirements of this Section through the construction of units in a limited
2 equity or land trust form of ownership if such units otherwise meet all of the requirements for
3 off-site housing. In general, affordable units constructed or otherwise provided under this
4 Section shall be comparable in number of bedrooms, exterior appearance and overall quality
5 of construction to market rate units in the principal project. The total square footage of the off-
6 site affordable units constructed or otherwise provided under this Section shall be no less than
7 the calculation of the total square footage of the on-site market-rate units in the principal
8 project multiplied by the relevant on-site percentage requirement for the project specified in
9 this Section. The Notice of Special Restrictions or conditions of approval shall include a
10 specific number of units at specified unit sizes – including number of bedrooms and minimum
11 square footage – for affordable units. The interior features in affordable units should generally
12 be the same as those of the market rate units in the principal project but need not be the
13 same make, model, or type of such item as long as they are of new and good quality and are
14 consistent with then-current standards for new housing and so long as they are consistent
15 with the "Quality Standards for Off-Site Affordable Housing Units" found in the Procedures
16 Manual. Where applicable, parking shall be offered to the affordable units subject to the terms
17 and conditions of the Department's policy on unbundled parking for affordable housing units
18 as specified in the Procedures Manual and amended from time to time. If the residential units
19 in the principal project are live/work units which do not contain bedrooms or are other types of
20 units which do not contain bedrooms separated from the living space, the off-site units shall
21 be comparable in size according to the following equivalency calculation between live/work
22 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

(e) Any development project that is eligible and elects to provide off-site affordable housing may provide off-site affordable housing by acquiring an existing building to fulfill all or part of the requirements set forth in this Section 415.7, as reviewed and approved by MOHCD and consistent with the parameters of its Small Sites Acquisition and Rehabilitation Program, in conformance with the income limits for the Small Sites Program.

(ef) **Marketing the Units:** MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units under this Section 415.7. In general, the marketing requirements and procedures shall be contained in the Procedures Manual as amended from time to time and shall apply to the affordable units in the project. MOHCD may develop occupancy standards for units of different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of affordable units. MOHCD may require in the Procedures Manual that prospective purchasers complete homebuyer education training or fulfill other requirements. MOHCD shall develop a list of minimum qualifications for marketing firms that market affordable units under Section 415.1 *et seq.*, referred to the Procedures Manual as Below Market Rate (BMR units). No project sponsor marketing units under the Program shall be able to market BMR units except through a firm meeting all of the minimum

1 qualifications. The Notice of Special Restrictions or conditions of approval shall specify that
2 the marketing requirements and procedures contained in the Procedures Manual as amended
3 from time to time, shall apply to the affordable units in the project.

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

8 (2) **Preferences:** MOHCD shall create a lottery system that gives preference
9 according to the provisions of Administrative Code Chapter 47. MOHCD shall propose policies
10 and procedures for implementing these preferences to the Planning Commission for inclusion
11 in the Procedures Manual. Otherwise, it is the policy of the City to treat all households equally
12 in allocating affordable units under this Program.

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

20 (~~gh~~) Notwithstanding the provisions of Section 415.7(~~fg~~) above, a project may use
21 California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4%
22 credits under the Tax Credit Allocation Committee (TCAC) to help fund its obligations under
23 this ordinance as long as the project provides 25% ~~percent~~ of the units as affordable at 50%
24 ~~percent~~ of area median income for off-site housing. The income table to be used for such
25 projects when the units are priced at 50% ~~percent~~ of area median income is the income table

1 used by ~~MOH~~ MOHCD for the Inclusionary Housing Program, not that used by TCAC or
2 CDLAC. Except as provided in this subsection, all units provided under this Section must
3 meet all of the requirements of this ordinance and the Procedures Manual for off-site housing.

4 * * * *

5 **SEC. 415.11. Severability.**

6 If any subsection, sentence, clause, phrase, or word of this Section 415, or any application
7 thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court
8 of competent jurisdiction, such decision shall not affect the validity of the remaining portions or
9 applications of the Section. The Board of Supervisors hereby declares that it would have passed
10 Section 415 and each and every subsection, sentence, clause, phrase, and word not declared invalid or
11 unconstitutional without regard to whether any other portion of this Section 415 or application thereof
12 would be subsequently declared invalid or unconstitutional.

13
14 Section 4. The Planning Code is hereby amended by adding Section 207.7 to read as
15 follows:

16 **SEC. 207.7. REQUIRED MINIMUM DWELLING UNIT MIX.**

17 (a) Purpose. To ensure an adequate supply of family-sized units in new housing stock, new
18 residential construction must include a minimum percentage of units of at least two and three
19 bedrooms.

20 (b) Applicability.

21 (1) This Section 207.7 shall apply to housing projects consisting of 25 units or more in
22 all districts that allow residential uses, except for the RTO, RCD, NCT, DTR, and Eastern
23 Neighborhoods Mixed Use Districts.

24 (2) This Section 207.7 shall apply to all applications for building permits and/or
25 Planning Commission entitlements that propose the creation of five or more Dwelling Units.

1 (3) This Section 207.7 does not apply to buildings for which 100% of the residential
2 uses are: Group Housing, Dwelling Units that are provided at below market rates pursuant to Section
3 406(b)(1) of this Code, Single Room Occupancy (SRO) Units, Student Housing (all as defined in
4 Section 102 of this Code), or housing specifically and permanently designated for seniors or persons
5 with physical disabilities.

6 (c) Controls. In all residential districts subject to this Section 207.7, one of the following two
7 must apply:

8 (1) No less than 25% of the total number of proposed dwelling units shall contain at
9 least two bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole
10 number of dwelling units; or,

11 (2) no less than 10% of the total number of proposed dwelling units shall contain at
12 least three bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole
13 number of dwelling units.

14 (d) Modifications. These requirements may be waived or modified with Conditional Use
15 Authorization. In addition to those conditions set forth in Section 303, the Planning Commission shall
16 consider the following criteria:

17 (1) The project demonstrates a need or mission to serve unique populations, or

18 (2) The project site or existing building(s), if any, feature physical constraints that make
19 it unreasonable to fulfill these requirements.

20
21 Section 5. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 AUDREY W. PEARSON
12 Deputy City Attorney

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EXHIBIT C: Current Grandfathered and UMU Requirements

The Project contains:	The zoning of the property is:	Complete EEA was submitted on:
UNITS		

CHART A: Inclusionary Requirements for San Francisco, excluding UMU Zoning Districts.

Complete EEA Accepted: →	Before 1/1/13	Before 1/1/14	Before 1/1/15	Before 1/12/16	After 1/12/16
Fee or Off-site					
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects at or below 120'	20.0%	25.0%	27.5%	30.0%	33.0%
25+ unit projects over 120' in height *	20.0%	33.0%	33.0%	33.0%	33.0%
On-site					
10-24 unit projects	12.0%	12.0%	12.0%	12.0%	12.0%
25+ unit projects	12.0%	13.0%	13.5%	14.5%	25.0%

* except buildings up to 130 feet in height located both within a special use district and within a height and bulk district that allows a maximum building height of 130 feet.

CHART B: Inclusionary Requirements for UMU Districts. Please note that the Middle Income Incentive Alternative regulated in Planning Code Section 419 was not changed by Code amendment (Ord. No. 76-16). Also, certain projects in the SOMA Youth and Family SUD rely upon UMU requirements as stipulated by the Planning Code.

Complete EEA Accepted: →	Before 1/1/13	Before 1/1/14	Before 1/1/15	Before 1/12/16	After 1/12/16
On-site UMU					
Tier A 10-24 unit projects	14.4%	14.4%	14.4%	14.4%	14.4%
Tier A 25+ unit projects	14.4%	15.4%	15.9%	16.4%	25.0%
Tier B 10-24 unit projects	16.0%	16.0%	16.0%	16.0%	16.0%
Tier B 25+ unit projects	16.0%	17.0%	17.5%	18.0%	25.0%
Tier C 10-24 unit projects	17.6%	17.6%	17.6%	17.6%	17.6%
Tier C 25+ unit projects	17.6%	18.6%	19.1%	19.6%	25.0%
Fee or Off-site UMU					
Tier A 10-24 unit projects	23.0%	23.0%	23.0%	23.0%	23.0%
Tier A 25+ unit projects	23.0%	28.0%	30.5%	33.0%	33.0%
Tier B 10-24 unit projects	25.0%	25.0%	25.0%	25.0%	25.0%
Tier B 25+ unit projects	25.0%	30.0%	32.5%	33.0%	33.0%
Tier C 10-24 unit projects	27.0%	27.0%	27.0%	27.0%	27.0%
Tier C 25+ unit projects	27.0%	32.0%	33.0%	33.0%	33.0%
Land Dedication in UMU or Mission NCT					
Tier A 10-24 unit < 30K	35.0%	35.0%	35.0%	35.0%	35.0%
Tier A 10-24 unit > 30K	30.0%	30.0%	30.0%	30.0%	30.0%
Tier A 25+ unit < 30K	35.0%	40.0%	42.5%	45.0%	35.0%
Tier A 25+ unit > 30K	30.0%	35.0%	37.5%	40.0%	30.0%
Tier B 10-24 unit < 30K	40.0%	40.0%	40.0%	40.0%	40.0%
Tier B 10-24 unit > 30K	35.0%	35.0%	35.0%	35.0%	35.0%
Tier B 25+ unit < 30K	40.0%	45.0%	47.5%	50.0%	40.0%
Tier B 25+ unit > 30K	35.0%	40.0%	42.5%	45.0%	35.0%
Tier C 10-24 unit < 30K	45.0%	45.0%	45.0%	45.0%	45.0%
Tier C 10-24 unit > 30K	40.0%	40.0%	40.0%	40.0%	40.0%
Tier C 25+ unit < 30K	45.0%	50.0%	52.5%	55.0%	45.0%
Tier C 25+ unit > 30K	40.0%	45.0%	47.5%	50.0%	40.0%

EXHIBIT D - Proposal A: Grandfathering and UMU Requirements

CURRENT Requirements for Projects that filed EE before/after 1/12/16 Changes to current struck through						PROPOSAL A: Kim, Peskin: Requirements for Projects that filed EE before/after 1/12/16				
CITYWIDE APPLICATION										
	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
On-site										
10-24 unit projects	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%	12.0%
25+ unit projects	12.0%	13.0%	13.5%	14.5%	25.0%	12.0%	13.0%	13.5%	14.5%	24%/27%
25+ unit projects over 300' in height *						17.0%	18.0%	18.5%	19.5%	29%/32%
Fee or Off-site	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	20.0%	25.0%	27.5%	30.0%	33.0%	20.0%	25.0%	27.5%	30.0%	30%/33%
25+ unit projects over 120' in height *	22.0%	22.0%	22.0%	22.0%	22.0%	30.0%	30.0%	30.0%	30.0%	30%/33%
UMUs APPLICATION										
	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
On-site UMU										
Tier A 10-24 unit projects	14.4%	14.4%	14.4%	14.4%	14.4%	14.4%	14.4%	14.4%	14.4%	14.4%
Tier A 25+ unit projects	14.4%	15.4%	15.9%	16.4%	25.0%	14.4%	15.4%	15.9%	16.4%	24%/27%
Tier B 10-24 unit projects	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%	16.0%
Tier B 25+ unit projects	16.0%	17.0%	17.5%	18.0%	25.0%	16.0%	17.0%	17.5%	18.0%	24%/27%
Tier C 10-24 unit projects	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%	17.6%
Tier C 25+ unit projects	17.6%	18.6%	19.1%	19.6%	25.0%	17.6%	18.6%	19.1%	19.6%	24%/27%
25+ unit projects over 300' in height *										29%/32%
Fee or Off-site UMU	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
Tier A 10-24 unit projects	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%	23.0%
Tier A 25+ unit projects	23.0%	28.0%	30.5%	32.0%	32.0%	23.0%	28.0%	30.0%	30.0%	30%/33%
Tier B 10-24 unit projects	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%
Tier B 25+ unit projects	25.0%	30.0%	32.5%	32.0%	32.0%	25.0%	30.0%	30.0%	30.0%	30%/33%
Tier C 10-24 unit projects	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%
Tier C 25+ unit projects	27.0%	32.0%	32.0%	32.0%	32.0%	27.0%	30.0%	30.0%	30.0%	30%/33%
Land Dedication in UMU or Mission NCT	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
Tier A 10-24 unit < 30K	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%
Tier A 10-24 unit > 30K	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
Tier A 25+ unit < 30K	35.0%	40.0%	42.5%	45.0%	35.0%	35.0%	40.0%	42.5%	45.0%	35.0%
Tier A 25+ unit > 30K	30.0%	35.0%	37.5%	40.0%	30.0%	30.0%	35.0%	37.5%	40.0%	30.0%
Tier B 10-24 unit < 30K	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%
Tier B 10-24 unit > 30K	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%
Tier B 25+ unit < 30K	40.0%	45.0%	47.5%	50.0%	40.0%	40.0%	45.0%	47.5%	50.0%	40.0%
Tier B 25+ unit > 30K	35.0%	40.0%	42.5%	45.0%	35.0%	35.0%	40.0%	42.5%	45.0%	35.0%
Tier C 10-24 unit < 30K	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%	45.0%
Tier C 10-24 unit > 30K	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%
Tier C 25+ unit < 30K	45.0%	50.0%	52.5%	55.0%	45.0%	45.0%	50.0%	52.5%	55.0%	45.0%
Tier C 25+ unit > 30K	40.0%	45.0%	47.5%	50.0%	40.0%	40.0%	45.0%	47.5%	50.0%	40.0%
Middle Income Alternativein UMU Districts	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
Tier A 10-24 unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
Tier A 25+ unit projects	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%	30.0%
Tier B 10-24 unit projects	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%
Tier B 25+ unit projects	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%	35.0%
Tier C 10-24 unit projects	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%
Tier C 25+ unit projects	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%	40.0%

* except buildings up to 130 feet in height located both within a special use district and within a height and bulk district that allows a maximum building height of 130 feet.

Exhibit E - Proposal B: Grandfathering and UMU Requirements

CURRENT Requirements for Projects that filed EE before/after 1/12/16 Changes to current struck through						PROPOSAL B: Safai, Breed, Tang: Requirements for Projects that filed EE before/after 1/12/16					
CITYWIDE APPLICATION											
	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16		EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
On-site											
10-24 unit projects	12.0%	12.0%	12.0%	12.0%	12.0%		12.0%	12.0%	12.0%	12.0%	12.0%
25+ unit projects	12.0%	13.0%	13.5%	14.5%	25.0%		12.0%	13.0%	13.5%	14.5%	18%/20%
	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16		EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
Fee or Off-site											
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%		20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	20.0%	25.0%	27.5%	30.0%	33.0%		20.0%	23%/28%	23%/28%	23%/28%	23%/28%
25+ unit projects over 120' in height *	33.0%	33.0%	33.0%	33.0%	33.0%						
UMUs APPLICATION											
	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16		EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
On-site UMU											
Tier A 10-24 unit projects	14.4%	14.4%	14.4%	14.4%	14.4%		14.4%	14.4%	14.4%	14.4%	14.4%
Tier A 25+ unit projects	14.4%	15.4%	15.0%	16.4%	25.0%		14.4%	14.4%	14.4%	14.5%	18%/20%
Tier B 10-24 unit projects	16.0%	16.0%	16.0%	16.0%	16.0%		16.0%	16.0%	16.0%	16.0%	16.0%
Tier B 25+ unit projects	16.0%	17.0%	17.5%	18.0%	25.0%		16.0%	16.0%	16.0%	16.0%	18%/20%
Tier C 10-24 unit projects	17.6%	17.6%	17.6%	17.6%	17.6%		17.6%	17.6%	17.6%	17.6%	17.6%
Tier C 25+ unit projects	17.6%	18.6%	19.1%	19.6%	25.0%		17.6%	17.6%	17.6%	17.6%	18%/20%
	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16		EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
Fee or Off-site UMU											
Tier A 10-24 unit projects	23.0%	23.0%	23.0%	23.0%	23.0%		23.0%	23.0%	23.0%	23.0%	23.0%
Tier A 25+ unit projects	23.0%	28.0%	30.5%	33.0%	33.0%		23.0%	23%/28%	23%/28%	23%/28%	23%/28%
Tier B 10-24 unit projects	25.0%	25.0%	25.0%	25.0%	25.0%		25.0%	25.0%	25.0%	25.0%	25.0%
Tier B 25+ unit projects	25.0%	30.0%	32.5%	33.0%	33.0%		25.0%	25%/28%	25%/28%	25%/28%	25%/28%
Tier C 10-24 unit projects	27.0%	27.0%	27.0%	27.0%	27.0%		27.0%	27.0%	27.0%	27.0%	27.0%
Tier C 25+ unit projects	27.0%	32.0%	33.0%	33.0%	33.0%		27.0%	27%/28%	27%/28%	27%/28%	27%/28%
Land Dedication in UMU or Mission NCT	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16		EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
Tier A 10-24 unit < 30K	35.0%	35.0%	35.0%	35.0%	35.0%		35.0%	35.0%	35.0%	35.0%	35.0%
Tier A 10-24 unit > 30K	30.0%	30.0%	30.0%	30.0%	30.0%		30.0%	30.0%	30.0%	30.0%	30.0%
Tier A 25+ unit < 30K	35.0%	40.0%	42.5%	45.0%	35.0%		35.0%	35.0%	35.0%	35.0%	35.0%
Tier A 25+ unit > 30K	30.0%	35.0%	37.5%	40.0%	30.0%		30.0%	30.0%	30.0%	30.0%	30.0%
Tier B 10-24 unit < 30K	40.0%	40.0%	40.0%	40.0%	40.0%		40.0%	40.0%	40.0%	40.0%	40.0%
Tier B 10-24 unit > 30K	35.0%	35.0%	35.0%	35.0%	35.0%		35.0%	35.0%	35.0%	35.0%	35.0%
Tier B 25+ unit < 30K	40.0%	45.0%	47.5%	50.0%	40.0%		40.0%	40.0%	40.0%	40.0%	40.0%
Tier B 25+ unit > 30K	35.0%	40.0%	42.5%	45.0%	35.0%		35.0%	35.0%	35.0%	35.0%	35.0%
Tier C 10-24 unit < 30K	45.0%	45.0%	45.0%	45.0%	45.0%		45.0%	45.0%	45.0%	45.0%	45.0%
Tier C 10-24 unit > 30K	40.0%	40.0%	40.0%	40.0%	40.0%		40.0%	40.0%	40.0%	40.0%	40.0%
Tier C 25+ unit < 30K	45.0%	50.0%	52.5%	55.0%	45.0%		45.0%	45.0%	45.0%	45.0%	45.0%
Tier C 25+ unit > 30K	40.0%	45.0%	47.5%	50.0%	40.0%		40.0%	40.0%	40.0%	40.0%	40.0%
Middle Income Alternative in UMU Districts	EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16		EEA filed before 1/1/13	EEA filed before 1/1/14	EEA filed before 1/1/15	EEA filed before 1/12/16	EEA filed after 1/12/16
Tier A 10-24 unit projects	30.0%	30.0%	30.0%	30.0%	30.0%		30.0%	30.0%	30.0%	30.0%	30.0%
Tier A 25+ unit projects	30.0%	30.0%	30.0%	30.0%	30.0%		30.0%	30.0%	30.0%	30.0%	30.0%
Tier B 10-24 unit projects	35.0%	35.0%	35.0%	35.0%	35.0%		35.0%	35.0%	35.0%	35.0%	35.0%
Tier B 25+ unit projects	35.0%	35.0%	35.0%	35.0%	35.0%		35.0%	35.0%	35.0%	35.0%	35.0%
Tier C 10-24 unit projects	40.0%	40.0%	40.0%	40.0%	40.0%		40.0%	40.0%	40.0%	40.0%	40.0%
Tier C 25+ unit projects	40.0%	40.0%	40.0%	40.0%	40.0%		40.0%	40.0%	40.0%	40.0%	40.0%

* except buildings up to 130 feet in height located both within a special use district and within a height and bulk district that allows a maximum building height of 130 feet.



SAN FRANCISCO PLANNING DEPARTMENT

Exhibit F: Housing Production, Housing Need, and Income Changes

HOUSING PRODUCTION

Current Housing Needs from Regional Housing Needs Allocation (RHNA)

San Francisco has large housing needs across all income levels. The city's portion of the Bay Area's Regional Housing Need Allocation (RHNA) for 2015-2022 calls for 28,869 additional housing units, with over 16,000 affordable to Low and Moderate income households.

San Francisco 2015-2022 RHNA Targets		
Household Income Category	2015-2022 RHNA Targets	% of RHNA Target
Very Low (< 50% AMI)	6,234	22%
Low (50-79% AMI)	4,639	16%
Moderate (80-120% AMI)	5,460	19%
Above Moderate (120%+ AMI)	12,536	43%
Total	28,869	100%
From 2014 Housing Element; SF Planning & ABAG		

Exhibit F: Housing Production, Housing Need, and Income Changes**Inclusionary Affordable Housing Program Amendments****CASE NO. 2017-001061PCA****Hearing Date: March 9, 2017****Past RHNA Performance: Lack of Production Affordable to Low and Moderate Income**

In the 1999-2006 and 2007-2014 periods, San Francisco's housing production exceeded the estimated need for housing affordable to Above Moderate income households. San Francisco also made significant progress in meeting the estimated need of Very Low Income households. Since 1999, the City has consistently lagged in its production of housing affordable to Low and Moderate Income households earning between 50 and 120% of AMI.

San Francisco Results in Meeting RHNA Goals Over Last Two Cycles				
Income Group	1999-2006		2007-2014	
	RHNA	% of RHNA Met	RHNA	% of RHNA Met
Very Low (0-50% AMI)	5,244	80%	6,589	59%
Low (50-80% AMI)	2,126	52%	5,535	27%
Moderate (80-120% AMI)	5,639	12%	6,754	18%
Above Moderate (120%+ AMI)	7,363	156%	12,315	109%
Total	20,372	86%	31,193	64%
From San Francisco Bay Area Progress in Meeting 2007-2014 Regional Housing Needs Allocation (RHNA) http://www.abag.ca.gov/files/RHNAProgress2007_2014_082815.pdf				
From San Francisco Bay Area Progress in Meeting 2007-2014 Regional Housing Needs Allocation (RHNA)				
http://www.abag.ca.gov/planning/housingneeds/pdfs/1999-2006_RHNA_Performance_REVISED_Jan2015.pdf				

Changes In Households by Income Group Point to Additional Housing Needs

RHNA projects future housing need based on estimated job and population growth but does not subsequently look at the actual changes that have occurred among households in prior years. Calculating this accumulated need is helpful in evaluating how San Francisco is actually performing in relation to the needs of its residents. Household level data for San Francisco from 1990-2015 provides estimates on the changes in households by income group. This data shows growing income inequality in San Francisco and a hollowing out of the middle of the income spectrum.

Household Change by Income Group 1990-2015	
Income Group	Change In Number of Households
Extremely Low (30% AMI or less)	+11,200
Very Low (30-50% AMI)	-12,116
Low (50-80% AMI)	-16,234
Moderate and Middle (80-140% AMI)	-9,400
Higher Income (140%+ AMI)	+76,000
Planning Department Analysis of IPUMS USA data for San Francisco	

Housing Production Since 1990 Shows Shortfalls Across all Income Levels

- Housing production has not kept pace with changes across a range of income groups: **San Francisco added at least 31,000 market rate units** from 1990 to 2015. Because households earning over 140% of AMI increased by 76,000, however, **the majority of higher income households are living in existing housing.**
- **San Francisco produced over 12,800 units affordable to low and moderate income households** from 1990-2015 but **the loss of low and moderate income households continued over this time period.**

Exhibit F: Housing Production, Housing Need, and Income Changes**Inclusionary Affordable Housing Program Amendments****CASE NO. 2017-001061PCA****Hearing Date: March 9, 2017**

This data points to the need for increased housing production across all income levels in order to: 1) relieve the pressure on the existing housing stock caused by growth in high income households, 2) provide more housing opportunities than are currently available for households in the low and moderate income groups, and 3) augment the city's supply of housing for the lowest income households especially as part of ongoing efforts to address homelessness.

San Francisco's Current Affordable Housing Resources Target Lowest Income Households

San Francisco has used state and federal programs along with significant local public investment and the local inclusionary program to fund over 38,000 homes affordable to low, moderate, and middle income households. 92% of these homes serve lower income households earning 0-60% of Area Median Income (AMI). Some federal funding, such as Low Income Housing Tax Credits (LIHTC), is restricted to serve households at 60% of AMI or below. Programs such as Public Housing can serve households up to 80% of AMI but in practice mostly serve households below 60% of AMI. As a result, the income group earning 61-80% of AMI currently receives the least affordable housing investment, just 1% of the total.

Income Groups Served by Affordable Units in San Francisco						
	0-30% of AMI UNITS	31-60% of AMI UNITS	61-80% of AMI UNITS	81-120% of AMI UNITS	121%+ of AMI UNITS	TOTAL UNITS AS OF DECEMBER 31, 2016
# of Units	11,092	24,522	521	2,471	32	38,638
% of Total	29%	63%	1%	6%	0%	100%
SFMHCD estimates of income targeting for affordable housing programs including: SFMHOCD Multifamily Housing Program, Small Sites, Inclusionary, 124(f) Program, Public Housing, HUD-Assisted, DSHS, and LIHTC. Does not include Housing Choice Vouchers or Down-payment Assistance Loan Program (DALP)						

EXHIBIT G - COMPARISON TABLE of PROPOSED AMENDMENTS to SECTION 415 – PLANNING COMMISSION INFORMATIONAL HEARING 3/9/2017

	Current 415 (Prop C 2016)		Proposal A: Sup. Kim, Sup. Peskin <u>changes from current 415 underlined</u>		Proposal B: Sup. Safai, Sup. Breed, Sup. Tang <u>changes from current 415 underlined</u>	
1. Application [415.3]	Varies by project size: <ul style="list-style-type: none">No requirement: <10 units“Smaller projects”: 10-24 units“Larger projects”: 25+ units		No change from current 415		No change from current 415	
2. Income levels [415.2]	<u>Rental:</u> Smaller projects:: <ul style="list-style-type: none">55% AMI max. Larger projects: <ul style="list-style-type: none">“Low”: 55% AMI“Mod.”: 100% AMI	<u>Ownership:</u> Smaller projects: <ul style="list-style-type: none">80% AMI max. Larger projects: <ul style="list-style-type: none">“Low”: 80% AMI“Mod.”: 120% AMI	<u>Rental:</u> Smaller projects: <ul style="list-style-type: none">55% AMI <u>avg.</u>; <u>45 – 65% AMI</u> Larger projects: <ul style="list-style-type: none">“Low”: 55% AMI <u>avg.</u>; <u>40 – 80% AMI</u>“Mod.”: 100% AMI <u>avg.</u>; <u>80 – 120% AMI</u>	<u>Ownership:</u> Smaller projects: <ul style="list-style-type: none">80% AMI <u>avg.</u>; <u>70 – 90% AMI</u> Larger projects: <ul style="list-style-type: none">“Low”: 80% AMI <u>avg.</u>; <u>60 – 100% AMI</u>“Mod.”: 120% AMI <u>avg.</u>; <u>100 – 140% AMI</u>	<u>Rental:</u> Smaller projects: <ul style="list-style-type: none"><u>80%</u> AMI max. Larger projects: <ul style="list-style-type: none"><u>80% AMI avg.</u>; <u>55, 80, 110% AMI</u>	<u>Ownership:</u> Smaller projects: <ul style="list-style-type: none"><u>120%</u> AMI max. Larger projects: <ul style="list-style-type: none"><u>120% AMI avg.</u>; <u>90, 120, 140% AMI</u>
3. Fee requirement [415.5]	Smaller projects: <ul style="list-style-type: none">20% of on-site units Larger projects: <ul style="list-style-type: none">33% of on-site units		<u>Rental:</u> Smaller projects: <ul style="list-style-type: none">20% of on-site units Larger projects: <ul style="list-style-type: none"><u>30%</u> of on-site units	<u>Ownership:</u> Smaller projects: <ul style="list-style-type: none">20% of on-site units Larger projects: <ul style="list-style-type: none">33% of on-site units	<u>Rental:</u> Smaller projects: <ul style="list-style-type: none">20% of on-site units (converted to per sq. ft. fee) Larger projects: <ul style="list-style-type: none"><u>23%</u> of on-site units (converted to per sq. ft. fee)	<u>Ownership:</u> Smaller projects: <ul style="list-style-type: none">20% of on-site units (converted to per sq. ft. fee) Larger projects: <ul style="list-style-type: none"><u>28%</u> of on-site units (converted to per sq. ft. fee)
4. On-site alternative [415.6]	Smaller projects: <ul style="list-style-type: none">12% low income Larger projects: <ul style="list-style-type: none">25% of total:<ul style="list-style-type: none">15% low income10% moderate income <i>*equivalent to: 25% at 73% AMI avg (rental) 25% at 96% AMI avg. (owner)</i>		<u>Rental</u> Smaller projects: <ul style="list-style-type: none">12% low income (55% AMI <u>avg.</u>; <u>45 – 65% AMI</u>) Larger projects: <ul style="list-style-type: none"><u>24%</u> of total:<ul style="list-style-type: none">15% low income (55% AMI <u>avg.</u>; <u>40 – 80% AMI</u>)<u>9%</u> moderate income (100% AMI <u>avg.</u>; <u>80 – 120% AMI</u>) <i>*equivalent to <u>24%</u> at <u>72%</u> AMI average</i>	<u>Ownership</u> Smaller projects: <ul style="list-style-type: none">12% low income (80% AMI <u>avg.</u>; <u>70 – 90% AMI</u>) Larger projects: <ul style="list-style-type: none"><u>27%</u> of total:<ul style="list-style-type: none">15% low income (80% AMI <u>avg.</u>; <u>60 – 100% AMI</u>)<u>12%</u> moderate income (120% AMI <u>avg.</u>; <u>100 – 140% AMI</u>) <i>*equivalent to <u>27%</u> at <u>98%</u> AMI average</i>	<u>Rental:</u> Smaller projects: <ul style="list-style-type: none">12% <u>at 80% AMI</u> Larger projects: <ul style="list-style-type: none"><u>18%</u> at: (<u>80% AMI avg.</u>; <u>55, 80, 110% AMI</u>) <i>*equivalent to <u>18%</u> at <u>80%</u> AMI average</i>	<u>Ownership:</u> Smaller projects: <ul style="list-style-type: none">12% <u>at 120% AMI</u> Larger projects: <ul style="list-style-type: none"><u>20%</u> at: (<u>120% AMI avg.</u>; <u>90, 120, 140% AMI</u>) <i>*equivalent to <u>20%</u> at <u>120%</u> AMI average</i>
5. Off-site alternative [415.7]	Smaller projects: <ul style="list-style-type: none">20% of on-site units at low income Larger projects: <ul style="list-style-type: none">33% of on-site units<ul style="list-style-type: none">20% low income13% moderate income <i>*equivalent to 33% at 73% AMI avg (rental) 33% at 96% AMI avg. (owner)</i>		<u>Rental:</u> Smaller projects: <ul style="list-style-type: none">20% of on-site units at (55% AMI <u>avg.</u>; <u>45 – 65% AMI</u>) Larger projects: <ul style="list-style-type: none"><u>30%</u> of on-site units<ul style="list-style-type: none"><u>18%</u> low income (55% AMI <u>avg.</u>; <u>40 – 80% AMI</u>)<u>12%</u> mod. Income (100% AMI <u>avg.</u>; <u>80–120% AMI</u>) <i>*equivalent to <u>30%</u> at <u>73%</u> AMI average</i>	<u>Ownership:</u> Smaller projects: <ul style="list-style-type: none">20% of on-site units at (80% AMI <u>avg.</u>; <u>70 – 90% AMI</u>) Larger projects: <ul style="list-style-type: none">33% of on-site units<ul style="list-style-type: none"><u>18%</u> low income (80% AMI <u>avg.</u>; <u>60-100% AMI</u>)<u>15%</u> mod. Income (120% AMI <u>avg.</u>; <u>100-140% AMI</u>) <i>*equivalent to 33% at 98% AMI average</i>	<u>Rental:</u> Smaller projects: <ul style="list-style-type: none">20% at <u>80%</u> AMI Larger projects: <ul style="list-style-type: none"><u>23%</u> at: <u>80% AMI avg.</u>; <u>55, 80, 110% AMI</u> <i>*equivalent to <u>23%</u> at <u>85%</u> AMI average</i>	<u>Ownership:</u> Smaller projects: <ul style="list-style-type: none">20% at <u>120%</u> AMI Larger projects: <ul style="list-style-type: none"><u>28%</u> at: <u>120% AMI avg.</u>; <u>90, 120, 140% AMI</u> <i>*equivalent to 28% at 120% AMI average</i>

EXHIBIT G - COMPARISON TABLE of PROPOSED AMENDMENTS to SECTION 415 – PLANNING COMMISSION INFORMATIONAL HEARING 3/9/2017

6. Future Increases to Requirements (i.e. “the ramp”)	N/A	<p>Starting Jan 1, <u>2018</u>, annual increase of <u>0.75%</u> in requirement for larger project, until maximum legal limit as per current Nexus Study.</p> <ul style="list-style-type: none"> Determination of requirement: <ul style="list-style-type: none"> It is not specified when the requirement would be applied to a project. Effective for <u>2 years</u> after project entitlement (w/ tolling for appeals) <p>If project re-applies, current requirement applied</p>	<p>Starting Jan 1, <u>2019</u>, annual increase in requirement for larger projects, until max of: <i>(max would be achieved in 10 years if increased annually)</i></p> <ul style="list-style-type: none"> Fee: <u>0.5%</u> (max: <u>28%</u> / <u>33%</u> rental/owner) On-site: <u>0.5%</u> (max: <u>23%</u> / <u>25%</u> rental/owner) Off-site: <u>0.5%</u> (max: <u>28%</u> / <u>33%</u> rental/owner) <ul style="list-style-type: none"> Determination of requirement: <ul style="list-style-type: none"> Requirement applied at first Environmental Application Effective for <u>3 years</u> after project entitlement (w/ tolling for appeals) If project re-applies, current requirement applied
7. Calculation of Fee [415.5(b)(2)]	No change from current 415	<p>MOHCD to calculate fee using current methodology, but for 3 building types as both rental and owner (6 total):</p> <ul style="list-style-type: none"> < 55’ height – rental/owner 55 – 85’ height – rental/owner 85’ + height – rental/owner 	<p>MOHCD to charge fee on a per gross square foot of residential area basis; calculated using MOHCD’s cost to construct.</p> <p>Planning Code will continue to cite requirements as percent of on-site units and reference MOHCD manual to the equivalent per-square-foot amount of fee.</p>
8. “Grandfathering” Provision [415.3]	<p>EE Application Accepted after Jan 1, 2013 but on/before:</p> <ul style="list-style-type: none"> Jan 1, 2014 <ul style="list-style-type: none"> Fee/off-site: 25% On-site: 13% Jan 1, 2015 <ul style="list-style-type: none"> Fee/Off-site: 27.5% On-site: 13.5% Jan 12, 2016 <ul style="list-style-type: none"> Fee/Off-site: 30% On-site: 14.5% <p><i>*exceptions:</i></p> <ul style="list-style-type: none"> If no construction permit by Dec 7, 2018, full requirement applies If area-specific fee in place, the higher of the two fees applies (419, UMU, SoMa Youth/Family District SUDs w/ height increase) Projects seeking SDBL with EE before Jan 12, 2016 to use “best efforts” for 25% on-site If project > 120’ height, full requirement applies (25/33) 	<p>No change from current 415 for “grandfathered” projects, with the exception that projects that have filed an EE Application after January 12, 2016 would be subject to the requirements set forth above.</p>	<p>EE Application Accepted after Jan 1, 2013 but on/before:</p> <ul style="list-style-type: none"> Jan 1, 2014 <ul style="list-style-type: none"> Fee/off-site: <u>23%</u> / <u>28%</u> (rental/owner) On-site: 13% Jan 1, 2015 <ul style="list-style-type: none"> Fee/Off-site: <u>23%</u> / <u>28%</u> (rental/owner) On-site: 13.5% Jan 12, 2016 <ul style="list-style-type: none"> Fee/Off-site: <u>23%</u> / <u>28%</u> (rental/owner) On-site: 14.5% <p><i>*exceptions:</i></p> <ul style="list-style-type: none"> If no construction permit by Dec 7, 2018, full requirement applies If area-specific fee in place, the higher of the two fees applies (419, UMU, SoMa Youth/Family District SUDs w/ height increase) Projects seeking SDBL with EE before Jan 12, 2016 to use “best efforts” for 25% on-site If project > 120’ height, full requirement applies (25/33)

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9. State Density Bonus	N/A <i>*Projects meeting the requirements set forth would qualify for up to a 35% density bonus under state law</i>	Projects meeting the requirements set forth would qualify for up to a 35% density bonus under state law. In addition, the following requirements would be established: <ul style="list-style-type: none">• Applicant seeking SDBL must submit “reasonable documentation” to support application for concessions/waivers• The Planning Department would be required to provide information about the value of the density bonus and concessions to the Planning Commission• Beginning January 2018, the Planning Department would be required to prepare an annual report to the Planning Commission about the number of density bonus projects in the development pipeline.	Qualifying projects providing on-site units and that receive additional density under the Bonus Law would be required to use the existing combination alternative (partial on-site and partial fee) provided for in Section 415 to pay the Affordable Housing Fee on any additional units authorized under the Bonus Law.
10. Unit mix	N/A	Projects electing the on-site option would be required to provide: <ul style="list-style-type: none">• 40% of total units as two-bedroom units, AND• 20% of total units as three-bedroom or larger units	Projects located outside of Plan Areas with greater than 25 units would be required to provide as follows, regardless of Inclusionary Housing application: <ul style="list-style-type: none">• 25% of total units as two-bedroom units, OR• 10% of total units as three-bedroom units