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New Planning Code Summary:
Inclusionary Affordable Housing Fee and Requirements

Amended Sections:	Planning Code: 415.1- 415.7, and 415.10 Administrative Code: Article XXIX, Sections 5.29.1-5.29.5
Case Number:	**2016-003040PCA**
Board File/Enactment #:	160255/076-16
Initiated by:	Supervisors Kim, Peskin, Yee, and Mar
Effective Date:	This ordinance only becomes effective if the voters of San Francisco pass Proposition C on the June 7, 2016. The ordinance would then become effective on June 8.

The adopted ordinance amended the Planning and Administrative Codes to increase the Inclusionary Affordable Housing fee and other requirements; require the Controller to prepare an economic feasibility report regarding the City's inclusionary housing requirements and make recommendations by July 31, 2016, and every three years thereafter; and established the Inclusionary Housing Technical Advisory Committee to provide advice about the economic feasibility of proposals to set maximum economically viable inclusionary housing requirements, and set forth the membership and duties of the Advisory Committee.

The Way It Is Now:

1. Qualifying Projects: Projects with 10 or more units were subject to the Planning Code's Inclusionary Housing Requirements.
2. On-Site and Alternative: Planning Code Section 415.7 typically required Project Sponsors electing the On-Site alternative to designate 12% of the total number of units constructed as inclusionary units. These units were dedicated to low and very low-income households
3. In-Lieu Fee and Off-Site Alternative: Planning Code Section 415.7 typically required Project Sponsors electing the In-Lieu Fee or Off-Site alterative to pay a fee or provide off-site units equivalent to 17-20% of the total number of units produced in the principal project.
4. Economic Feasibility Analysis: The City commissioned an economic feasibility analysis in July of 2006 to examine the economic impacts of adjusted inclusionary requirements on market-rate housing projects. There was no need and no requirement for the City to conduct periodic economic feasibility analysis since the current rate was dictated by the City's Charter.
5. Inclusionary Housing Technical Advisory Committee: The 2006 Economic Feasibility Analysis was guided by the Planning Department and Mayor's Office of Housing and Community Development, and informed by a Technical Advisory Committee that was comprised of a variety of experts from the San Francisco Housing Development and

Affordable Housing Advocacy Communities. There was no formal requirement that future economic feasibility analysis be informed by a Technical Advisory Committee, nor was there a requirement on who must be on such a committee.

6. Expiration of Grandfathering Clauses: In general, the City does not place an expiration date on grandfathering clauses.

7. Location and Size of Inclusionary Units: The Planning Code stated that the square footage of the inclusionary units need not be the same size as the market rate units, so long as they are consistent with then-current standards for new housing. Further, a Planning Department policy required that the units be distributed evenly throughout the building except that the inclusionary units did not have to be located within the top 1/3 of the building.

8. State Density Bonus Law: The State Density Bonus Law allows project sponsors to get a density bonus in exchange for the provision of affordable housing. There was no mention of the State Density Bonus Law in the Planning Code, nor any mention of how many low-income units a developer should provide when using the State Density Bonus law.

The Way It Would Be:

1. Qualifying Projects: Projects with 10 or more units are subject to the current Inclusionary Housing Requirements; however additional requirements are placed on housing projects with 25 units or more.

2. Inclusionary Housing On-Site Alternative Grandfathering Provision: For qualifying projects consisting of 10 to 24 dwelling units, 12 percent of the total units constructed on-site are required to be dedicated to affordable to low and very low-income households. For qualifying projects with 25 dwelling units or more, 25 percent of all units constructed would be dedicated to the inclusionary program, with a minimum of 15 percent of the units affordable to low and very low-income households and another 10 percent of the units affordable to very low, low- or middle income households.

   Projects that are currently in the pipeline may be subject to a lower inclusionary rate, depending on when their Environmental Evaluation (EE) application was submitted and where they are located (See Exhibit A). Application dates for the grandfathering of existing projects would be established by the dates of a completed EE application that was submitted as follows:

   - prior to 1/1/2013, the inclusionary rates existing on January 12, 2016.
   - prior to 1/1/2014, the inclusionary rate is 13%
   - prior to 1/1/2015, the inclusionary rate is 13.5%
   - on or prior to 1/12/2016, the inclusionary rate is 14.5%

There are different grandfathering rates for projects within the UMU zoning district and the South of Market Youth and Family Zone, which are outlined in the attached chart (Exhibit A).

3. Inclusionary In-Lieu Fee and Off-Site Alternative Grandfathering Provision: Qualifying projects consisting of 10 to 24 dwelling units are required to pay an in-lieu fee or provide units off-site equivalent to 20 percent of the total number of units produced in the principal project. Qualifying projects that have 25 or more units are required to pay 33 percent of the total number of units produced in the principal project.

   Projects that are currently in the pipeline may be subject to a lower inclusionary rate, depending on when their EE application was submitted and where they are located. Application dates for the grandfathering of existing projects would be established by the dates of a completed EE application that was submitted as follows:
   - prior to 1/1/2013, the inclusionary rates existing on January 12, 2016.
   - prior to 1/1/2014, the inclusionary rate is 25%
   - prior to 1/1/2015, the inclusionary rate is 27.5%
   - on or prior to 1/12/2016, the inclusionary rate is 30%

   Projects over 120 feet in height and choosing the off-site or in-lieu fee option are not eligible for grandfathering, except for 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 (essentially projects along Van Ness Avenue).

   There are different grandfathering rates for projects within the UMU zoning district and the South of Market Youth and Family Zone, which are outlined in the attached chart (Exhibit A). There are also grandfathering provisions for land dedication which are also outlined in the chart (Exhibit A).

4. Economic Feasibility Analysis: The ordinance established an Economic Feasibility Study. The purpose of this study is to study how to set the inclusionary housing obligations in San Francisco at the maximum economically feasible amount in market rate housing development to create housing for lower-, moderate- and middle-income households, with guidance from the City's Nexus Study. The Controller, in consultation with relevant City Departments and the Inclusionary Housing Technical Advisory Committee, is responsible for conducting the study every three years. The first report is due on to the Board of Supervisors by July 31, 2016 and every other subsequent report is due by October 31.

5. Inclusionary Housing Technical Advisory Committee: The ordinance established an Inclusionary Technical Advisory Committee that is intended to provide input and advice to the Controller, the Mayor, the Planning Department and the Board of Supervisors regarding the content of the Economic Feasibility Analysis report. The Advisory Committee would consist of eight members, four appointed by the Board of Supervisors and four appointed by the Mayor. All members must have experience and expertise in

development finance. Each member would serve until three months after the date the Controller produces the first Economic Feasibility Analysis, and new members would be appointed in anticipate of each new report.

6. Expiration of Grandfathering Clauses: 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.

7. Location and Size of Inclusionary Units: The Planning Code now requires that the inclusionary units be at least 90% of the average size of the specific unit (1-bedroom, 2-bedroom, etc.); but on buildings over 120 in height the average size of the unit type may be calculated for the lower 2/3 of the building as measured by the number of floors. The Planning Code now also specifies that the inclusionary units shall be evenly distributed throughout the building; however for buildings over 120 feet in height, the inclusionary units may be distributed throughout the lower 2/3 of the building as measured by the number of floors.

8. State Density Bonus Law: The Code now references the State Density Bonus law and asks that any proposed project [sponsor] seeking to use this State Density Bonus law, shall use "its best efforts to provide on-site affordable units in the amount of 25 percent of the units constructed on-site and shall consult with the Planning Department about how to achieve this amount of inclusionary affordable housing." In addition, the project [sponsor] is required to prepare a report analyzing how the concessions and incentives requested are necessary to provide the required on-site affordable housing. However, per state law, project sponsors can still use the State Density Bonus program without providing on-site affordable units in the amount of 25 percent of the units constructed on-site.

Link to Signed Legislation:
https://sfgov.legistar.com/View.ashx?M=F&ID=4450472&GUID=A085BF8C-5074-4A76-A49E-74EFF3E93264

Exhibit A

Current Requirements for Projects that filed EE after January 12, 2016

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
10-24 unit projects	20.0%	20.0%	20.0%	20.0%	20.0%
25+ unit projects	20.0%	25.0%	27.5%	30.0%	33.0%
25+ unit projects over 120' in height *	33.0%	33.0%	33.0%	33.0%	33.0%
On-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**
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%
On-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**
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	**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%
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	**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%
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%
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**
Tier A 10-24 unit projects	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%
Tier B 10-24 unit projects	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%
Tier C 10-24 unit projects	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%

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