

Read Section 313.2 Findings for narrative
discussing the reasoning for this ordinance.

**CITY AND COUNTY OF
SAN FRANCISCO MUNICIPAL CODE
PLANNING CODE**

**Codified through
Ord. No. 12-08, File Number 071136,
approved Jan. 31, 2008.
(Supplement No. 13)**

SEC. 313. HOUSING REQUIREMENTS FOR LARGE-SCALE DEVELOPMENT PROJECTS.

Sections 313.1 through 313.15 set forth the requirements and procedures for the Jobs-Housing Linkage Program.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001)

SEC. 313.1. DEFINITIONS.

The following definitions shall govern interpretation of this ordinance:

- (1) "Affordable housing project" shall mean a housing project containing units constructed to satisfy the requirements of Sections 313.5 or 313.7 of this ordinance or receiving funds from the Citywide Affordable Housing Fund under Section 313.12.
- (2) "Affordable to a household" shall mean a purchase price that a household can afford to pay based on an annual payment for all housing costs of 33 percent of the combined household annual net income, a 10 percent down payment, and available financing, or a rent that a household can afford to pay based on an annual payment for all housing costs of 30 percent of the combined annual net income.
- (3) "Affordable to qualifying households" shall mean:
 - (A) With respect to owned units, the average purchase price on the initial sale of all affordable owned units in an affordable housing project shall not exceed the allowable average purchase price. Each unit shall be sold:
 - (i) Only to households with an annual net income equal to or less than that of a household of moderate income; and
 - (ii) At or below the maximum purchase price.
 - (B) With respect to rental units in an affordable housing project, the average annual rent shall not exceed the allowable average annual rent. Each unit shall be rented:
 - (i) Only to households with an annual net income equal to or less than that of a household of lower income;
 - (ii) At or less than the maximum annual rent.
- (4) "Allowable average purchase price" shall mean:
 - (A) For all affordable one-bedroom units in a housing project, a price affordable to a two-person household of median income as set forth in Title 25 of the California Code of Regulations Section 6932 ("Section 6932") on January 1st of that year;
 - (B) For all affordable two-bedroom units in a housing project, a price affordable to a three-person household of median income as set forth in Section 6932 on January 1st of that year;

- (C) For all affordable three-bedroom units in a housing project, a price affordable to a four-person household of median income as set forth in Section 6932 on January 1st of that year;
- (D) For all affordable four-bedroom units in a housing project, a price affordable to a five-person household of median income as set forth in Section 6932 on January 1st of that year.
- (5) "Allowable average annual rent" shall mean:
- (A) For all affordable one-bedroom units in a housing project, 18 percent of the median income for a household of two persons as set forth in Section 6932 on January 1st of that year;
- (B) For all affordable two-bedroom units in a housing project, 18 percent of the median income for a household of three persons as set forth in Section 6932 on January 1st of that year;
- (C) For all affordable three-bedroom units in a housing project, 18 percent of the median income for a household of four persons as set forth in Section 6932 on January 1st of that year;
- (D) For all affordable four-bedroom units in a housing project, 18 percent of the median income for a household of five persons as set forth in Section 6932 on January 1st of that year.
- (6) "Annual net income" shall mean net income as defined in Title 25 of the California Code of Regulations Section 6916.
- (7) "Average annual rent" shall mean the total annual rent for the calendar year charged by a housing project for all affordable rental units in the project of an equal number of bedrooms divided by the total number of affordable units in the project with that number of bedrooms.
- (8) "Average purchase price" shall mean the purchase price for all affordable owned units in an affordable housing project of an equal number of bedrooms divided by the total number of affordable units in the project with that number of bedrooms.
- (9) "City" shall mean the City and County of San Francisco.
- (10) "Community apartment" shall be defined in San Francisco Subdivision Code Section 1308(b).
- (11) "Condominium" shall be as defined in California Civil Code Section 783.

- (12) "DBI" shall mean the Department of Building Inspection
- (13) "Department" shall mean the Planning Department or the Planning Department's designee, including the Mayor's Office of Housing and other City agencies or departments.
- (14) "Entertainment development project" shall mean any new construction, addition, extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of entertainment use.
- (15) "Entertainment use" shall mean space within a structure or portion thereof intended or primarily suitable for the operation of a nighttime entertainment use as defined in San Francisco Planning Code Section 102.17, a movie theater use as defined in San Francisco Planning Code Sections 790.64 and 890.64, an adult theater use as defined in San Francisco Planning Code Section 191, any other entertainment use as defined in San Francisco Planning Code Sections 790.38 and 890.37, and, notwithstanding San Francisco Planning Code Section 790.38, an amusement game arcade (mechanical amusement devices) use as defined in San Francisco Planning Code Sections 790.4 and 890.4. Under this ordinance, "entertainment use" shall include all office and other uses accessory to the entertainment use, but excluding retail uses and office uses not accessory to the entertainment use.
- (16) "First certificate of occupancy" shall mean either a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 109, whichever is issued first.
- (17) "Hotel development project" shall mean any new construction, addition, extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of hotel use.
- (18) "Hotel use" shall mean space within a structure or portion thereof intended or primarily suitable for rooms, or suites of two or more rooms, each of which may or may not feature a bathroom and cooking facility or kitchenette and is designed to be occupied by a visitor or visitors to the City who pays for accommodations on a daily or weekly basis but who do not remain for more than 31 consecutive days. Under this ordinance, "hotel use" shall include all office and other uses accessory to the renting of guest rooms, but excluding retail uses and office uses not accessory to the hotel use.
- (19) "Household" shall mean any person or persons who reside or intend to reside in the same housing unit.
- (20) "Household of lower income" shall mean a household composed of one or more persons with a combined annual net income for all adult members which does not exceed the qualifying limit for a lower-income family of a size

equivalent to the number of persons residing in such household, as set forth for the County of San Francisco in Title 25 of the California Code of Regulations Section 6932.

(21) "Household of median income" shall mean a household composed of one or more persons with a combined annual net income for all adult members which does not exceed the qualifying limit for a median-income family of a size equivalent to the number of persons residing in such household, as set forth for the County of San Francisco in Title 25 of the California Code of Regulations Section 6932.

(22) "Household of moderate income" shall mean a household composed of one or more persons with a combined annual net income for all adult members which does not exceed the qualifying limit for a moderate-income family of a size equivalent to the number of persons residing in such household, as set forth for the County of San Francisco in Title 25 of the California Code of Regulations Section 6932.

(23) "Housing developer" shall mean any business entity building housing units which receives a payment from a sponsor for use in the construction of the housing units. A housing developer may be (a) the same business entity as the sponsor, (b) an entity in which the sponsor is a partner, joint venturor, or stockholder, or (c) an entity in which the sponsor has no control or ownership.

(24) "Housing unit" or "unit" shall mean a dwelling unit as defined in San Francisco Housing Code Section 401.

(25) "Interim Guidelines" shall mean the Office Housing Production Program Interim Guidelines adopted by the City Planning Commission on January 26, 1982, as amended.

(26) "Maximum annual rent" shall mean the maximum rent that a housing developer may charge any tenant occupying an affordable unit for the calendar year. The maximum annual rent shall be 30 percent of the annual income for a lower-income household as set forth in Section 6932 on January 1st of each year for the following household sizes:

- (A) For all one-bedroom units, for a household of two persons;
- (B) For all two-bedroom units, for a household of three persons;
- (C) For all three-bedroom units, for a household of four persons;
- (D) For all four-bedroom units, for a household of five persons.

(27) "Maximum purchase price" shall mean the maximum purchase price that a household of moderate income can afford to pay for an owned unit based on an annual payment for all housing costs of 33 percent of the combined household annual net income, a 10 percent down payment, and available financing, for the following household sizes:

- (A) For all one-bedroom units, for a household of two persons;
- (B) For all two-bedroom units, for a household of three persons;
- (C) For all three-bedroom units, for a household of four persons;
- (D) For all four-bedroom units, for a household of five persons.

(28) "MOH" shall mean the Mayor's Office of Housing.

(29) "Net addition of gross square feet of entertainment space" shall mean gross floor area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily serving, entertainment use, less the gross floor area in any structure demolished or rehabilitated as part of the proposed entertainment development project that was used primarily and continuously for entertainment, hotel, office, research and development, or retail use and was not accessory to any use other than entertainment, hotel, office, research and development, or retail use, for five years prior to Planning Commission approval of an entertainment development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter, so long as such space was subject to this ordinance or the Interim Guidelines.

(30) "Net addition of gross square feet of hotel space" shall mean gross floor area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily serving, hotel use, less the gross floor area in any structure demolished or rehabilitated as part of the proposed hotel development project that was used primarily and continuously for entertainment, hotel, office, research and development, or retail use and was not accessory to any use other than entertainment, hotel, office, research and development, or retail use, for five years prior to Planning Commission approval of a hotel development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter, so long as such space was subject to this ordinance or the Interim Guidelines.

(31) "Net addition of gross square feet of office space" shall mean gross floor area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily serving, office use, less the gross floor area in any structure demolished or rehabilitated as part of the proposed office development project that was used primarily and continuously for entertainment, hotel, office, research and development, or retail use and was not accessory to any use other than

entertainment, hotel, office, research and development, or retail use for five years prior to Planning Commission approval of an office development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

(32) "Net addition of gross square feet of research and development space" shall mean gross floor area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily serving, research and development use, less the gross floor area in any structure demolished or rehabilitated as part of the proposed research and development project that was used primarily and continuously for entertainment, hotel, office, research and development, or retail use and was not accessory to any use other than entertainment, hotel, office, research and development, or retail use, for five years prior to Planning Commission approval of a research and development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

(33) "Net addition of gross square feet of retail space" shall mean gross floor area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily serving, retail use, less the gross floor area in any structure demolished or rehabilitated as part of the proposed retail development project that was used primarily and continuously for entertainment, hotel, office, research and development, or retail use and was not accessory to any use other than entertainment, hotel, office, research and development, or retail use, for five years prior to Planning Commission approval of a retail development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

(34) "Office development project" shall mean any new construction, addition, extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of office use.

(35) (A) "Office use" shall mean space within a structure or portion thereof intended or primarily suitable for occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location services including, but not limited to, the following: Professional, banking; insurance; management; consulting; technical; sales; and design; and the non-accessory office functions of manufacturing and warehousing businesses; all uses encompassed within the definition of "office" at Section 219 of this Code; multimedia, software development, web design, electronic commerce, information technology and other computer based technology; all uses encompassed within the definition of "administrative services" at Section 790.106 or Section 890.106 of this Code; all "business or professional services" as proscribed at Section 890.108 of this Code excepting only those uses which are limited to the Chinatown Mixed Use District; all "business services," as described at Section 890.11 of this Code which are conducted in space designated for office

use under the San Francisco Building Code and which are not excluded pursuant to Subsection B below.

(B) Under this ordinance, "office use" shall exclude: retail uses; repair; any business characterized by the physical transfer of tangible goods to customers on the premises; wholesale shipping, receiving and storage; research and development; and design showcases or any other space intended and primarily suitable for display of goods.

(36) "Ordinance" shall mean San Francisco Planning Code Sections 313.1 through 313.14.

(37) "Owned unit" shall mean a unit affordable to qualifying households which is a condominium, stock cooperative, community apartment, or detached single-family home. The owner or owners of an owned unit must occupy the unit as their primary residence.

(38) "Owner" shall mean the record owner of the fee or a vendee in possession.

(39) "Rent" or "rental" shall mean the total charges for rent, utilities, and related housing services to each household occupying an affordable unit.

(40) "Rental unit" shall mean a unit affordable to qualifying households which is not a condominium, stock cooperative, or community apartment.

(41) "Research and Development ("R&D") project" shall mean any new construction, addition, extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of R&D use.

(42) "Research and development use" shall mean space within any structure or portion thereof intended or primarily suitable for basic and applied research or systematic use of research knowledge for the production of materials, devices, systems, information or methods, including design, development and improvement of products and processing, including biotechnology, which involves the integration of natural and engineering sciences and advanced biological techniques using organisms, cells, and parts thereof for products and services, excluding laboratories which are defined as light manufacturing uses consistent with Section 226 of the Planning Code.

(43) "Retail development project" shall mean any new construction, addition, extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of retail use.

(44) "Retail use" shall mean space within any structure or portion thereof intended or primarily suitable for occupancy by:

(A) Persons or entities which supply commodities to customers on the premises including, but not limited to, stores, shops, restaurants, bars, eating and drinking businesses, and the uses defined in San Francisco Planning Code Sections 218 and 220 through 225, and also including all space accessory to such retail use; and

(B) All space accessory to such retail use.

(45) "Section 6932" shall mean Section 6932 of Title 25 of the California Code of Regulations as such section applies to the County of San Francisco.

(46) "Sponsor" shall mean an applicant seeking approval for construction of an office development project subject to this Section, such applicants' successors and assigns, and/or any entity which controls or is under common control with such applicant.

(47) "Stock cooperative" shall be as defined in California Business and Professions Code Section 11003.2.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001; Ord. 76-03, File No. 020592, App. 5/2/2003)

SEC. 313.2. FINDINGS.

The Board hereby finds and declares as follows. Large-scale entertainment, hotel, office, research and development, and retail developments in the City and County of San Francisco (hereinafter "City") have attracted and continue to attract additional employees to the City, and there is a causal connection between such developments and the need for additional housing in the City, particularly housing affordable to households of lower and moderate income. Such commercial uses in the City benefit from the availability of housing close by for their employees. However, the supply of housing units in the City has not kept pace with the demand for housing created by these new employees. Due to this shortage of housing, employers will have difficulty in securing a labor force, and employees, unable to find decent and affordable housing, will be forced to commute long distances, having a negative impact on quality of life, limited energy resources, air quality, social equity, and already overcrowded highways and public transport.

There is a low vacancy rate for housing affordable to persons of lower and moderate income. In part, this low vacancy rate is due to factors unrelated to large-scale commercial development, such as high interest rates, high land costs in the City, immigration from abroad, demographic changes such as the reduction in the number of persons per household, and personal, subjective choices by households that San Francisco is a desirable place to live. This low vacancy rate is also due in part to large-scale commercial developments which have attracted and will continue to attract additional employees and residents to the City. Consequently, some of the employees attracted to these developments are competing with present residents for scarce, vacant affordable housing units in the City. Competition for housing generates the greatest pressure on the supply of housing affordable to households of lower and moderate income. In San Francisco, office or retail uses of land generally yield higher income to the owner than housing. Because of these market forces, the supply of these affordable housing units will not be expanded. Furthermore, Federal and State housing finance and subsidy programs are not sufficient by themselves to satisfy the lower and moderate income housing requirements of the City.

As demonstrated in the "Jobs Housing Nexus Analysis" prepared by Keyser Marston Associates, Inc. in June 1997, construction of new housing units in the City decreased to a low of 288 units in 1993 compared to an average annual production of 1,330 units during the years 1980 through 1995. Overall housing production in the City should average approximately 2,200 units a year to keep up with the City's share of regional housing demand.

There is a continuing shortage of low- and moderate-income housing in San Francisco. Affordable housing production in the City averaged approximately 340 units per year during the years 1980 through 1995. However, the demand for new affordable housing will be approximately 1,300 units per year for the years 2000 through 2015.

Objective 1, Policy 7 of the Residence Element of the San Francisco Master Plan calls for the provision of additional housing to accommodate the demands of new residents

attracted to the City by expanding employment opportunities caused by the growth of large-scale commercial activities in the City. Such development projects should assist in meeting the City's housing needs by contributing to the provision of housing.

It is desirable to impose the cost of the increased burden of providing housing necessitated by large-scale commercial development projects directly upon the sponsors of the development projects by requiring that the project sponsors contribute land or money to a housing developer or pay a fee to the City to subsidize housing development as a condition of the privilege of development and to assist the community in solving those of its housing problems generated by the development.

The required housing exaction shall be based upon formulas derived in the report entitled "Jobs Housing Nexus Analysis" prepared by Keyser Marston Associates, Inc. in June 1997. The "Jobs Housing Nexus Analysis" demonstrates the validity of the nexus between new, large-scale entertainment, hotel, office, research and development, and retail development and the increased demand for housing in the City, and the numerical relationship between such development projects and the formulas for provision of housing set forth in this ordinance.

In-lieu fees for new office construction to the City's Office Affordable Housing Production Program were last increased in 1994 to \$7.05 per square foot, based on the "Analysis of the OAHPP Formula prepared by the Department of City Planning in November 1994." Existing law provides for potential increases to such fees up to 20% annually based on increases to the Average Area Purchase Price Safe Harbor Limitations for New Single-Family Residences for the San Francisco Primary Metropolitan Statistical Area ("PMSA") published by the Internal Revenue Service.

The Internal Revenue Service last published its Average Area Purchase Price Safe Harbor Limitations for New Single-Family Residences for the San Francisco PMSA in 1994. In 1998 and again in 2000, the City contracted for an analysis of average area purchase price for the San Francisco PMSA, in lieu of IRS publication of the index. The 2000 report prepared by Vernazza Wolfe Associates for mortgage purposes, which was certified by Orrick, Herrington & Sutcliffe, indicates that the 1999 updated purchase price figures for new construction are \$431,568, a 73.3% increase over the 1994 purchase price of \$248,969.

If OAHPP fees had been increased consistent with these increases in the Average Area Purchase Price Safe Harbor Limitations for New Single-Family Residences for the San Francisco PMSA, the OAHPP in-lieu fee for net new office construction would be \$12.22 per square foot, or approximately 54% of the maximum derived by the "Jobs Housing Nexus Analysis" prepared by Keyser Marston Associates, Inc. in June 1997.

Since preparation of the Keyser Marston "Jobs Housing Nexus Analysis," the Bay Area has seen dramatic increases in land acquisition costs for housing, the cost of new housing development and the affordability gap for low to moderate income workers seeking housing. Commute patterns for the region have also changed, with more workers who

work outside of San Francisco seeking to live in the City, thus increasing demand for housing and decreasing housing availability.

Because the shortage of affordable housing created by large-scale commercial development in the City can be expected to continue for many years, it is necessary to maintain the affordability of the housing units constructed by developers of such projects under this program. In order to maintain the long-term affordability of such housing, the City is authorized to enforce affordability requirements through mechanisms such as shared appreciation mortgages, deed restrictions, enforcement instruments, and rights of first refusal exercisable by the City at the time of resale of housing units built under the program.

Objective 8, Policy 2 of the Residence Element of the San Francisco Master Plan encourages the Planning Commission to periodically reassess requirements placed on large-scale commercial development under the Office Affordable Housing Production Program ("OAHPP"), predecessor to the Jobs-Housing Linkage Program. To that end, within 18 months following the effective date of this ordinance, the Director of Planning shall report to the Commission, the Board of Supervisors, and the Mayor on the current supply and demand of affordable housing in the City, the status of compliance with this ordinance, and the efficacy of this ordinance in mitigating the City's shortage of affordable housing available to employees working in development projects subject to this ordinance. Thereafter, if in the discretion of the Director of Planning there has been a substantial change in the San Francisco and/or regional economies since the effective date of this ordinance, the Director of Planning may recommend to the Commission, the Board of Supervisors, and the Mayor that this ordinance be amended or rescinded to alleviate any undue burden on commercial development in the City that the ordinance may impose.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001)

SEC. 313.3. APPLICATION.

(a) Where an environmental evaluation application for the development project is filed on or after January 1, 1999, this ordinance shall apply to:

- (1) Any entertainment development project proposing the net addition of 25,000 or more square feet of entertainment space;
- (2) Any hotel development project proposing the net addition of 25,000 or more square feet of hotel space;
- (3) Any office development project proposing the net addition of 25,000 or more square feet of office space;
- (4) Any research and development project proposing the net addition of 25,000 or more square feet of research and development space; and
- (5) Any retail development project proposing the net addition of 25,000 or more square feet of retail space, except as provided by Subsection (b)(8) below.

(b) This ordinance shall not apply to:

- (1) Any development project other than a development project described in Subsection (a) of this Section, including those portions of a development project consisting of the net addition of square feet of any type of space not described in Subsection (a) of this Section;
- (2) Those portions of a development project described in Subsection (a) of this Section located on property owned by the United States or any of its agencies or leased by the United States or any of its agencies for a period in excess of 50 years, with the exception of such property not used exclusively for a governmental purpose;
- (3) Those portions of a development project described in Subsection (a) of this Section located on property owned by the State of California or any of its agencies, with the exception of such property not used exclusively for a governmental or educational purpose;
- (4) Those portions of a development project described in Subsection (a) of this Section located on property under the jurisdiction of the San Francisco Redevelopment Agency or the Port of San Francisco where the application of this ordinance is prohibited by California or local law;
- (5) Any office development project approved by the Planning Commission prior to August 18, 1985 that was not subject to the Interim Guidelines; or

(6) Any office development project approved by the Planning Commission prior to August 18, 1985 that was subject to the Interim Guidelines. If the action of the Planning Commission affecting such office development project is thereafter modified, superseded, vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by court action in a manner affecting the amount of housing required under the Interim Guidelines, the permit application on remand to the Planning Commission shall remain subject to the Interim Guidelines.

(7) Any major phase or development project in Mission Bay North or South to the extent application of this ordinance would be inconsistent with the Mission Bay North Redevelopment Plan and Interagency Cooperation Agreement or the Mission Bay South Redevelopment Plan and Interagency Cooperation Agreement, as applicable.

(8) Any (i) free-standing retail use, encompassed in the definition of "pharmacy" as proscribed in Section 790.48(b) and which does not exceed more than 50,000 square feet of retail or other space; or (ii) any free-standing retail use encompassed in the definition of "general grocery" proscribed in Section 790.102(a), and which does not exceed more than 75,000 square feet of retail or other space; or (iii) any mixed-use space consisting of residential space and pharmacy retail space not exceeding 50,000 square feet, or general grocery retail space not exceeding 75,000 square feet. For purposes of this Section, the term "free-standing" shall mean an independent building or structure used exclusively by a single use and any accessory uses, and that is not part of a larger development project on the same environmental evaluation application.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001)

SEC. 313.4. IMPOSITION OF HOUSING REQUIREMENT.

(a) The Planning Department or the Planning Commission shall impose a condition on the approval of application for a development project subject to this ordinance in order to mitigate the impact on the availability of housing which will be caused by the employment facilitated by that project. The condition shall require that the applicant pay or contribute land suitable for housing to a housing developer to construct housing or pay an in-lieu fee to the City Treasurer which shall thereafter be used exclusively for the development of housing affordable to households of lower or moderate income.

(b) Prior to either the Department's or the Commission's approval of a building or site permit for a development project subject to this ordinance, the Department shall issue a notice complying with Planning Code Section 306.3 setting forth its initial determination of the net addition of gross square feet of each type of space subject to this ordinance.

(c) Any person may appeal the initial determination by delivering an appeal in writing to the Department within 15 days of such notice. If the initial determination is not appealed within the time allotted, the initial determination shall become a final determination. If the initial determination is appealed, the Commission shall schedule a public hearing prior to the approval of the development project by the Department or the Commission to determine the net addition of gross square feet of each type of space subject to this ordinance. The public hearing may be scheduled separately or simultaneously with a hearing under Planning Code Sections 139(g), 306.2, 309(h), 314.5, 315.3 or a Discretionary Review hearing under San Francisco Municipal Code Part III, Section 26. The Commission shall make a final determination of the net addition of gross square feet of each type of space subject to this ordinance at the hearing.

(d) The final determination of the net addition of gross square feet of each type of space subject to this ordinance shall be set forth in the conditions of approval of any building or site permit application approved by the Department or the Commission. The Planning Department shall notify the Treasurer, DBI, and MOH of the final determination of the net addition of gross square feet of each type of space subject to this ordinance within 30 days following the date of the final determination.

(e) In the event that the Department or the Commission takes action affecting any development project subject to this ordinance and such action is thereafter modified, superseded, vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by court action, the permit application for such development project shall be remanded to the Commission to determine whether the proposed project has been changed in a manner which affects the calculation of the amount of housing required under this ordinance and, if so, the Commission shall revise the housing requirement imposed on the permit application in compliance with this ordinance within 60 days of such remand and notify the sponsor in writing of such revision or that a revision is not required. If the net addition of gross square feet of any type of space subject to this ordinance is revised, the Commission shall notify the Treasurer, DBI and MOH of the nature and extent of the revision.

(f) The sponsor shall supply all information to the Department and the Commission necessary to make a determination as to the applicability of this ordinance and the number of gross square feet of each type of space subject to this ordinance.

(g) The sponsor of any development project subject to this ordinance shall have the option of:

(1) Contributing a sum or land of value at least equivalent to the in-lieu fee according to the formulas set forth in Section 313.6 to one or more housing developers who will use the funds or land to construct housing units pursuant to Section 313.5 for each type of space subject to this ordinance; or

(2) Paying an in-lieu fee to the Treasurer according to the formula set forth in Section 313.6 for each type of space subject to this ordinance; or

(3) Combining the above options pursuant to Section 313.7 for each type of space subject to this ordinance.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001; Ord. 76-03, File No. 020592, App. 5/2/2003)

SEC. 313.5. COMPLIANCE THROUGH PAYMENT TO HOUSING DEVELOPER.

(a) If the sponsor elects to pay a sum or contribute land of value at least equivalent to the in-lieu fee to one or more housing developers to meet the requirements of this ordinance, the housing developer or developers shall be required to construct at least the number of housing units determined by the following formulas for each type of space proposed as part of the development project and subject to this ordinance:

TABLE INSET:

<i>Net Addition Gross Sq. Ft. Entertainment Space</i>	$\times .000140 = \text{Housing Units}$
<i>Net Addition Gross Sq. Ft. Hotel Space</i>	$\times .000110 = \text{Housing Units}$
<i>Net Addition Gross Sq. Ft. Office Space</i>	$\times .000270 = \text{Housing Units}$
<i>Net Addition Gross Sq. Ft. R&D Space</i>	$\times .000200 = \text{Housing Units}$
<i>Net Addition Gross Sq. Ft. Retail Space</i>	$\times .000140 = \text{Housing Units}$

The housing units required to be constructed under the above formula must be affordable to qualifying households continuously for 50 years. If the sponsor elects to contribute to more than one distinct housing development under this Section, the sponsor shall not

receive credit for its monetary contribution to any one development in excess of the amount of the in-lieu fee, as adjusted under Section 313.6, multiplied by the number of units in such housing development.

(b) Within one year of the final determination under Section 313.4(c) or a revised final determination under Section 313.4(e), or prior to the issuance by DBI of the first site or building permit for a development project subject to this ordinance, whichever occurs first, the sponsor shall submit to the Planning Department, with a copy to MOH.

(1) A written housing development plan identifying the housing project or projects to receive funds or land from the sponsor and the proposed mechanism for enforcing the requirement that the housing units constructed will be affordable to qualifying households for 50 years; and

(2) A certification that the sponsor has made a binding commitment to contribute an amount of money or land of value at least equivalent to the amount of the in-lieu fee that would otherwise be required under Section 313.6 to one or more housing developers and that the housing developer or developers shall use such funds or lands to develop the housing subject to this Section.

(3) A self-contained appraisal report as defined by the Uniform Standards of Professional Appraisal Practice prepared by an M.A.I. appraiser of the fair market value of any land to be contributed by the sponsor to a housing developer. The date of value of the appraisal shall be the date on which the sponsor submits the housing development plan and certification to the Planning Department.

If the sponsor fails to comply with these requirements within one year of the final determination or revised final determination, it shall be deemed to have elected to pay the in-lieu fee under Section 313.6 to comply with this ordinance. In the event that the sponsor fails to pay the in-lieu fee within the time required by Section 313.6, DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Treasurer notifies DBI and MOH that such payment has been made or land contributed, and the Treasurer shall immediately initiate lien proceedings against the sponsor's property pursuant to Section 313.9 to recover the fee.

(c) Within 30 days after the sponsor has submitted a written housing development project plan and, if necessary, an appraisal to the Planning Department and MOH under Subsection(b) of this Section, the Planning Department shall notify the sponsor in writing of its initial determination as to whether the plan and appraisal are in compliance with this Section, publish the initial determination in the next Planning Commission calendar, and cause a public notice to be published in an official newspaper of general circulation stating that such housing development plan has been received and stating the Planning Department's initial determination. In making the initial determination for an application where the sponsor elects to contribute land to a housing developer, the Planning Department shall consult with the Director of Property and include within its initial

determination a finding as to the fair market value of the land proposed for contribution to a housing developer. Within 10 days after such written notification and published notice, the sponsor or any other person may request a hearing before the Commission to contest such initial determination. If the Planning Department receives no request for a hearing within such 10-day period, the determination of the Planning Department shall become a final determination. Upon receipt of any timely request for hearing, the Planning Department shall schedule a hearing before the Commission within 30 days. The scope of the hearing shall be limited to the compliance of the housing development plan and appraisal with this Section, and shall not include a challenge to the amount of the housing requirement imposed on the development project by the Department or the Commission. At the hearing, the Commission may either make such revisions to the Planning Department's initial determination as it may deem just, or confirm the Planning Department's initial determination. The Commission's determination shall then become a final determination, and the Planning Department shall provide written notice of the final determination to the sponsor, MOH, and to any person who timely requested a hearing of the Planning Department's determination. The Planning Department shall also provide written notice to the Treasurer, DBI and MOH that the housing units to be constructed pursuant to such plan are subject to this ordinance.

(d) In making a determination as to whether a sponsor's housing development plan complies with this Section, the Director of Planning and the Commission shall credit to the sponsor any excess Interim Guideline credits or excess credits that the sponsor elects to apply against its housing requirement. The remaining housing units required shall be subject to the requirements of Subsection (a) of this Section.

(e) Prior to the issuance by DBI of the first site or building permit for a development project subject to this Section, the sponsor must:

(1) Provide evidence to the Planning Department in writing that it has paid in full the sum or transferred title of the land required by Subsection (a) of this Section to one or more housing developers;

(2) Notify the Planning Department that construction of the housing units has commenced, evidenced by:

(A) The City's issuance of site and building permits for the entire housing development project,

(B) Written authorization from the housing developer and the construction lender that construction may proceed,

(C) An executed construction contract between the housing developer and a general contractor, and

(D) The issuance of a performance bond enforceable by the construction lender for 100 percent of the replacement cost of the housing project; and

(3) Provide evidence satisfactory to the Planning Department that the units required to be constructed will be affordable to qualifying households for 50 years through an enforcement mechanism approved by the Planning Department pursuant to Subsections (b) through (d) of this Section.

DBI shall provide notice in writing to the Treasurer, the Planning Department and MOH at least five business days prior to issuance of the first site or building permit for any development project for which the sponsor elects to pay a sum or contribute land to one or more housing developers. If the Treasurer, or the Planning Department notifies DBI within the five business days that the conditions of (1) through (3) of this Subsection have not been met, DBI shall deny the site or building permits or certificates of occupancy for the development project. Any failure of the Treasurer, DBI or the Planning Department to give any notice under this Section shall not relieve a sponsor from compliance with this Section. Where DBI inadvertently issues a site or building permit or certificate of occupancy without complying with the requirements of this section, the sponsor shall be deemed to have elected to pay the in-lieu fee pursuant to Section 313.6, and shall immediately be liable for the amount of the fee plus accrued interest in accordance with Section 313.9. In addition, DBI shall not issue any certificate of occupancy for the project without notification from the Treasurer that the sponsor has paid the fee plus any interest due. The procedure set forth in this Subsection is not intended to preclude enforcement of the provisions of this section under any other section of this Code or other authority under the laws of the State of California.

(f) Where the sponsor elects to pay a sum or contribute land of value equivalent to the in-lieu fee to one or more housing developers, the sponsor's responsibility for completing construction of and maintaining the affordability of housing units constructed ceases from and after the date on which:

(1) The conditions of (1) through (3) of Subsection (e) of this Section have been met; and

(2) A mechanism has been approved by the Director of Planning to enforce the requirement that the housing units constructed will be affordable to qualifying households continuously for 50 years.

(g) Where the sponsor initially elects to pay a sum and/or contribute land of value equivalent to the in-lieu fee to one or more housing developers, but subsequently decides instead to pay the in-lieu fee, the sponsor shall immediately be liable for the amount of the in-lieu fee under Section 313.6 and interest in accordance with Section 313.9.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001; Ord. 227-01, File No. 011102, App. 11/21/2001; Ord. 76-03, File No. 020592, App. 5/2/2003)

SEC. 313.6. COMPLIANCE THROUGH PAYMENT OF IN-LIEU FEE.

(a) Commencing on March 11, 1999, the amount of the fee which may be paid by the sponsor of a development project subject to this ordinance in lieu of developing and providing the housing required by Section 313.5 shall be determined by the following formulas for each type of space proposed as part of the development project and subject to this ordinance.

See last page for current in-lieu fee rates (effective September 2007)

TABLE INSET:

Net Addition Gross Sq. Ft. Entertainment Space	×	\$10.57 = Total Fee
Net Addition Gross Sq. Ft. Hotel Space	×	\$8.50 = Total Fee
Net Addition Gross Sq. Ft. Office Space	×	\$11.34 = Total Fee
Net Addition Gross Sq. Ft. Research and Development	×	\$7.55 = Total Fee
Net Addition Gross Sq. Ft. Retail Space	×	\$10.57 = Total Fee

(b) Commencing on January 1, 2002, the amount of the fee which may be paid by the sponsor of a development project subject to this ordinance in lieu of developing and providing the housing required by Section 313.5 shall be determined by the following formulas for each type of space proposed as part of the development project and subject to this ordinance:

TABLE INSET:

Net Addition Gross Sq. Ft. Entertainment Space	×	\$13.95 = Total Fee
Net Addition Gross Sq. Ft. Hotel Space	×	\$11.21 = Total Fee
Net Addition Gross Sq. Ft. Office Space	×	\$14.96 = Total Fee
Net Addition Gross Sq. Ft. R & D Space	×	\$9.97 = Total Fee
Net Addition Gross Sq. Ft. Retail Space	×	\$13.95 = Total Fee

No later than July 1 of each year, the Mayor's Office of Housing shall adjust the in lieu fee payment option and provide a report on its adjustment to the Board of Supervisors. The Mayor's Office of Housing shall provide notice of any fee adjustment on its website at least 30 days prior to the adjustment taking effect. The Mayor's Office of Housing is authorized to develop an appropriate methodology for indexing the fee, based on adjustments in the costs of constructing housing and in the price of housing in San Francisco consistent with the indexing for the Residential Inclusionary Affordable Housing Program in lieu fee set out in Planning Code Section 315.6. The method of indexing shall be published in the Procedures Manual for the Residential Inclusionary Affordable Housing Program. In making a determination as to the amount of the fee to be paid, the Planning Department shall credit to the sponsor any excess Interim Guideline credits or excess credits which the sponsor elects to apply against its housing requirement.

(c) Prior to the issuance by DBI of the first site or building permit for a development project subject to this ordinance, the sponsor must notify the Planning Department and MHO in writing that it has either (i) satisfied the conditions of Section 313.5(e) or (ii) paid in full the sum required by this Section to the Treasurer. If the sponsor fails by the applicable date to demonstrate to the Planning Department that the sponsor has satisfied the conditions of Section 313.5(e) or paid the applicable sum in full to the Treasurer, DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Treasurer notifies DBI and MOH that such payment has been made, and the Treasurer shall immediately initiate lien proceedings against the sponsor's property pursuant to Section 313.9 to recover the fee.

(d) Upon payment of the fee in full to the Treasurer and upon request of the sponsor, the Treasurer shall issue a certification that the fee has been paid. The sponsor shall present such certification to the Planning Department, DBI and MOH prior to the issuance by DBI of the first site or building permit or certificate of occupancy for the development project. DBI shall not issue the site or building permit or certificate of occupancy without proof of payment of the fee from the Treasurer. Any failure of the Treasurer, DBI or the Planning Department to give any notice under this Section shall not relieve a sponsor from compliance with this Section. Where DBI inadvertently issues a site or building permit without payment of the fee, DBI shall not issue any certificate of occupancy for the project without notification from the Treasurer that the fee required by this Section has been paid. The procedure set forth in this Subsection is not intended to preclude enforcement of the provisions of this Section pursuant to any other section of this Code, or other authority under the laws of the State of California.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001; Ord. 76-03, File No. 020592, App. 5/2/2003; Ord. 101-07, File No. 060529, App. 5/4/2007; Ord. 198-07, File No. 070444, App. 8/10/2007)

SEC. 313.7. COMPLIANCE THROUGH COMBINATION OF PAYMENT TO HOUSING DEVELOPER AND PAYMENT OF IN-LIEU FEE.

The sponsor of a development project subject to this ordinance may elect to satisfy its housing requirement by a combination of paying money or contributing land to one or more housing developers under Section 313.5 and paying a partial amount of the in-lieu fee to the Treasurer under Section 313.6. In the case of such election, the sponsor must pay a sum such that each gross square foot of net addition of each type of space subject to this ordinance is accounted for in either the payment of a sum or contribution of land to one or more housing developers or the payment of a fee to the Treasurer. The housing units constructed by a housing developer must conform to all requirements of this ordinance, including, but not limited to, the proportion that must be affordable to qualifying households as set forth in Section 313.5. All of the requirements of Sections 313.5 and 313.6 shall apply, including the requirements with respect to the timing of issuance of site and building permits and certificates of occupancy for the development project and payment of the in-lieu fee.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001; Ord. 76-03, File No. 020592, App. 5/2/2003)

SEC. 313.8. TRANSFER OF HOUSING CREDITS.

(a) In determining whether a sponsor is in compliance with this ordinance, the Planning Department or the Commission shall credit against all or part of a housing requirement for any sponsor of any development project credits, which shall be denominated "excess Interim Guidelines credits," obtained by the sponsor which:

(1) Have received final approval under the Interim Guidelines as of August 18, 1985, but which have not been applied to a development project because the development project has not been approved by the Planning Department or the Commission or which are in excess of those credits required to satisfy the housing requirement under the Interim Guidelines; or

(2) Have received preliminary approval prior to August 18, 1985, received final approval within six months of August 18, 1985, and are in excess of those credits required to satisfy the housing requirement under the Interim Guidelines or this ordinance. This six-month period may be extended for a maximum of two six-month periods where, based upon evidence submitted by the sponsor, the Planning Department or Planning Commission determine within six months of August 18, 1985, or within a six-month extension, that (1) there is good cause for an extension or an additional extension, (2) the failure to obtain final approval of credits is beyond the sponsor's immediate control, and (3) the sponsor has made a reasonable effort to obtain final approval of credits.

Excess Interim Guideline credits may be applied against a sponsor's housing requirement under this ordinance on the basis of two and three tenths (2.3) excess Interim Guideline credits against one housing unit required to be provided under Section 313.5. Excess Interim Guideline Credits may be applied against a sponsor's housing requirement under this ordinance only for those projects obtaining project authorizations as defined in Planning Code Section 320(h) on or before February 28, 1999. No excess Interim Guideline Credits may be applied against a sponsor's housing requirement for any project authorization issued after that date. The Planning Department shall notify MOH of credits applied to the sponsor's housing requirement under this Section 313.8(a).

(b) In making their determination as to whether a sponsor's housing development plan complies with Sections 313.5, 313.6, and 313.7, the Planning Department or the Commission shall credit to the sponsor any housing units constructed or in-lieu fee paid in excess of that required to satisfy the housing unit requirement under this ordinance, which shall be denominated "excess credits." The Planning Department or the Commission shall permit the transfer of any excess credits received under this ordinance to be applied to satisfy all or part of a housing requirement for any other development project that is subject to the provisions of this ordinance, and shall notify the MOH of such permitted transfer. Each excess credit shall be equivalent to one housing unit as computed under Section 313.5. Excess credits may be obtained only under Section 313.11 or if:

(1) They have been obtained after the commencement of construction of housing in compliance with all of the requirements of Section 313.5, the payment of a sum or contribution of land to one or more housing developers in compliance with all of the requirements of Section 313.5, or payment of an in-lieu fee to the Treasurer in compliance with all of the requirements of Section 313.6 or a combination of the above under Section 313.7. Compliance with these sections requires construction of the total number of housing units required, the percentage of such units which must be affordable to qualifying households, and the establishment of a mechanism approved by the Planning Department to enforce the requirement that the units constructed will be affordable for 50 years to qualifying households; and

(2) The excess credits result from either:

(A) Abandonment of the development project that received approval by the Planning Department or the Commission as evidenced by cancellation of the site or building permit or the site or building permit application; or

(B) A decrease in the net addition of gross square feet of each type of space subject to this ordinance as a result of Planning Department, Commission, Board of Appeals, Board of Supervisors, or court action taken after:

(i) The amount of such net addition of gross square feet of each type of space subject to this ordinance has been determined by the Planning Department or Commission under Section 313.4; and

(ii) The sponsor has paid a sum to one or more housing developers and construction of the housing units has commenced under Section 313.5, or the sponsor has paid an in-lieu fee under Section 313.6, or a combination of the above under Section 313.7.

Excess credits may be applied against a sponsor's housing requirement under this ordinance only for those applications for a building or site permit filed within three years of the date on which the excess credits are issued. The date on which such excess credits are issued shall be the earlier of the sponsor's abandonment of the development project under which the credits were obtained as evidenced by the cancellation of the site or building permit or the site or building permit application, the commencement of construction of each of the housing units under Section 313.5, or the payment of the in-lieu fee under Section 313.6 with respect to such credits. No excess credits may be applied against a sponsor's housing requirement for any application for a building or site permit filed after that date.

(c) If the number of excess credits or excess Interim Guidelines credits held by a sponsor is not sufficient to satisfy the entire housing requirement of that sponsor's development project subject to the provisions of this ordinance, including, but not limited to the requirement that a percentage of the housing units must be affordable to qualifying households, then the balance of the housing requirement shall be satisfied in accordance with the provisions of this ordinance, including the requirement set forth in Section 313.5 that the units constructed must be affordable to qualifying households.

(d) Excess credits and excess Interim Guideline credits may be transferred from one sponsor to another only if:

- (1) The Planning Department has been notified in writing of the proposed transfer of the credits;
- (2) The Planning Department has determined that the transfer or sponsor has obtained the credits through meeting the requirements of either Subsection (a) or (b) of this Section; and
- (3) The transfer is made in writing, a true copy of which is provided to the Planning Department.

(e) The City makes no warranties that any excess credits or excess Interim Guidelines credits will be marketable during the period in which this ordinance is in effect or thereafter. The City makes no warranties that an applicant possessing excess credits or excess Interim Guidelines credits is entitled to Commission approval of a development project subject to this ordinance.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001; Ord. 76-03, File No. 020592, App. 5/2/2003)

SEC. 313.9. LIEN PROCEEDINGS.

(a) A sponsor's failure to comply with the requirements of Sections 313.5, 313.6 and 313.7 shall constitute cause for the City to record a lien against the development project in the sum of the in-lieu fee required under this ordinance, as adjusted under Section 313.6. The fee required by this ordinance is due and payable to the Treasurer prior to issuance of the first building or site permit for the development project. If, for any reason, the fee remains unpaid following issuance of the permit, any amount due shall accrue interest at the rate of one and one-half percent per month, or fraction thereof, from the date of issuance of the permit until the date of final payment.

(b) If, for any reason, the fee imposed pursuant to this ordinance remains unpaid following issuance of the permit, the Treasurer shall initiate proceedings in accordance with Article XX of Chapter 10 of the San Francisco Administrative Code to make the entire unpaid balance of the fee, including interest, a lien against all parcels used for the development project and shall send all notices required by that Article to the owner of the property as well as the sponsor. The Treasurer shall also prepare a preliminary report notifying the sponsor of a hearing to confirm such report by the Board of Supervisors at least 10 days before the date of the hearing. The report to the sponsor shall contain the sponsor's name, a description of the sponsor's development project, a description of the parcels of real property to be encumbered as set forth in the Assessor's Map Books for the current year, a description of the alleged violation of this ordinance, and shall fix a time, date, and place for hearing. The Treasurer shall cause this report to be mailed to the sponsor and each owner of record of the parcels of real property subject to lien. Except for the release of lien recording fee authorize by Administrative Code Section 10.237, all sums collected by the Tax Collector pursuant to this ordinance shall be held in trust by the Treasurer and deposited in the Citywide Affordable Housing Fund established in Section 313.12.

(c) Any notice required to be given to a sponsor or owner shall be sufficiently given or served upon the sponsor or owner for all purposes hereunder if personally served upon the sponsor or owner or if deposited, postage prepaid, in a post office letterbox addressed in the name of the sponsor or owner at the official address of the sponsor or owner maintained by the Tax Collector for the mailing of tax bills or, if no such address is available, to the sponsor at the address of the development project, and to the applicant for the site or building permit at the address on the permit application.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 322-00, File No. 001917, App. 12/28/2000; Ord. 28-01, File No. 000276, App. 2/23/2001; Ord. 76-03, File No. 020592, App. 5/21/2003)

SEC. 313.10. IN-LIEU FEE REFUND WHEN BUILDING PERMIT EXPIRES PRIOR TO COMPLETION OF WORK AND COMMENCEMENT OF OCCUPANCY.

In the event a building permit expires prior to completion of the work on and commencement of occupancy of a development project so that it will be necessary to obtain a new permit to carry out any development, the obligation to comply with this ordinance shall be cancelled, and any in-lieu fee previously paid to the Treasurer shall be refunded. If and when the sponsor applies for a new permit, the procedures set forth in this ordinance regarding construction of housing or payment of the in-lieu fee shall be followed.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001; Ord. 76-03, File No. 020592, App. 5/2/2003)

SEC. 313.11. ONE-TIME FEE PAYMENT.

In the event that a development project for which housing units have been constructed or an in-lieu fee has been fully paid is demolished or converted to a use or uses not subject to this ordinance prior to the expiration of its estimated useful life, the City shall either grant to the sponsor excess credits transferable under Section 313.8 for a portion of any housing units actually constructed and for which a certificate of occupancy has been issued, or refund to the sponsor a portion of the amount of an in-lieu fee paid. The portion of excess credits granted or the fee refunded shall be determined on a pro rata basis according to the ratio of the remaining useful life of the project at the time of demolition or conversion in relation to its total useful life. For purposes of this ordinance, the useful life of a development project shall be 50 years.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001)

SEC. 313.12. CITYWIDE AFFORDABLE HOUSING FUND.

All monies contributed pursuant to Sections 313.6 or 313.7 or assessed pursuant to Section 313.9 shall be deposited in the special fund maintained by the Controller called the Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated in accordance with law to be used solely to increase the supply of housing affordable to qualifying households subject to the conditions of this Section. The Fund shall be administered and expended by the Director of the Mayor's Office of Housing, who shall have the authority to pre-scribe rules and regulations governing the Fund which are consistent with this ordinance. No portion of the Fund may be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any entity, except that \$10,000 from the Fund shall be allocated by the Director within six months following the effective date of this ordinance to pay consultants for conducting research necessary to support the "Jobs Housing Nexus Analysis," prepared by Keyser Marston Associates, Inc., and dated June 1997.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001)

SEC. 313.13. DIRECTOR OF PLANNING'S EVALUATION.

Within 18 months following the effective date of this ordinance, the Director of Planning shall report to the Commission, the Board of Supervisors, and the Mayor on the current supply and demand of affordable housing in the City, the status of compliance with this ordinance and the efficacy of this ordinance in mitigating the City's shortage of affordable housing available to employees working in development projects subject to this ordinance. Thereafter, if in the discretion of the Director of Planning there has been a substantial change in the San Francisco and/or regional economies since the effective date of this ordinance, the Director of Planning may recommend to the Commission, the Board of Supervisors, and the Mayor that this ordinance be amended or rescinded to alleviate any undue burden on commercial development in the City that the ordinance may impose.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001)

SEC. 313.14. PARTIAL INVALIDITY AND SEVERABILITY.

If any provision of this ordinance, or its application to any development project or to any geographical area of the City, is held invalid, the remainder of the ordinance, or the application of such provision to other development projects or to any other geographical areas of the City, shall not be affected thereby.

(Added by Ord. 120-96, App. 3/28/96; amended by Ord. 28-01, File No. 000276, App. 2/23/2001)

SEC. 313.15. STUDY.

No later than July 1, 2001, and every five years thereafter, the Director of Planning shall complete a study to determine the demand for housing created by various types of commercial development in San Francisco and, based on the study, recommend to the Board of Supervisors changes in the requirements for housing construction and in lieu fees imposed on commercial development in this ordinance if necessary to help meet that demand.

(Added by Ord. 28-01, File No. 000276, App. 2/2//2001)

Mayor's Office of Housing

Notice Of Jobs-Housing Linkage Fee

NOTICE OF NEW JOBS-HOUSING LINKAGE FEES EFFECTIVE **SEPTEMBER 7, 2007**

As adopted by the Board of Supervisors, the Jobs-Housing Linkage Fee Ordinance (Sec. 313 et seq of the San Francisco Planning Code) ("the Ordinance") prescribes that developments subject to the Ordinance may pay an in-lieu fee according the formula set forth in Planning Code Section 313.6 for each type of space subject to the Ordinance.

The fee is established as the amount of the affordability gap identified in the Keyser-Marston nexus study for the Jobs-Housing Linkage program in June 1997. Section 313.6 of the Planning Code calls for fees to be adjusted consistent with the indexing requirements used for the Residential Inclusionary Affordable Housing Program in lieu fee ("inclusionary housing in-lieu fee") set forth in Planning Code Section 315.6.

The Jobs-Housing Linkage Fee has not been updated since January 1, 2002. From 2002-2006, the Mayor's Office of Housing used the year-over-year change in average area purchase prices to index the inclusionary housing in-lieu fee.

Year	Avg Price: New Sales	% Change
2002	\$512,257	
2003	\$542,905	
2004	\$604,019	
2005	\$698,895	
2006	\$681,274	
Total \$ 169,017		33.0%

The following fees are the new fees based on the indexing of the 2002 fee levels per Planning Code Section 313.6.

	Entertainment	Hotel	Office	R&D	Retail
2007	\$18.55	\$14.90	\$19.89	\$13.25	\$18.55

These fees will be multiplied per net additional gross square foot of space applicable to the Ordinance. These new fees will go into effect beginning September 7, 2007.

In 2007, an amendment to Planning Code Section 315.6 authorized the Mayor's Office of Housing to adopt a new methodology for indexing the inclusionary housing in-lieu fee. Henceforth the in lieu fee for both inclusionary housing and the Jobs-Housing Linkage program are being indexed on the annual

percent change in the Construction Cost Index (CCI) for San Francisco as published by Engineering News Report. The next fee schedule will be published in summer 2008 based on the CCI for 2007. For more information contact Doug Shoemaker at (Douglas.shoemaker@sfgov.org) or 415-701-5509.