



SAN FRANCISCO PLANNING DEPARTMENT

New Planning Code Summary: Inclusionary Affordable Housing Program Amendments; New Minimum Dwelling Unit Mix Requirements

Amended Sections: 415 and 207.7 (new section)
Case Number: 2017-001061PCA
Board File/Enactment #: 161351/158-17
Initiated by: Supervisors Breed; Kim, Peskin, Safai, Tang
Effective Date: August 26, 2017

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The Ordinance amended Planning Code Section 415 to revise the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; and added Section 207.7 to the Planning Code to require a minimum dwelling unit mix in most residential districts.

The Way It Was:

Inclusionary Affordable Housing Program (Section 415)

Residential project of 10 to 24 units were required to pay the Affordable Housing Fee or to provide affordable units Off-Site at a rate equivalent to 20% of total units, or to provide affordable units On-Site at a rate of 12% of total units. On-Site and Off-Site units were required to serve households earning up to 55% of the Area Median Income (AMI) for rental projects, or up to 90% of AMI for ownership projects.

Projects of 25 or more units were required to pay the Affordable Housing Fee or to provide affordable units Off-Site at a rate equivalent to 33% of total units, or to provide affordable units On-Site at a rate of 25% of total units. On-Site and Off-Site units were required to serve households at two income levels - at 55% and 100% of AMI for rental projects, or at 80% and 120% of AMI for ownership projects. These requirements applied to any project with an Environmental Evaluation Application (EEA) accepted on or after January 12, 2016. Projects with an EEA accepted on or after January 1, 2013 were subject to incrementally increasing requirements, the so-called "grandfathered" rates.

Required Minimum Dwelling Unit Mix (Section 207)

Planning Code Section 207.6 required a minimum dwelling unit mix for all residential projects of 5 or more units in the RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use Districts, such that one of the following requirements must be met:

1. No less than 40% of the total units must contain at least two bedrooms, or
2. no less than 30% of the total units must contain at least three bedrooms, or
3. no less than 35% of the total units must contain at least two bedrooms with at least 10% of the total units containing three bedrooms. [Note: this option was added by Ordinance 98-17 effective June 18, 2017]

These requirements may be modified or waived as per specific provisions established in Planning Code Section 207.6(d).

There were no minimum dwelling unit mix requirements for other residential districts.

The Way It Is Now:

Inclusionary Affordable Housing Program (Section 415)

Note that a two-page summary table of all significant modifications to Section 415 is provided as an attachment to this summary.

“Grandfathered” Projects

Projects with an Environmental Evaluation Application (EEA) deemed accepted between January 1, 2013 and January 12, 2016 that elect the On-Site or Off-Site Alternative are required to provide inclusionary units to serve households at one income level – 55% of AMI for rental projects, or 90% of AMI for ownership projects, and are subject to the following “grandfathered” Fee, Off-Site, and On-Site requirements:

<i>EEA accepted before:</i>	1/1/2013	1/1/2014	1/1/2015	1/12/2016
Small Projects (10-24 units)				
On-Site	12.0%	12.0%	12.0%	12.0%
Fee/Off-Site	20.0%	20.0%	20.0%	20.0%
Large Projects (25+ units)				
On-Site	12.0%	13.0%	13.5%	14.5%
Fee/Off-Site below 120'	20.0%	25.0%	27.5%	30.0%
Fee/Off-Site above 120'	20.0%	33.0%	33.0%	33.0%

Note that projects electing the On-Site or Off-Site Alternative must obtain a site or building permit for the inclusionary units no later than December 7, 2018 in order to maintain these “grandfathered” rates. Projects that do not meet this deadline will be subject to the requirements in effect at that time.

Additionally, requirements in UMU districts (per Planning Code Section 419) and for certain projects in the SOMA Youth and Family SUD are also subject to unique “grandfathered” requirements. Please refer to the Inclusionary Program Compliance Affidavit for a detailed list of these requirements.

New Inclusionary Requirements

Projects with an EEA accepted on or after January 12, 2016 are subject the provisions of Section 415 as amended. Key provisions of the current Inclusionary Program include:

- 1. Inclusionary requirements.** For small projects of 10-24 units, all inclusionary units will be provided at 55% of AMI for rental projects, or 80% of AMI for ownership projects. For large projects of 25 or more units, inclusionary units will be provided at three income tiers – at 55%, 80%, and 110% of AMI for rental projects or at 80%, 105%, and 130% for ownership projects. In addition, large rental projects are subject to different rates than ownership projects, as follows:

	Rental Projects	Ownership Projects
Small Projects (10-24 units)		
On-Site	12%	12%
Fee/Off-Site	20%	20%
Large Projects (25+ units)		
On-Site	18%	20%
Fee/Off-Site	30%	33%

- 2. Schedule of annual increases.** On-Site requirements for both small and large projects will increase annually on a set schedule beginning on January 1, 2018. For small projects, the rate will increase by 0.5 percentage points until the rate is 15.0%. For large projects, the rate will increase by 1.0 percentage point on January 1, 2018 and January 1, 2019; beginning January 1, 2020 the rate will increase by 0.5 percent points per year until the rate is 24.0% for rental projects or 26.0% for ownership projects. The Fee and Off-Site requirements are not subject to the schedule of annual increase.

Note that a project’s requirement will be determined based on the EEA accepted date and a project will have 30 months from the time of project entitlement to obtain a site or building permit, excepting time for litigation and appeals, or the requirement will be reset to the rate in effect at that time. Please refer to the Inclusionary Program Compliance Affidavit for a detailed list of the future requirements to be in effect by year.

3. **Area-specific requirements.** Projects in the Mission Planning Area, North of Market Residential SUD, and SoMa NCT will be subject to specific requirements, pending further study by the Planning Department, as follows:
 - a. On-Site: 25% for rental projects or 27% for ownership projects
 - b. Fee or Off-Site: equivalent of 30% of total units for all projects.

Note that these requirements apply to all projects of 10 or more units.

4. **Minimum unit sizes.** On-Site inclusionary units must meet the minimum unit size standards established by the California Tax Credit Allocation Committee (TCAC), and the specific minimum size for studio units as follows:

Minimum inclusionary unit size	
Studio	300 square feet
1 bedroom	450 square feet
2 bedrooms	700 square feet
3 bedrooms	900 square feet
4 bedrooms	1,000 square feet

5. **Replacement of existing affordable units.** If any existing affordable units, including any units subject to rent control that are deemed affordable, are demolished or removed by the project, these units must be replaced with additional On-Site or Off-Site inclusionary units or by payment of an additional Affordable Housing Fee.
6. **State Density Bonus units.** For any project that receives a density increase through the State Density Bonus Law, the additional units obtained through the Bonus will be subject to the Affordable Housing Fee.

Required Minimum Dwelling Unit Mix (Section 207)

The provisions of Planning Code Section 207.6 remain unchanged for residential projects of 5 or more units in the RTO, RCD, NCT, DTR, and Eastern Neighborhoods Mixed Use Districts. In addition, the Ordinance established a new Planning Code Section 207.7 that applies minimum dwelling unit mix requirements to all other zoning districts that allow residential uses, for all projects of 10 or more units.

Projects in these zoning districts that filed a complete Environmental Evaluation Application (EEA) that was deemed accepted after January 12, 2016 are subject to the following requirements:

1. No less than 25% of the total units shall contain at least two bedrooms, and
2. No less than 10% of the total units shall contain at least three bedrooms. These units count toward the *total* 25% requirement for units with at least two bedrooms.

Projects may seek to waive these requirements with a Conditional Use Authorization provided that the Planning Commission shall consider the following criteria:

- A. The project demonstrates a need or mission to serve unique populations, or
- B. The project site or existing building(s), if any, feature physical constraints that make it unreasonable to fulfill these requirements.

These new requirements do not apply to HOME-SF projects, which are subject to the specific dwelling unit mix requirements established in Planning Code Section 206.3.

Link to Signed Legislation:

<https://sfgov.legistar.com/View.ashx?M=F&ID=5338072&GUID=E0AACFA4-3F14-4AEE-8413-68D3688D4387>