

1 [Amending the Jobs Housing Linkage Program Ordinance.]

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3 **Ordinance amending the San Francisco Planning Code by amending Section 313.5 to**  
4 **change the formula used in the Jobs Housing Linkage Program to determine the**  
5 **number of affordable housing units a housing developer is required to build if an office**  
6 **developer elects to comply with the Jobs Housing Linkage Program Ordinance by**  
7 **payment of money or land to a housing developer.**

8 Note: Additions are *single-underline italics Times New Roman*;  
9 deletions are ~~*strikethrough italics Times New Roman*~~.  
10 Board amendment additions are double underlined.  
11 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. Findings. In February, 2001, the Board enacted the "Jobs Housing Linkage  
14 Program." This program, formerly known as the Office Affordable Housing Production  
15 Program, imposes the cost of the increased burden of providing housing necessitated by  
16 large-scale commercial development projects directly upon the sponsors of the development  
17 projects. The Jobs Housing Linkage Program requires that the sponsors of large-scale  
18 commercial developments contribute land or money to a housing developer or pay a fee to the  
19 City to subsidize housing development as a condition of the privilege of development.

20 The required housing exaction in the Jobs-Housing Linkage Program is based upon  
21 formulas derived in the report entitled "Jobs Housing Nexus Analysis" prepared by Keyser  
22 Marston Associates, Inc., dated June, 1997. The "Jobs Housing Nexus Analysis"  
23 demonstrates the validity of the nexus between new, large-scale entertainment, hotel, office,  
24 research and development, and retail development and the increased demand for housing in  
25 the City, and the numerical relationship between such development projects and the formulas  
for provision of housing set forth in the Jobs Housing Linkage Program.

1 Under the February, 2001 Jobs Housing Linkage Program ordinance, if the sponsor of  
2 an office development elects to comply with the Jobs Housing Linkage Program by payment  
3 of money or land to a housing developer, the housing developer must build 16.1 units of  
4 affordable housing units for every 100,000 square feet of net additional office space. As  
5 demonstrated in the Jobs Housing Nexus Analysis, this number represents approximately  
6 thirty-one percent of the number of affordable housing units needed to offset the demand in  
7 affordable housing created by the development.

8 This ordinance increases the number of affordable housing units required to 27 units  
9 for every 100,000 square feet of net additional office space. This number represents  
10 approximately fifty-two percent of the number of affordable housing units needed to offset the  
11 demand in affordable housing created by the development. The number of units required by  
12 this ordinance is well within the maximum number of units needed to offset the demand in  
13 affordable housing created by the development, as demonstrated in the Jobs Housing Nexus  
14 Analysis.

15 Section 2. The San Francisco Planning Code is hereby amended by amending Section  
16 313.5, to read as follows:

17 **SEC. 313.5. COMPLIANCE THROUGH PAYMENT TO HOUSING DEVELOPER.**

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

23 Net Addition Gross Sq. Ft. Entertainment Space × .000140 = Housing Units

24 Net Addition Gross Sq. Ft. Hotel Space × .000110 = Housing Units

25 Net Addition Gross Sq. Ft. Office Space × ~~.000161~~ .000270 = Housing Units

1 Net Addition Gross Sq. Ft. R&D Space × .000200 = Housing Units

2 Net Addition Gross Sq. Ft. Retail Space × .000140 = Housing Units

3  
4 The housing units required to be constructed under the above formula must be  
5 affordable to qualifying households continuously for 50 years. If the sponsor elects to  
6 contribute to more than one distinct housing development under this Section, the sponsor  
7 shall not receive credit for its monetary contribution to any one development in excess of the  
8 amount of the in-lieu fee, as adjusted under Section 313.6, multiplied by the number of units in  
9 such housing development.

10 (b) Within one year of the final determination under Section 313.4(c) or a  
11 revised final determination under Section 313.4(e), or prior to the issuance by the Director of  
12 Building Inspection of the first site or building permit for a development project subject to this  
13 ordinance, whichever occurs first, the sponsor shall submit to the Director of Planning, with a  
14 copy to the Director of the Mayor's Office of Housing:

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

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

24 (3) A self-contained appraisal report as defined by the Uniform Standards of  
25 Professional Appraisal Practice prepared by an M.A.I. appraiser of the fair market value of any

1 land to be contributed by the sponsor to a housing developer. The date of value of the  
2 appraisal shall be the date on which the sponsor submits the housing development plan and  
3 certification to the Director of Planning.

4 If the sponsor fails to comply with these requirements within one year of the final  
5 determination or revised final determination, it shall be deemed to have elected to pay the in-  
6 lieu fee under Section 313.6 to comply with this ordinance. In the event that the sponsor fails  
7 to pay the in-lieu fee within the time required by Section 313.6, the Director of Building  
8 Inspection shall deny any and all site or building permits or certificates of occupancy for the  
9 development project until the Director of Planning notifies the Director of Building Inspection  
10 and the Director of the Mayor's Office of Housing that such payment has been made or land  
11 contributed, and the Director of Planning shall immediately initiate lien proceedings against  
12 the sponsor's property pursuant to Section 313.9 to recover the fee.

13 (c) Within 30 days after the sponsor has submitted a written housing  
14 development project plan and, if necessary, an appraisal to the Director of Planning and the  
15 Director of the Mayor's Office of Housing under subsection (b) of this Section, the Director of  
16 Planning shall notify the sponsor in writing of his or her initial determination as to whether the  
17 plan and appraisal are in compliance with this Section, publish the initial determination in the  
18 next Planning Commission calendar, and cause a public notice to be published in an official  
19 newspaper of general circulation stating that such housing development plan has been  
20 received and stating the Director of Planning's initial determination. In making the initial  
21 determination for an application where the sponsor elects to contribute land to a housing  
22 developer, the Director of Planning shall consult with the Director of Property and include  
23 within his or her initial determination a finding as to the fair market value of the land proposed  
24 for contribution to a housing developer. Within 10 days after such written notification and  
25 published notice, the sponsor or any other person may request a hearing before the

1 Commission to contest such initial determination. If the Director of Planning receives no  
2 request for a hearing within such 10-day period, the determination of the Director of Planning  
3 shall become a final determination. Upon receipt of any timely request for hearing, the  
4 Director of Planning shall schedule a hearing before the Commission within 30 days. The  
5 scope of the hearing shall be limited to the compliance of the housing development plan and  
6 appraisal with this Section, and shall not include a challenge to the amount of the housing  
7 requirement imposed on the development project by the Department or the Commission. At  
8 the hearing, the Commission may either make such revisions to the Director of Planning's  
9 initial determination as it may deem just, or confirm the Director of Planning's initial  
10 determination. The Commission's determination shall then become a final determination, and  
11 the Director of Planning shall provide written notice of the final determination to the sponsor,  
12 the Director of the Mayor's Office of Housing, and to any person who timely requested a  
13 hearing of the Director of Planning's determination. The Director of Planning shall also  
14 provide written notice to the Director of Building Inspection and the Director of the Mayor's  
15 Office of Housing that the housing units to be constructed pursuant to such plan are subject to  
16 this ordinance.

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

22 (e) Prior to the issuance by the Director of Building Inspection of the first site  
23 or building permit for a development project subject to this Section, the sponsor must:  
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25

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

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

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

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

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

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

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

18 The Director of Building Inspection shall provide notice in writing to the Director  
19 of Planning and the Director of the Mayor's Office of Housing at least five business days prior  
20 to issuance of the first site or building permit for any development project for which the  
21 sponsor elects to pay a sum or contribute land to one or more housing developers. If the  
22 Director of Planning notifies the Director of Building Inspection within the five business days  
23 that the conditions of (1) through (3) of this subsection have not been met, the Director of  
24 Building Inspection shall refuse any and all site or building permits or certificates of occupancy  
25 for the development project. If the Director of Planning notifies the Director of Building

1 Inspection that the sponsor has complied with these conditions or fails to respond within five  
2 business days, the Director of Building Inspection shall not disapprove a site or building permit  
3 or certificate of occupancy pursuant to this Section. Any failure of the Director of Building  
4 Inspection or the Director of Planning to give any notice under this Section shall not relieve a  
5 sponsor from compliance with this Section. Where the Director of Building Inspection issues  
6 any site or building permit or certificate of occupancy for the development project in error, the  
7 Director of Planning shall initiate lien proceedings against the development project under  
8 Section 313.9, and the Director of Building Inspection shall revoke any permit or certificate  
9 issued in error and refuse any site or building permit or certificate of occupancy until the  
10 sponsor has complied with this Section.

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

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

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

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22 APPROVED AS TO FORM:  
LOUISE H. RENNE, City Attorney

23  
24 By: \_\_\_\_\_  
25

*Arlene Pearson*  
Deputy City Attorney



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 011102

**Date Passed:**

Ordinance amending the San Francisco Planning Code by amending Section 313.5 to change the formula used in the Jobs Housing Linkage Program to determine the number of affordable housing units a housing developer is required to build if an office developer elects to comply with the Jobs Housing Linkage Program Ordinance by payment of money or land to a housing developer.

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November 5, 2001 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,  
Newsom, Peskin, Sandoval, Yee

November 13, 2001 Board of Supervisors — FINALLY PASSED

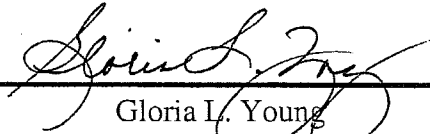
Ayes: 10 - Ammiano, Daly, Gonzalez, Hall, Leno, Maxwell, McGoldrick,  
Newsom, Peskin, Yee

Absent: 1 - Sandoval



File No. 011102

I hereby certify that the foregoing Ordinance  
was FINALLY PASSED on November 13,  
2001 by the Board of Supervisors of the City  
and County of San Francisco.



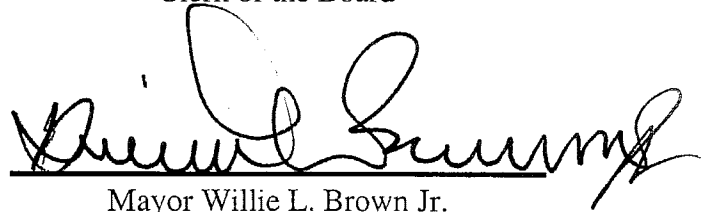
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Gloria L. Young  
Clerk of the Board

NOV 21 2001

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Date Approved



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Mayor Willie L. Brown Jr.

