

Ordinance Amending the Planning Code of the City and County of San Francisco at an election to be held on March 3, 2020, to modify the Office Development Limitation Program.

NOTE: Unchanged Code text and uncodified text are in plain font. Additions to Codes are in single-underline italics. Deletions from Codes are in ~~strikethrough italics~~.

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

SAN FRANCISCO
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DEPARTMENT OF ELECTIONS

SECTION 1. Title.

This Initiative shall be known and may be cited as the “San Francisco Balanced Development Act” (referred to hereinafter as the “Initiative”).

SECTION 2. Findings and Purposes

(a) In 1986, San Francisco voters adopted Proposition M. Proposition M established Priority Policies for the City’s Master Plan and required that certain City decisions be consistent with those Priority Policies. It amended and extended an existing annual limitation on construction of new office space that was adopted by the Board of Supervisors in 1985 concurrently with approval of the Downtown Plan, a nationally recognized comprehensive plan to regulate downtown growth. It also required the City to study and adopt a program to coordinate local programs on job training and placement for people who live in San Francisco. Proposition M was first approved more than 30 years ago, and the real estate market in San Francisco has changed dramatically since then.

(b) San Francisco has among the lowest office space vacancy rates in the nation; office space is in high demand, and the high cost of renting forces out small local businesses and non-profits. Rising rents have left many of these small businesses and nonprofit organizations unable to find office space, pricing many out of the City. By modifying Prop M and creating new office space, we can relieve rent pressures and keep small firms and non-profits in San Francisco.

(c) In early 2011, the City began preparing the Central SoMa Plan to provide goals, objectives, and policies that will guide development of roughly 230 acres of land adjacent to Downtown San Francisco and bounded approximately by Second Street, Townsend Street, Sixth Street, Howard and Folsom Streets. The Central SoMa area has excellent transit access to regional and local transit, being served by CalTrain and numerous local and regional bus lines. Starting in 2020, the area will also be served by the Central Subway running down Fourth Street. The vision of the Central SoMa Plan is for the creation of a sustainable, transit-oriented neighborhood with a mix of housing, commercial, and light industrial uses. This measure will support reducing greenhouse gas emissions and curbing further sprawl by concentrating future office development adjacent to mass transit like the new Central Subway and Caltrain.

(d) New developments in the Central SoMa Plan Area are projected to generate up to \$2 billion in direct public benefits to serve the Central SoMa neighborhood over the life of the Plan, along with an additional \$1 billion for the City’s General Fund. The Central SoMa Plan and Implementation Strategy, approved in Fall 2018, includes a detailed public benefits package that will increase fees and taxes on private developments to fund a comprehensive program of public improvements and construction of affordable housing. New developments will generate these direct public benefits by paying one-time impact fees and ongoing special taxes, constructing or dedicating land for affordable housing, and building public improvements. The \$2 billion in direct public benefits represents a 667 percent increase in public benefits over the \$300 million that would be generated without the Central SoMa Plan.

(e) In 2014, the voters adopted Proposition K, which established a goal of setting aside at least one-third of newly constructed units in the City as permanently affordable housing. Office projects will contribute to Proposition K’s affordable housing goal by participating in the Jobs-Housing Linkage Program, which requires that office developments contribute land or funds for construction of affordable housing. Office developments within the Central SoMa Plan Area are anticipated to generate more than \$200 million in affordable housing funds. This is a critical source of funding to ensure that the Central SoMa Plan achieves its goal of setting aside at least 33% of the new and rehabilitated housing within the South of Market Neighborhood as affordable to very low, low, and moderate income households consistent with Proposition K.

(f) Increased land values in SoMa due to new development make it impossible to buy sites for new affordable housing development, result in displacement of community arts organizations from the older buildings, and drive storefront commercial rents up to levels that neighborhood-serving stores cannot afford. This Initiative would create a reserve of 1,700,000 square feet of office space for large office projects that could be constructed within Central SoMa Plan Area earlier than would normally be allowed under Proposition M. To qualify for an allocation from this reserve, an office project would be required to either dedicate land for the construction of permanently affordable housing, include below-market community arts, neighborhood serving retail space, or build a new City public safety facility. Any allocation from the reserve would then be deducted in equal annual increments

over the next ten years from the office allocation allowed under Proposition M. Thus, the total amount of office development allowed on a citywide basis would not actually increase in the long term.

(g) The longtime Filipino and LGBTQ communities comprise a vibrant and integral social and spiritual fabric of the South of Market neighborhood. In recognition of this, the City has established the South of Market Filipino Cultural Heritage District and the South of Market LGBTQ Cultural Heritage District. This Initiative incentivizes provision of affordable spaces for such cultural facilities in Central SoMa.

(h) To ensure that housing production keeps pace with office construction, this Initiative would require the Planning Department to maintain an inventory of the number of residential units that have been approved within the South of Market Neighborhood and would prohibit the City from approving more than 6,000,000 square feet of large office projects within the Central SoMa Plan area until a total of at least 15,000 housing units have been approved and started construction there.

(i) This measure would also create an estimated 13,000 good union construction jobs with benefits. It would also support more than 28,000 permanent jobs with benefits in San Francisco and help more middle income families and residents stay in the City (Office of Economic & Workforce Development, 2017 estimate).

(j) This measure would potentially increase the supply of commercial office space sooner without any long-term increase overall, leading to lower rents and more opportunities for local businesses and organizations to remain in San Francisco during the current economic boom.

(k) Large-scale office developments in the City have attracted and continue to attract 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. Office developments in the City benefit from the availability of housing close by for their employees. However, housing development in the City has not kept pace with the demand for housing created by these new employees. Due to this shortage in housing, office employers 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 transportation. This Initiative would provide significant incentives for additional development of affordable housing in conjunction with future office developments to directly address these crucial issues.

(l) The Bay Area has seen dramatic increases in costs for housing 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 here and decreasing housing availability. As the region's job center, San Francisco has historically had the highest ratio of jobs to housing units in the Bay Area. The ratio of jobs to housing has remained relatively unchanged between 1980 and 2019, at about 1.75 jobs per unit of housing.

(m) Objective 1, Policy 7 of the Residence Element of the San Francisco General 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.

(n) Many of the employees in new office developments are competing with present residents for scarce, vacant affordable housing units in the City. The Mayor's Office of Housing and Community Development ("MOHCD") continues to see a widening affordability gap for extremely-low, low-, and moderate-income households in both the rental and homeownership markets.

(o) The City has consistently set housing production goals to address the regional and citywide forecasts for population, households, and employment. Although San Francisco has seen increased housing production each successive decade since the 1970s, the City has not been able to close the gap between its housing production goals and actual production.

(p) Demand for affordable housing has continued to rise yet there is a continuing shortage of low- and moderate-income housing in the City. For the years 2015-2022, housing production targets in the City's Housing Element called for 3,849 units per year. Of those, 57%, or 2,178 new units per year, should be affordable to meet growing demand.

(q) As demonstrated in the 2018 Jobs Housing Balance Report, between 2008 and 2018, the City produced only 657 net new affordable housing units per year, which represented 23.5% of housing production during that time period.

(r) The Jobs Housing Nexus Analysis of May 2019 prepared for the City and County of San Francisco by Keyser Marston Associates, Inc. determined that the Affordable Unit Demand Factor for 1,000 square feet of new San Francisco office development is currently 0.80892 affordable housing units. That is equal to 809 housing units affordable to households with household incomes no greater than 120% of Area Median Income per 1,000,000 square feet of new office development.

(s) State law requires each local government in California to adopt a Housing Element as part of its General Plan that shows how the community plans to meet the existing and project housing needs of people at all income levels. The Regional Housing Need Allocation (RHNA) is the State-mandated process to identify the total number of housing units by affordability level that each city must accommodate in its Housing Element. As part of that process the California Department of Housing And Community Development identifies the total housing need for the San Francisco Bay Area for an eight-year period from 2015 to 2023. The Association of Bay Area Governments then determines the distribution of this need to each city.

(t) In 2013, the Association of Bay Area Governments determined that this total eight-year RHNA allocation for Very-Low, Low, and Moderate income affordable housing development for San Francisco is 16,333 new affordable housing units, which is 2,042 new affordable housing units per year. This Initiative would provide new incentives that would significantly support achievement of this goal.

SECTION 3. Planning Code Amendment

Sections 320, 321, and 322 of the San Francisco Municipal Code (Planning Code) are hereby amended to read as follows:

SEC. 320. OFFICE DEVELOPMENT: DEFINITIONS.

When used in Sections 320-~~325~~, ~~321~~, ~~322~~ and ~~323~~, the following terms shall each have the meaning indicated. See also Section 102.

(a) "Additional office space" shall mean the number of square feet of gross floor area of office space created by an office development, reduced, in the case of a modification or conversion, by the number of square feet of gross floor area of preexisting office space which is lost.

(b) "Annual RHNA Affordable Housing Goal" shall mean one-eighth of the eight-year Final Regional Housing Need Allocation for the years 2015-2023 for San Francisco City and County, adopted by the Executive Board of the Association of Bay Area Governments on July 13, 2013, pursuant to California Government Code sec. 65580, for the "Very Low," "Low," and "Moderate" categories combined. The total eight-year Final Regional Housing Need Allocation in these categories combined is 16,333 units, which is 2,042 units per year. If future implementation of California Government Code sec. 65580, or any successor statewide mechanism to establish local affordable housing goals, establishes a higher annual allocation for San Francisco for production of units affordable to households earning up to 120 percent of area median income, then such higher annual allocation shall replace the number of units established pursuant to the first sentence of this Subsection (b). However, in no case shall the Annual RHNA Affordable Housing Goal be less than 2,042 units.

(c) ~~(b)~~ "Approval period" shall mean the 12-month period beginning on October 17, 1985 and each subsequent 12-month period.

(d) ~~(c)~~ "Approve" shall mean to approve issuance of a project authorization and shall include actions of the Planning Commission, Board of Appeals and Board of Supervisors.

(e) "City of San Francisco Affordable Housing Development Funding" means any capital development funds or subsidies administered or awarded by the City or County of San Francisco or any entity thereof. Such entities include the Office of Community Investment and Infrastructure, any future local redevelopment agency established pursuant to state law, the Port of San Francisco, and all other City or County departments or agencies. Such funds and subsidies include lease or sale of City property at less than market value, state or federal capital development funds administered or awarded by the City, and any other direct or indirect public support for capital development provided to a project. Tax credits, rent subsidies, and the Welfare Property Tax Exemption are excluded from this definition. Fees and exactions that are imposed on the proposed project pursuant to City requirements to fund affordable housing development that are retained or reimbursed for use by the proposed project to build affordable housing as a component of the project are excluded from this definition.

(f) "City's Affordable Housing Demand Ratio" means 809 housing units affordable to households with household incomes no greater than 120% of Area Median Income per 1,000,000 square feet of new office development, as detailed in the Jobs Housing Nexus Analysis of May 2019 prepared for the City and County of San Francisco by Keyser Marston Associates, Inc., which determined that the Affordable Unit Demand Factor for 1,000 square feet of new San Francisco office development is currently 0.80892 affordable housing units. The City shall update the Affordable Unit Demand Factor at least every five years, and the City's Affordable Housing Demand Ratio shall be adjusted according to the updated Factor.

(g) ~~(d)~~ "Completion" shall mean the first issuance of a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 307.

(h) ~~(e)~~ "Disapprove" shall mean for an appellate administrative agency or court, on review of an office development, to direct that construction shall not proceed, in whole or in part.

(i) "Large Cap Maximum" shall mean the portion of the maximum set forth in Subsection (a)(1)(A) that is available to buildings of at least 50,000 square feet in gross floor area of office development.

(j) "New Affordable Housing Unit" shall mean a newly constructed unit with permanent affordability requirements that conform to standards established by the State of California as applicable to the City and County of San Francisco for determination of affordability to households with incomes of up to no more than 120 percent of the Area Median Income.

(k) ~~(f)~~ "Office space" shall mean space within a structure intended or primarily suitable for occupancy by persons or entities which perform for their own benefit or provide to others services at that location, including but not limited to professional, banking, insurance, management, consulting, technical, sales and design, or the office functions of manufacturing and

warehousing businesses, but shall exclude the following: Retail use; repair; any business characterized by the physical transfer of tangible goods to customers on the premises; wholesale shipping, receiving and storage; any facility, other than physicians' or other individuals' offices and uses accessory thereto, customarily used for furnishing medical services, and design showcases or any other space intended and primarily suitable for display of goods. This definition shall include all uses encompassed within Section 102 of this Code.

~~(l)(g)~~ "Office development" shall mean construction, modification or conversion of any structure or structures or portion of any structure or structures, with the effect of creating additional office space, excepting only:

(1) Development which will result in less than 25,000 square feet of additional office space;

(2) Development either:

(i) Authorized under San Francisco Redevelopment Agency disposition or owner participation agreements which have been approved by Agency resolution prior to the effective date of this Section, or

(ii) Authorized prior to the effective date of this Section by Agency resolution in anticipation of such agreements with particular developers identified in the same or a subsequent agency resolution;

(3) Any development which is governed by prior law under Section 175.1(b) of this Code, unless modified after the effective date specified in Section 175.1(b) to add more than 15,000 square feet of additional office space. Any addition of office space up to 15,000 square feet shall count against the maximum for the approval period, pursuant to Section 321(a)(2)(B);

(4) Any development including conversion of 50,000 square feet or more of manufacturing space to office space where the manufacturing uses previously located in such space are relocated to another site within the City and County of San Francisco and the acquisition or renovation of the new manufacturing site is funded in whole or part by an Urban Development Action Grant approved by the Board of Supervisors;

(5) Any mixed-residential-commercial development which will be assisted by Community Development Block Grant funds approved by the Board of Supervisors in which all of the housing units shall be affordable to low-income households for a minimum of 40 years and for which an environmental review application and site permit application have been filed prior to the effective date of this ordinance which enacted the provisions of this Section;

(6) Any development authorized pursuant to a Planned Unit Development, as provided for by City Planning Code Section 304, providing for a total of 500 or more additional units of housing, provided such development first received a Planned Unit Development authorization prior to November 4, 1986. Such Planned Unit Development may be amended from time to time by the Planning Commission, but in no event shall any such amendment increase the amount of office space allowed for the development beyond the amount approved by the Planning Commission prior to November 4, 1986.

~~(m)~~ "Produced" shall mean, with regard to an affordable housing unit, that the housing unit is issued a first construction document, as defined in San Francisco Building Code sec. 107A.13.1.

~~(n)~~ ~~(h)~~ "Project authorization" shall mean the authorization issued by the Planning Department pursuant to Sections 321 and 322 of this Code.

~~(o)~~ ~~(i)~~ "Replacement office space" shall mean, with respect to a development exempted by Subsection (g)(6) of this Section, that portion of the additional office space which does not represent a net addition to the amount of office space used by the occupant's employees in San Francisco.

~~(p)~~ ~~(j)~~ "Retail Use" shall mean supply of commodities on the premises including, but not limited to, stores, shops, Restaurants, Bars, eating and drinking businesses, and Retail Sales and Services uses defined in Planning Code Section 102, except for Hotels and Motels.

~~(q)~~ ~~(k)~~ "Preexisting office space" shall mean office space used primarily and continuously for office use and not accessory to any use other than office use for five years prior to Planning Commission approval of an office development project which office use was fully legal under the terms of San Francisco law.

SEC. 321. OFFICE DEVELOPMENT: ANNUAL LIMIT.

(a) Limit.

(1) ~~(A)~~ No office development may be approved during any approval period if the additional office space in that office development, when added to the additional office space in all other office developments previously approved during that approval period, would exceed 950,000 square feet or any lesser amount resulting from the application of Section 321.1. To the extent the total square footage allowed in any approval period is not allocated, the unallocated amount shall be carried over to the next approval period.

~~(B)~~ For the one-year approval period that commences in October 2020, the Large Cap Maximum shall be permanently reduced by a percentage equal to the percentage by which the total of New Affordable Housing Units Produced in the City during the five calendar years of 2015-2019 is less than the combined total of five years of the Annual RHNA Affordable Housing Goal (i.e., 10,210 units). In no case shall operation of this Subsection (a)(1)(B) act to increase the office development permitted pursuant to Subsection (a)(1)(A).

(C) Thereafter, for the one-year approval period that commences in October 2021 and for all subsequent annual approval periods, the Large Cap Maximum for each single year shall be permanently reduced by a percentage equivalent to the percentage by which New Affordable Housing Units Produced in the City during the single complete calendar year prior to the calendar year in which the approval period commenced is less than the annual RHNA Affordable Housing Goal. In no case shall operation of this Subsection (a)(1)(C) act to increase the office development permitted pursuant to Subsection (a)(1)(A).

(2) The following amounts of additional office space shall count against the maximum set in Subsection (a)(1):

(A) All additional office space in structures for which the first building or site permit is approved for issuance during the approval period and which will be located on land under the jurisdiction of the San Francisco Port Commission or under the jurisdiction of the San Francisco Redevelopment Agency; provided, however, that no account shall be taken of structures which are exempt under Section 320(g)(2);

(B) The amount of added additional office space approved after the effective date of this ordinance in structures which are exempt under Section 320(g)(3);

(C) All additional office space in structures owned or otherwise under the jurisdiction of the State of California, the federal government or any State, federal or regional government agency, which structures are found to be otherwise exempt from this Section 321 or Section 322 by force of other applicable law;

(D) All additional office space in structures exempt under Section 320(g)(4) or 320(g)(6) or the last sentence of Section 175.1(b), or which satisfy the substantive terms of either of said exemptions but for which the first building or site permit is authorized or conditional use or variance approved by the Planning Commission after June 15, 1985 but before the effective date of this ordinance.

The additional office space described in Subsection (a)(2)(A) shall be taken into account with respect to all proposed office developments which are considered after the first site or building permit is approved for issuance for the described project. The additional office space described in Subsections (a)(2)(B) and (a)(2)(D) shall be taken into account with respect to all proposed office developments which are considered during the approval period and after the project or the added additional office space is first authorized or a conditional use or variance approved by the Planning Commission. The additional office space described in Subsection (a)(2)(C) shall be taken into account with respect to all proposed office developments which are considered during the approval period and after commencement of construction of the described structures. Modification, appeal or disapproval of a project described in this Section shall affect the amount of office space counted under this Section in the time and manner set forth for office developments in Section 321(c).

(3) The Planning Department shall maintain and shall make available for reasonable public inspection a list showing:

(A) All office developments and all projects subject to Section 321(a)(2) for which application has been made for a project authorization or building or site permit and, if applicable, the date(s) of approval and of approval for issuance of any building or site permit;

(B) The total amount of additional office space and, if applicable, replacement office space, approved with respect to each listed development;

(C) Approved office developments (i) which are subsequently disapproved on appeal; (ii) the permit for which expires or is cancelled or revoked pursuant to Subsection (d)(1) of this Section; or (iii) the approval of which is revoked pursuant to Subsection (d)(2) of this Section; and

(D) Such other information as the Department may determine is appropriate.

(4) Not less than six months before the last date of the approval period, the Planning Department shall submit to the Board of Supervisors a written report, which report shall contain the Planning Commission's recommendation with respect to whether, based on the effects of the limitation imposed by this Section on economic growth and job opportunities in the City, the availability of housing and transportation services to support additional office development in the City, office vacancy and rental rates, and such other factors as the Commission shall deem relevant, there should continue to be a quantitative limit on additional office space after the approval period, and as to what amount of additional office space should be permitted under any such limit.

(5) Every holder of a site permit issued on or after July 1, 1982 for any office development, as defined in Section 320(g) without regard to Subsections (g)(2) through (g)(5), shall provide to the Planning Commission reports containing data and information with respect to the following:

(A) Number of persons hired for employment either in construction of the development or, to the extent such information is available to the permittee, by users of the completed building;

(B) The age, sex, race and residence, by City, of each such person;

(C) Compensation of such persons, classified in \$5,000 increments, commencing with annualized compensation of \$10,000;

(D) The means by which each such person most frequently travels to and from the place of employment.

Such reports shall commence on October 1, 1985 and continue quarterly thereafter during the approved period. A report containing information by quarter for the period between July 1, 1982 and the effective date of the ordinance shall be submitted not later than December 31, 1985. The Planning Commission shall have full access to all books, records and documents utilized by any project sponsor in preparation of the written reports referred to above, and shall inspect such books, records and documents from time to time for purposes of authenticating information contained in such reports.

(6) Central SoMa Plan Area. This Subsection (a)(6) shall apply within the boundaries of the Central SoMa Special Use District, as established and described in Planning Code Sec. 249.78.

(A) Additional Limitations on Office Development. No more than a total of 6,000,000 square feet of office space shall be approved in office developments within the Central SoMa Plan Area, after January 1, 2019, until a combined total of at least 15,000 new housing units have been Produced within the South of Market Neighborhood, as delineated in the Neighborhood Boundaries Map contained within the Department of City Planning's May 2011 "San Francisco Neighborhoods Socio-Economic Profiles" report, after January 1, 2019 (the "South of Market Neighborhood"). Space in individual projects that contain less than 50,000 square feet of office space shall neither be subject to, nor contribute to, the footage limit described in this Subsection (a)(6)(A).

(B) Jobs-Housing Balance Monitoring. On or before October 17, 2020, and on an annual basis thereafter, the Planning Department shall publish an inventory of the number of housing units Produced that may be credited under this Subsection.

(C) Central SoMa Incentive Reserve. Notwithstanding the limit specified in Subsection (a)(1), the Planning Commission may approve up to an additional 1,700,000 square feet in total of office space located in the Central SOMA Special Use District. A proposed office development may only be approved pursuant to this Subsection (a)(6)(C) if all of the following criteria are satisfied:

(i) The Preliminary Project Assessment application for the proposed office development was submitted prior to September 11, 2019;

(ii) The proposed office development contains more than 49,999 square of additional office space;

(iii) The amount of office space in the proposed office development exceeds the square footage available pursuant to Subsection (a)(1) in the current approval period;

(iv) Any current or prior phase of the project of which the proposed office development is a part satisfies any of the following criteria:

(a) Includes a parcel on-site or off-site in the South of Market Neighborhood of no less than 10,000 square feet to be deeded to the City for future development of affordable housing;

(b) Includes community arts PDR space or neighborhood-serving retail space of no less than 10,000 square feet that will be affordable to such tenants at no more than 60% of comparable market rent for no less than 30 years.

(c) Includes funding and construction of a new or replacement City public safety facility of no less than 10,000 square feet on-site or off-site in the South of Market Neighborhood.

(v) Approval of the proposed office development would not cause the total amount of additional office development approved in the Central SoMa Plan Area to exceed the 6,000,000 square foot total allowed by Subsection (a)(6)(A).

(7) Office Jobs/Affordable Housing Balance Incentive Reserve. At the election of a project sponsor, the Planning Commission may grant an authorization for a proposed office development notwithstanding the limit specified in Subsection (a)(1) if all of the following criteria are satisfied:

(A) The proposed office development contains more than 49,999 square of additional office space.

(B) The proposed project of which the office development is a component includes development of New Affordable Housing units in an amount no less than 100% of the New Affordable Housing Units required to house the future employees of the proposed project's office development in accordance with the City's Affordable Housing Demand Ratio, and such units are either: (a) on-site, or (b) located off-site within a Community of Concern as designated by the Board of Supervisors and developed pursuant to a requirement included in a development agreement authorized by Government Code Section 65865 or any successor Section for the proposed office development. If the project sponsor elects to satisfy Section 415.5 of the Planning Code by payment of an Affordable Housing Fee to the City, then one-half (50%) of the New Affordable Housing Units credited to satisfaction of that inclusionary housing requirement by payment of the Fee in accordance with Subsection 515.5 (b)(C) shall also be counted toward satisfaction of this Subsection (a)(7)(B). For projects developed in multiple phases as provided in an approved development agreement authorized by Government Code Section 65865 or any successor Section, the total of all New Affordable Housing Units required to be Produced by the development agreement in all phases shall be considered in evaluating a project sponsor's application for an allocation of office space pursuant to this Subsection (7) at any time.

(C) No other City of San Francisco Affordable Housing Development Funding will be used to fund capital development costs of such affordable housing component of the project.

(8) Additional office space in projects approved pursuant to Subsections (a)(6)(C) and (a)(7) shall be deducted from the amount otherwise available pursuant to Subsection (a)(1) in equal annual increments of one-tenth of such approved additional office space per year over a ten year period. The first such deduction shall occur at the outset of the approval period that commences following approval of the proposed project, and the nine subsequent deductions shall occur annually at the outset of each approval period thereafter, until the proposed project's entire allocation of additional office space has been deducted from the ten subsequent approval periods.

(b) Guidelines.

(1) During the approval period, the Planning Commission, and the Board of Supervisors and Board of Appeals on appeal from the Planning Commission shall approve, within the allowable limit, subject to Subsection (b)(2) of this Section, only those office developments which they shall determine in particular promote the public welfare, convenience and necessity, and shall be empowered under this Section to disapprove the remainder. The Planning Department shall issue to office developments so approved, in accord with Sections 320 through 323 of this Code, a project authorization.

(2) The following proposed office developments, subject to all other applicable sections of this Code and other applicable law, shall be approved under this Section in preference to all others:

(A) All proposed developments to the extent approval is required by court order; and, thereafter,

(B) Subject to Subsection (a)(1) of this Section, all proposed office developments which were approved by the Planning Commission during the approval period, but subsequently disapproved by any administrative appellate body or court, if and when said disapproval is later reversed.

(3) In determining which office developments best promote the public welfare, convenience and necessity, the Board of Supervisors, Board of Appeals and Planning Commission shall consider:

(A) Apportionment of office space over the course of the approval period in order to maintain a balance between economic growth, on the one hand, and housing, transportation and public services, on the other;

~~(B) The contribution of the office development to, and its effects on, the objectives and policies of the General Plan;~~

~~(C) The quality of the design of the proposed office development;~~

~~(D) The suitability of the proposed office development for its location, and any effects of the proposed office development specific to that location;~~

(C) Whether the proposed project includes development of New Affordable Housing Units such that all of the following criteria are satisfied:

(i) The New Affordable Housing units are on-site or located within a Community of Concern as designated by the Board of Supervisors;

(ii) The New Affordable Housing Units will be developed pursuant to a requirement included in a development agreement authorized by Government Code Section 65865 or any successor section for the proposed office development;

(iii) The number of New Affordable Housing Units is no less than 100% of the New Affordable Housing Units required to house the future employees of the proposed project's office development in accordance with the City's Affordable Housing Demand Ratio.

~~(E) The anticipated uses of the proposed office development, in light of employment opportunities to be provided, needs of existing businesses, and the available supply of space suitable for such anticipated uses;~~

~~(F) The extent to which the proposed development will be owned or occupied by a single entity;~~

~~(G) The use, if any, of TDR by the project sponsor.~~

~~Payments, other than those provided for under applicable ordinances, which may be made to a transit or housing fund of the City, shall not be considered.~~

(D) The extent to which the project incorporates Community Improvements that exceed the requirements of zoning and City ordinances applicable to the project. "Community Improvement(s)" include construction, financing, land dedication, or land exchanges for the creation of any of the following facilities: community-serving facilities, including without limitation, childcare facilities, tot lots, community gardens, parks, indoor and outdoor neighborhood-oriented plazas and open space, neighborhood recreation centers, dog parks, public safety facilities, affordable space for community-serving retail services and food markets, and affordable space for community arts and cultural activities.

(4) Reserve for Smaller Buildings. In each approval period at least 75,000 square feet of office development shall be reserved for buildings between 25,000 and 49,999 square feet in gross floor area of office development. To the extent the total square footage allowed under this Subsection in any approval period is not allocated, the unallocated amount shall be carried over to the next approval period and added only to the Reserve for Smaller Buildings.

(5) With respect to any office development which shall come before the Board of Supervisors for conditional use review, that Board shall consider, in addition to those criteria made applicable by other provisions of law, the criteria specified in Subsection (b)(3). As to any such office development, the decision of the Board of Supervisors with respect to the criteria specified in Subsection (b)(3) shall be a final administrative determination and shall not be reconsidered by the Planning Commission or Board of Appeals.

(6) The Planning Commission shall establish procedures for coordinating review of project authorization applications under Section 322 with review under Section 309 of this Code. The Commission may hold hearings under Sections 309 and 322 in such sequence as it may deem appropriate, but may not issue any project authorization until the requirements of Section 309 have been satisfied.

(c) Appeal and Modification.

(1) If an approved office development is disapproved, or if a previously unapproved office development is approved, by a court or appellate agency, the list described in Subsection (a)(3) of this Section shall be revised accordingly at the time that the period for rehearing before the appellate body in question shall have lapsed. Approval on appeal of any office development, if conditioned on disapproval of another office development which was previously approved, shall not be effective before the time for rehearing with respect to the disapproval shall have lapsed.

(2) The amount of additional office space of any development shall not count against the maximum for the approval period, beginning from the time the office development loses its approved status on the Planning Department list under Subsection (c)(1); provided, however, that if a decision disapproving an office development permits construction of a part of the project, the permitted additional office space only shall continue to count against the maximum, unless and until all building or site permits for the development expire or are cancelled, revoked or withdrawn.

(3) Any modification of an approved office development, including, without limitation, modification by a court or administrative appellate agency, shall be governed by this Subsection, subject, in the case of a court order, to Subsection (b)(2)(A).

(A) Any office development which is modified for any reason after it is first approved so as to increase its amount of additional office space shall lose its approved status on the list described in Subsection (a)(3) at the time such modification is approved, and may be approved as modified only subject to the limits of Subsection (a)(1). Such a modified development shall not be constructed or carried out based on its initial approval. Approval on appeal of such a modified development, if approval would violate the maximum set forth in Subsection (a)(1) of this Section but for disapproval of another previously approved office development, shall not be effective, nor grounds for reliance, until the time for rehearing with respect to the disapproval shall have lapsed.

(B) An approved office development may be modified so as to reduce the amount of additional office space, subject to all authorizations otherwise required by the City. No additional office space shall become available for any other development during the approval period on account of such a modification, unless the modification is required by any appellate administrative agency or a court, in which case additional office space shall become available when the time for rehearing has lapsed.

(d) Unbuilt Projects; Progress Requirement.

(1) The maximum amount of additional office space for the approval period shall be increased by the amount of such space included in office developments which were previously approved during the period but for which during such period an issued site or building permit has been finally cancelled or revoked, or has expired, with the irrevocable effect of preventing construction of the office development.

(2) Construction of an office development shall commence within 18 months of the date the project is first approved, or, in the case of development in the C-3-O(SD) District the development shall commence within three (3) years. Notwithstanding the above provision, office projects larger than 500,000 gross square feet in the C-3-O(SD) District shall commence construction within five (5) years. Failure to begin work within that period, or thereafter to carry the development diligently to completion, shall be grounds to revoke approval of the office development. Neither the Department of Building Inspection nor the Board of Appeals shall grant any extension of time inconsistent with the requirements of this Subsection (d)(2).

(3) The Department of Building Inspection shall notify the Planning Department in writing of its approval for issuance and issuance of a site or building permit for any office development, and for any development under the jurisdiction of the Successor Agency to the Redevelopment Agency of the City and County of San Francisco or the Port Commission subject to Section 321(a)(2), and of the revocation, cancellation, or expiration of any such permit.

(e) Rules and Regulations. The Planning Commission shall have authority to adopt such rules and regulations as it may determine are appropriate to carry out the purposes and provisions of this Section and Sections 320, 322 and 323.

SEC. 322. PROCEDURE FOR ADMINISTRATION OF OFFICE DEVELOPMENT LIMIT.

(a) Project Authorization Required. During the approval period, every site or building permit application for an office development must, before final action on the permit, include a copy of a project authorization for such office development, certified

as accurate by the Planning Department. No such application shall be considered complete and the Department of Building Inspection shall not issue any such site or building permit unless such a certified copy is submitted. No site or building permit shall be issued for an office development except in accordance with the terms of the project authorization for such office development. Any such site or building permit which is inconsistent with the project authorization shall be invalid.

(b) Application for Project Authorization. During the approval period, an applicant for approval of an office development shall file an application for a project authorization with the Planning Department contemporaneously with the filing of an application for environmental evaluation for such development. Such application shall state such information as the Planning Department shall require; provided, however, that an application for a project authorization for each office development for which an environmental evaluation application has been filed prior to the effective date of this Section, shall be deemed to have been filed effective as of the date such environmental evaluation application was filed.

(c) Processing of Applications.

(1) The approval period shall be divided into such review periods as the Planning Commission shall provide by rule. The first review period shall commence on the effective date.

(2) Applications for project authorizations shall be considered by the Planning Commission during a specific review period in accordance with the following procedures:

(A) During a specific review period the Planning Commission shall consider all project authorization applications for which, prior to the first day of such review period, a final Environmental Impact Report has been certified, or a final Negative Declaration has been issued, or other appropriate environmental review has been completed; provided, however, that during the first review period, the Planning Commission shall consider only those office developments for which (i) an environmental evaluation application and a site or building permit application were submitted prior to June 1, 1985, or (ii) a draft environmental impact report or a preliminary negative declaration was published prior to the effective date.

(B) The Planning Commission may hold hearings on all project authorization applications assigned to a specific review period before acting on any such application.

(C) In reviewing project authorization applications, the Planning Commission shall apply the criteria set forth in Section 321, and shall, prior to the end of such a review period, approve, deny, or, with the consent of the applicant, continue to the next subsequent review period each such application based on said criteria.

(D) Notwithstanding any other provisions of this Section or Section 321, the Planning Commission may at any time, after a noticed hearing, deny or take other appropriate action with respect to any application for a project authorization as to which environmental review, in the judgment of the Commission, has not been or will not be completed in sufficient time to allow timely action under applicable law.

(E) Any project authorization application which is denied by the Planning Commission, unless such denial is reversed by the Board of Appeals or Board of Supervisors, shall not be resubmitted for a period of one year after denial.

(d) Appeal of Project Authorization. The Planning Commission's determination to approve or deny the issuance of a project authorization may be appealed to the Board of Appeals within 15 days of the Commission's issuance of a dated written decision pursuant to the procedural provisions of Section 308.2 of this Code, except in those ~~instances~~ *cases* where either (i) a conditional use application was filed, or (ii) the project would proceed under terms of a development agreement authorized by Government Code Section 65865 or any successor section. In ~~cases in which a conditional use application was filed such case,~~ the decision of the Planning Commission may be appealed only to the Board of Supervisors pursuant to Section 308.1 of this Code. The decision on the project authorization by the Board of Appeals or Board of Supervisors shall be the final administrative determination as to all matters relating to the approval of the office development that is the subject of the project authorization, except for matters, not considered in connection with the project authorization, which arise in connection with a subsequent building or site permit application for the development in question.

(e) Modification of Project Authorization. The Planning Commission may approve a modified project authorization, after a noticed hearing, during the review period in which the initial project authorization was approved or a subsequent review period. Approval or denial of a modified project authorization shall be subject to appeal in accord with Subsection (d).

(f) No Right to Construct Conveyed. Neither approval nor issuance of a project authorization shall convey any right to proceed with construction of an office development, nor any right to approval or issuance of a site or building permit or any other license, permit, approval or authorization which may be required in connection with said office development.