

NOTE: Unchanged Code Text and uncodified text are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.

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

SECTION 1. Title.

This measure shall be known and may be cited as the “Expanding Affordable Housing for Middle-Income San Franciscans Ordinance” (hereinafter referred to as the “Initiative”).

SECTION 2. Findings.

San Francisco is in the midst of a severe housing affordability crisis with affordable housing in critically short supply for middle and working class San Franciscans and families. Due to the continuing influx of new residents, according to an October 2015 report by the Association of Bay Area Governments, between 2010 and 2040 the Bay Area is estimated to need at least 808,000 new housing units to meet projected population growth. According to a memorandum issued by the Planning Department, the City expects an overall increase of approximately 174,045 people by 2030, and a projected need of 70,000 new units by 2030 to accommodate the City’s projected growth.

The lack of affordable housing and increased market price of rents in San Francisco make it increasingly difficult for middle income residents – including teachers, nurses, social workers, public sector employees and many others – to afford housing in the City. For instance, the median salary in 2012 for SFUSD teachers was \$59,700 which means teachers make too much to qualify for affordable housing, but not enough to afford most market-rate housing. This initiative would open up some of the only housing opportunities in San Francisco for middle-income workers, including the City’s teachers.

The Planning Code requires certain developers to sell or rent a percentage of new development on-site housing units at a below market rate (“BMR”) price that is affordable to low income households. The Mayor’s Office of Housing and Community Development (“MOHCD”) monitor and administer these BMR units under the Inclusionary Procedures Manual as part of the San Francisco Mayor’s Office of Housing and Community Development Below Market Rate Inclusionary Housing Program (“the BMR Program”). The BMR Program currently includes over 600 affordable rental units in San Francisco and more are expected in the future.

The BMR rental units are distributed through a lottery administered by MOHCD, but persons of moderate income often may not participate because there is a ceiling on the maximum income which lottery entrants may earn, based on household size. The income maximum for the majority of existing and new BMR rental housing units is set at 55% of Area Median Income (“AMI”) which means that most new BMR rental units must be rented to tenants who make no more than 55% of AMI. Under the current annual income maximums, a two-person household may make no more than \$47,400 in combined annual income to qualify for a BMR rental unit, and a four-person household may make no more than \$59,250 per year.

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If the maximum income requirement for BMR rental housing units were raised to 110% of AMI, however, the current maximum annual income for a two-person household would be \$94,750 (combined total) and the maximum annual income for a four-person household would be \$118,450 (combined total). Thus, two-person households earning between \$47,401 and \$94,750 in annual income – which usually do not qualify for the BMR Program – would be allowed to participate in the lottery, thereby giving middle-income residents a fair and equitable opportunity to be included in the BMR Program.

The middle class is being pushed out of San Francisco - from 2009-2014, the number of moderate-income households making \$50,000 - \$75,000 fell nearly 2 percentage points, from 15% to 13.1% of the population. Middle-class households earning \$75,000-\$100,000 fell from 11.8% to 10.6%. In one area of the Mission, the decline was even more dramatic - households making \$50,000 - \$75,000 fell from 21.6% to just 7.4% in less than a decade. Both these declining populations would in most circumstances not be eligible for affordable housing under the status quo, but would gain eligibility if the initiative were to pass. The initiative would also permit MOHCD to adjust the rent for BMR rental housing units rented to middle income renters so that their rent is set at the same percentage of their annual income as the percentage applicable to low income renters to ensure that the BMR Program is applied fairly and equitably to all eligible participants, and avoid any perception that middle income renters are somehow being given a windfall by the Initiative.

On June 7, 2016 the voters will vote on whether to amend the City Charter to revise Section 16.110 of the Charter pursuant to “Proposition C.” If Proposition C is adopted by the voters, trailing legislation is proposed by the Board of Supervisors which will subsequently increase the percentage of inclusionary or affordable housing required for new developments under the Planning Code. However, the Board of Supervisor legislation does not adequately increase the amount of moderate or middle income rental housing.

The People of the City and County of San Francisco find that the Planning Code, and the City’s BMR Program, do not adequately give many working San Franciscans of moderate or middle income an opportunity to participate, even though they often struggle to make ends meet and cannot afford market-rate rents in the City without spending an exorbitant amount of their income on housing. Middle-income residents are an integral part of the economic and cultural fabric of the City. They should continue to have an opportunity to live in San Francisco. Persons of moderate and middle income should be eligible to rent BMR rental units and should be included in the BMR Program’s BMR rental unit lottery.

SECTION 3. Purpose.

The People of the City and County of San Francisco in enacting this Initiative hereby declare the following purposes:

- (a) To adopt new inclusionary or affordable housing obligations in the limited context of on-site affordable rental housing units, which are presently allowed under current Planning Code Section 415.6.

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- (b) To allow middle-income residents, defined for purpose of this Initiative as households who earn up to 110% of AMI, to participate more fully in the City's Inclusionary Affordable Housing Program.
- (c) To amend the BMR Program to allow households who earn up to 110% of AMI to rent BMR rental housing units and participate in the BMR rental lottery.
- (d) To allow middle-income residents, including teachers, nurses, social workers, public sector employees and many others, to afford housing in the City.
- (e) To increase the affordable rental housing opportunities for moderate and middle-income residents.
- (f) Permit MOHCD to set the rent for BMR rental housing units rented to middle income renters at a percentage of their annual income that is consistent with the percentage that low income renters pay from their income for BMR rental units to ensure that the BMR Program is applied fairly and equitably to all eligible participants.
- (g) At the June 7, 2016 election, the voters may amend the Charter by adopting Proposition C which is, in part, codified as Charter Section 16.110 ("Proposition C"). If Proposition C is adopted, the City will be directed to pass legislation setting inclusionary and affordable housing requirements under Planning Code Article 4, specifically under Section 415 *et seq.* If the voters adopt C, and assuming that City legislation is passed setting new inclusionary and affordable housing requirements under the Planning Code, this Initiative is intended to further amend the Planning Code. To the extent that there is any inconsistency between the provisions of Sections 415 *et seq.* as amended or any other Planning Code provisions, and this Initiative, the provisions of this Initiative are intended to control.

SECTION 4. Amendments to Planning Code.

The Planning Code is hereby amended to add Section 415A, which shall read as follows:

Notwithstanding any other provision to the contrary in this Article, including but not limited to the Inclusionary Affordable Housing Requirements set forth in Section 415.1 et seq.:

(a) Any affordable rental housing units constructed on-site under Section 415.1 et seq., including but not limited to those constructed on-site under Section 415.6, shall be made affordable to households whose total household income does not exceed 110% of Area Median Income. This subsection is intended to supersede and replace any inconsistent household income maximums for inclusionary and affordable on-site rental housing units which apply under Section 415.1 et seq.

(b) All existing and new Below Market Rate ("BMR") rental housing units shall be made available to households whose total household income does not exceed 110% of Area Median Income, and such households shall be eligible to participate in any BMR rental housing lottery conducted for such units. The Mayor's Office of Housing and Community Development, or its successor, shall continue to administer the affordable rental BMR housing units but shall make

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all new and existing BMR rental housing units available for rental by households whose total household income does not exceed 110% of Area Median Income. The Mayor's Office of Housing and Community Development, or its successor, shall update The City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual, or any similar successor guidelines or manual, to allow rental of BMR units by households whose total household income does not exceed 110% of Area Median Income, and to permit such households to participate in the City's BMR rental housing lottery.

(c) For purposes of this Section 415A, the allowable average annual rent for an affordable rental unit of the size indicated below shall be 30 percent of the annual gross income of the qualifying household that is selected to rent the affordable rental unit, adjusted for the household size indicated below except for Single Room Occupancy units and Group Housing units that are less than 350 square feet (both as defined in Section 102), which shall be 75% of the maximum rent level for studio units, and, where applicable, adjusted to reflect the Department's policy on unbundled parking for affordable housing units as specified in the Procedures Manual and amended from time to time:

<u>Number of Bedrooms (or, for live/work units square foot equivalency)</u>	<u>Number of Persons in Household</u>
<u>0 (Less than 600 square feet)</u>	<u>1</u>
<u>1 (601 to 850 square feet)</u>	<u>2</u>
<u>2 (851 to 1,100 square feet)</u>	<u>3</u>
<u>3 (1,101 to 1,300 square feet)</u>	<u>4</u>
<u>4 (More than 1,300 square feet)</u>	<u>5</u>

At no time can a rent increase, or can multiple rent increases within one year, exceed the percentage change in Maximum Monthly Rent levels as published by MOH from the previous calendar year to the current calendar year.

(d) This Section is intended to amend the current household income maximums for affordable rental housing units, otherwise known as BMR units, and to allow households whose total household income does not exceed 110% of Area Median Income to be eligible to rent any BMR rental unit constructed under this Article. This Section is also intended to modify the allowable average annual rent for the BMR rental housing units affected by this Section so that the qualifying household selected to rent the unit may be charged rent up to 30 percent of their household annual income as set forth in subsection (c). In the event of any conflict between this Section and any other provision in Article 4 of this Planning Code, this Section shall prevail. Any provisions of this Article of the Planning Code not in conflict with this Section shall continue to have the meaning ascribed to them under the Planning Code. The Mayor's Office of Housing and Community Development, or its successor, shall otherwise retain discretion to set the guidelines applicable to the administration of BMR rental housing units so long as they are not inconsistent with requirements of this Section.

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SECTION 5. Effective Date.

In accordance with the provisions of Municipal Elections Code section 380 and California Elections Code section 9217, if a majority of the voters vote in favor of the Initiative, the Initiative shall go into effect ten days after the official vote count is declared by the Board of Supervisors.

SECTION 6. Severability.

If any provision of this Initiative, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Initiative are severable. The voters hereby declare that this Initiative, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.

SECTION 7. Amendment.

This Initiative may be amended to further its purposes by an ordinance passed by a two-thirds vote of the Board of Supervisors and signed by the Mayor.

SECTION 8. Conflicting Measures.

This Initiative is intended to be comprehensive. It is the intent of the people of the City and County of San Francisco that in the event that this Initiative and one or more measures relating to the maximum income levels which are eligible to rent rental housing units through the City's Below Market Rate Inclusionary Housing Program or relating to the setting of rental rates charged for affordable housing units through the City's Below Market Rate Inclusionary Housing Program shall appear on the same ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Initiative. In the event that this Initiative receives a greater number of affirmative votes, the provisions of this Initiative shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void. If this Initiative is approved by a majority of the voters but does not receive a greater number of affirmative votes than any other measure appearing on the same ballot relating to the maximum income levels which are eligible to rent rental housing units through the City's Below Market Rate Inclusionary Housing Program or relating to the setting of rental rates charged for affordable housing units through the City's Below Market Rate Inclusionary Housing Program, this Initiative shall take effect to the extent not in conflict with said other measure or measures.

SECTION 9. Liberal Construction.

This Initiative is an exercise of the initiative power of the people of the City and County of San Francisco for the protection of the health, safety, and welfare of the people, and shall be liberally construed to effectuate its purposes.

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