

1 [Establishing a Process for Adoption of Neighborhood Impact Fees.]

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3 **Ordinance adding Planning Code Sections 320, 320.1, 320.2 and 320.3 establishing a**
4 **process to permit the adoption or expenditure of neighborhood impact fees as defined**
5 **in the ordinance only after the Planning Department has conducted or caused to be**
6 **conducted an impact study supporting the imposition of such a fee; and making**
7 **findings including environmental findings and findings of consistency with the priority**
8 **policies of Planning Code Section 101.1 and the General Plan.**

9 Note: Additions are *single-underline italics Times New Roman*;
10 deletions are *strikethrough italics Times New Roman*.
11 Board amendment additions are double underlined.
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. The Board of Supervisors of the City and County of San
14 Francisco hereby finds and determines:

15 (a) Pursuant to Planning Code Section 302, the Board of Supervisors finds
16 that this ordinance will serve the public necessity, convenience, and welfare for the reasons
17 set forth in Planning Commission Resolution No. _____, and incorporates
18 such reasons herein by reference. A copy of said Planning Commission Resolution is on file
19 with the Clerk of the Board of Supervisors in File No. _____.

20 (b) The Board of Supervisors finds that this ordinance is in conformity with the
21 General Plan, amended in the companion legislation, and the Priority Policies of Planning
22 Code Section 101.1 for the reasons set forth in Planning Commission Resolution No.
23 _____, and hereby incorporates those reasons by reference.

24 (c) The Planning Department has determined that the actions contemplated in this
25 ordinance are in compliance with the California Environmental Quality Act (California Public

1 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
2 Board of Supervisors in File No. _____ and is incorporated herein by
3 reference.

4 Section 2. The San Francisco Planning Code is hereby amended by adding Section
5 320, 320.1, 320.2, and 320.3 to read as follows:

6 **SEC. 320 ADOPTION OF NEIGHBORHOOD IMPACT FEES**

7 Sections 320 through 320.3 set forth the procedures for the adoption and expenditure of
8 Neighborhood Impact Fees.

9 **SEC. 320.1 DEFINITIONS**

10 (a) "Citywide" shall mean that something is applied, expended, or evaluated throughout the
11 jurisdiction of the City and County of San Francisco without geographic limitation to a particular area
12 or district using uniform, objective criteria or classifications.

13 (b) "Community facilities" shall mean all uses as defined under Planning Code Section
14 209.4(a).

15 (c) "Impact study" shall be a study that, at a minimum, does all of the following:

16 (1) Identifies the types of development (commercial, residential, etc.) that will be subject to
17 the impact fee;

18 (2) Identifies the impacts, including the physical impacts, of such types of development that
19 warrant an impact fee;

20 (3) Identifies the geographical scope of the impacts;

21 (4) Identifies the purposes of the fee and the use to which the fee will be put;

22 (5) Develops a methodology for establishing the cost of mitigating the identified impacts;

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- 1 (6) Demonstrates a reasonable relationship in nature and amount between the impact that
2 the type of development will cause and the mitigation measures that the fee proceeds will enable the
3 City to adopt using well-established industry standard methodology;
- 4 (7) Demonstrates a reasonable relationship between the fee's use and the type of
5 development project on which the fee is to be imposed;
- 6 (8) Develops a methodology for fairly allocating the cost of the mitigation among a
7 reasonably broad class of development projects that will be subject to the fee, using a unit of
8 measurement for which reasonably reliable data is available to the City (e.g. square footage, number of
9 dwelling units, etc.);
- 10 (9) Demonstrates that each type of fee payer will be required to pay no more than its
11 proportionate share resulting from the impact it creates;
- 12 (10) Demonstrates that the fee finances capital and operating costs of only the incremental
13 impacts caused by proposed new development;
- 14 (11) Demonstrates that there is no duplication between the proposed fee and any existing
15 fees; and
- 16 (12) Evaluate the impact of the proposed fee on the financial feasibility of affected projects
17 taking into account all existing City fees and exactions; demonstrate that private development is still
18 financially feasible after taking into account the proposed fee and existing fees; and identify the level at
19 which, if any, the impact fee would discourage development of the type or types subject to the proposed
20 fee and existing fees;
- 21 (13) Documents the above elements in a written impact study to demonstrate the derivation of
22 the proposed fee.

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1 (d) "Neighborhood impact fee" shall mean a fee that applies or is proposed to apply to
2 development projects in a limited geographic area or which may only be expended in a limited
3 geographic area.

4 **SEC. 320.2 APPLICATION**

5 (a) The requirements of this ordinance shall apply to all development impact fees that (i) the
6 City adopts or has adopted after January 1, 2005, (ii) the City applies as a condition of approval of a
7 development project, (iii) that are over \$5 per square foot or the equivalent, and (iv) that qualify as
8 neighborhood impact fees as defined herein. If a neighborhood impact fee is not expressed in the
9 ordinance imposing such fee on a per square foot basis, the Controller shall determine whether the
10 neighborhood impact fee as expressed is equivalent to \$5 per square foot or greater for purposes of the
11 application of this ordinance.

12 (b) It shall be the policy of the City to follow the process in this Section 320 et seq. for all
13 other development impact fees that are applied as a condition of approval for a development project,
14 regardless of the amount of the fee or any geographic application.

15 **SEC. 320.3 PROCESS**

16 Before the City may adopt or expend the proceeds from a neighborhood impact fee subject to
17 this ordinance, the Planning Department, working with the City Attorney's Office must prepare or
18 cause to be prepared an impact study that analyzes the relationship between the development at issue
19 and the impact from the development that the fee will mitigate.

20 (a) The impact study shall meet the requirements of an impact study as described in this
21 ordinance and, at a minimum, contain an analysis of the impacts of development on the following
22 community assets: (1) open space, (2) streetscapes, and (3) community facilities. The study shall
23 identify both citywide impacts and impacts on the surrounding neighborhood. The study shall also

1 examine whether there are any other physical impacts from the development and explain the nature and
2 amount of those impacts.

3 (b) Establishment of a Fund or Special Account.

4 (1) Fund or Special Account: All funds collected by the Treasurer under an ordinance that
5 is subject to this Section shall be deposited in a special fund or special account maintained by the
6 Controller ("Fund"). The receipts in the Fund collected under such an ordinance are, subject to the
7 budgetary and fiscal provisions of the Charter, to be used solely as provided in subsection (2) below.
8 The Controller shall separately account for the receipts in the Fund. No city official may authorize any
9 expenditure of monies from the Fund until the City completes the impact study described in this
10 ordinance.

11 (2) Authorized Uses: The Planning Department or other City department authorized to
12 expend monies from a Fund, may expend monies from a Fund only to the extent necessary to address
13 impacts of development identified and supported in the impact study and to reimburse the appropriate
14 City departments for the administrative costs associated with preparing the impact study. The
15 Planning Department or other City department authorized to expend monies from a Fund shall expend
16 funds in the following order of priority, expending the full amount justified by the study on each
17 category in order of priority before expending monies on the next category:

18 First, to reimburse the appropriate City departments for the full costs permitted by law,
19 including administrative costs, of conducting the impact study;

20 Second, for the acquisition and capital improvements of open space Citywide;

21 Third, for the capital improvement of pedestrian and street improvements Citywide;

22 Fourth, for the acquisition of and capital improvements to community facilities Citywide;

23 Fifth, for the acquisition of and capital improvements to open space in the neighborhood where
24 the development is located;

1 Sixth, for the capital improvement of pedestrian and street improvements in the neighborhood
2 where the development is located;

3 Seventh, for the acquisition of and capital improvements to community facilities in the
4 neighborhood where the development is located; and

5 Eighth, to address any other impact identified in the impact study caused by the development
6 Citywide or on the neighborhood where the development is located that has not already been mitigated
7 by other provisions of this Ordinance or other provisions of local law.

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9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: _____
12 Andrew W. Garth
13 Deputy City Attorney

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