

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

December 28, 2015

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On December 8, 2015, the following proposed legislation was **duplicated**, from File No. 151121, **further amended**, and re-referred back to the Land Use and Transportation Committee:

**File No. 151257-2**

Ordinance amending the Planning Code to increase the Transportation Sustainability Fee for Non-residential projects larger than 99,999 gross square feet, and to require Non-residential or Production, Distribution and Repair (PDR) projects that filed development or environmental applications on or before July 21, 2015, but that have not yet received approvals, to pay the Transportation Sustainability Fee with a partial refund; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including general findings, findings of public necessity, convenience and welfare, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

The Commission considered the original legislation (File No. 150790) on September 10, 2015, and provided a recommendation. The duplicated ordinance is being transmitted pursuant to Planning Code, Section 302(b), for review and possible additional recommendations.

Angela Calvillo, Clerk of the Board

A handwritten signature in blue ink that reads "Alisa Somera".

By: Alisa Somera, Assistant Clerk  
Land Use and Transportation Committee

- c: John Rahaim, Director of Planning  
Aaron Starr, Acting Manager of Legislative Affairs  
Scott Sanchez, Zoning Administrator  
Sarah Jones, Chief, Major Environmental Analysis  
AnMarie Rodgers, Legislative Affairs  
Jeanie Poling, Environmental Planning  
Joy Navarrete, Environmental Planning

1 [Planning Code - Increasing Transportation Sustainability Fee for Nonresidential Projects]

2  
3 **Ordinance amending the Planning Code to increase the Transportation Sustainability**  
4 **Fee for Non-residential projects larger than 99,999 gross square feet, and to require**  
5 **Non-residential or Production, Distribution and Repair (PDR) projects that filed**  
6 **development or environmental applications on or before July 21, 2015, but that have**  
7 **not yet received approvals, to pay the Transportation Sustainability Fee with a partial**  
8 **refund; affirming the Planning Department's determination under the California**  
9 **Environmental Quality Act; and making findings, including general findings, findings of**  
10 **public necessity, convenience and welfare, and findings of consistency with the**  
11 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

12 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.  
13 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
15 **Board amendment additions** are in double-underlined Arial font.  
16 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
17 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
18 subsections or parts of tables.

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

20 Section 1. Findings. The Board of Supervisors of the City and County of San  
21 Francisco hereby finds and determines that:

22 (a) The Planning Department has determined that the actions contemplated in this  
23 ordinance comply with the California Environmental Quality Act (California Public Resources  
24 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of  
25 Supervisors in File No. 151257 and is incorporated herein by reference. The Board affirms  
this determination.

1 (b) On September 10, 2015, the Planning Commission, in Resolution No. 19454,  
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
5 the Board of Supervisors in File No. 151257, and is incorporated herein by reference.

6 (c) On September 10, 2015, the Planning Commission, in Resolution No. 19454,  
7 approved this legislation, recommended it for adoption by the Board of Supervisors, and  
8 adopted findings that it will serve the public necessity, convenience and welfare. Pursuant to  
9 Planning Code Section 302, the Board adopts these findings as its own. A copy of said  
10 Resolution is on file with the Clerk of the Board of Supervisors in File No. 151257, and is  
11 incorporated by reference herein.

12  
13 Section 2. The Planning Code is hereby amended by revising Sections 411A.3 and  
14 411A.5, to read as follows:

15 **SEC. 411A.3. APPLICATION OF TSF.**

16 \* \* \* \*

17 (d) Application of the TSF to Projects in the Approval Process at the Effective Date  
18 of Section 411A. The TSF shall apply to Development Projects that are in the approval  
19 process ~~at the effective date of Section 411A~~ on December 26, 2015, except as modified  
20 below:

21 (1) Projects that have a Development Application approved before ~~the~~  
22 ~~effective date of this Section~~ December 26, 2015 shall not be subject to the TSF, but shall be  
23 subject to the TIDF at the rate applicable per Planning Code Sections 411.3(e) and 409, as  
24 well as any other applicable fees.

1           (2) Projects that receive approval of their first approved Development  
2 Application after December 26, 2015, but before the effective date of Ordinance No. \_\_\_\_\_  
3 adding Section 411A.3(d)(3)(B), shall be subject to the TSF as follows:

4           (1) The Residential Uses subject to the TSF shall pay 50% of the  
5 applicable residential TSF rate, as well as any other applicable fees.

6           (2) The Non-residential or PDR portion shall be subject to the TSF but  
7 pay the applicable TIDF rate per Planning Code Sections 411.3(e) and 409, as well as any  
8 other applicable fees.

9           (23) Projects that have filed a Development Application or environmental  
10 review application on or before July 21, 2015, and have not received approval of any such  
11 application before the effective date of Ordinance No. \_\_\_\_\_ adding Section 411A.3(d)(3)(B),  
12 shall be subject to the TSF as follows:

13           (A) Residential Uses subject to the TSF shall pay 50% of the  
14 applicable residential TSF rate, as well as any other applicable fees.

15           (B) The Non-residential or PDR portion shall be subject to the TSF,  
16 as well as any other applicable fees, but shall receive a reduction in the TSF rate equivalent to  
17 50% of the difference between the applicable TSF rate and the pay the applicable TIDF rate  
18 per Planning Code Sections 411.3(e) and 409, as well as any other applicable fees.

19           (34) Projects that have not filed a Development Application or environmental  
20 review application before July 22, 2015, and file the first such application on or after July 22,  
21 2015, and have not received approval of any such application, shall be subject to the TSF as  
22 follows:

23           (A) Residential Uses subject to the TSF shall pay 100% of the  
24 applicable residential TSF rate, as well as any other applicable fees.

1 (B) The Non-residential or PDR portion of any project shall pay 100%  
2 of the applicable Non-residential or PDR TSF rate, as well as any other applicable fees.

3 \* \* \* \*

4 **SEC. 411A.5. TSF SCHEDULE.**

5 Development Projects subject to the TSF shall pay the following fees, as adjusted  
6 annually in accordance with Planning Code Section 409(b).

7 **Table 411A.5. TSF Schedule**

Land Use Categories	TSF
Residential, 21-99 units	\$ 7.74 for all gsf of Residential use in the first 99 dwelling units (see Section 411A.4(c) above).
Residential, all units above 99 units	\$ 8.74 for all gsf of Residential use in all dwelling units at and above the 100 <sup>th</sup> unit (see Section 411A.4(c) above).
Non-Residential, except Hospitals and Health Services, 800-99,999 gsf	\$ 18.04 for all gsf of Non-Residential uses less than 100,000 gsf.
Non-Residential, except Hospitals and Health Services, all gsf above 99,999 gsf	<u>\$ 21.04</u> 19.04 for all gsf of Non-Residential use greater than 99,999 gsf.
Hospitals	\$18.74 per calculation method set forth in Section 411A.4(d).

1 Health Services, all gsf above 12,000 gsf	\$11.00 for all gsf above 12,000 gsf
2 Production, Distribution and Repair	\$ 7.61

3  
4 Section 3. Effective Date. This ordinance shall become effective 30 days after  
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
7 of Supervisors overrides the Mayor's veto of the ordinance.

8  
9 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
13 additions, and Board amendment deletions in accordance with the "Note" that appears under  
14 the official title of the ordinance.

15  
16 APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

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18 By:   
ANDREA RUIZ-ESQUIDE  
Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**

(12/8/2015, Amended in Board)

[Planning Code - Increasing Transportation Sustainability Fee for Nonresidential Projects]

**Ordinance amending the Planning Code to increase the Transportation Sustainability Fee for Non-residential projects larger than 99,999 gross square feet, and to require Non-residential or Production, Distribution and Repair (PDR) projects that filed development or environmental applications on or before July 21, 2015, but that have not yet received approvals, to pay the Transportation Sustainability Fee with a partial refund; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including general findings, findings of public necessity, convenience and welfare, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

Existing Law

On November 17, 2015, the Board of Supervisors passed Ordinance No. 200-15, creating the new Transportation Sustainability Fee, or TSF. The ordinance was signed by Mayor Lee on November 25, and became effective on December 26, 2015.

The TSF requires Residential, Non-Residential and Production, Distribution and Repair (PDR) Development Projects in the City to pay a fee, to contribute to the City's provision of transit service necessary to accommodate the population growth related to such Development Projects.

Amendments to Current Law

This Ordinance amends the TSF to increase the fee rate for a particular subgroup of Non-residential projects, those larger than 99,999 gross square feet (gsf). The Ordinance increases the fee for these projects by \$2.00 per square feet, from \$19.04 to \$21.04.

The Ordinance also changes the TSF's grandfathering provisions, increasing the fee amount that Non-Residential and PDR projects that were in the development pipeline as of the effective date of the Ordinance. While under the TSF, as originally adopted, those projects have to pay the TIDF rate, under this Ordinance they will have to pay the TSF, with a discount equivalent to 50% of the difference between the TSF and the TIDF rates.