

1 [Modifying collection procedures for the Transit Impact, Housing, Child Care, Park and  
2 Inclusionary Housing Fees by transferring responsibility for collection and enforcement to the  
3 Treasurer.]

4 **Ordinance (1) amending the Planning Code by amending Sections 139, 313.1, 313.4,**  
5 **313.5, 313.6, 313.7, 313.8, 313.9, 313.10, 314.1, 314.4, 315.3 and 315.6 to transfer**  
6 **collection authority for in lieu fees collected for the Park Fund, the Jobs-Housing**  
7 **Linkage Program, Child Care Requirement and the Inclusionary Affordable Housing**  
8 **Program from the Controller to the Treasurer and conform collection procedures for**  
9 **these fees; and (2) amending the Administrative Code by amending Sections 38.1, 38.3,**  
10 **38.4, 38.5, 38.6, 38.8, 38.8.5, 38.9, 38.10, 38.11 and 38.45 to transfer collection of the**  
11 **Transit Impact Development Fee from the General Manager of the Public Utilities**  
12 **Commission to the Treasurer and conform collection and enforcement procedures for**  
13 **the fee.**

14 Note: Additions are *single-underline italics Times New Roman*;  
15 deletions are ~~*strikethrough italics Times New Roman*~~.  
16 Board amendment additions are double underlined.  
17 Board amendment deletions are ~~strikethrough normal~~.

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

19 Section 1. The San Francisco Planning Code is hereby amended by amending Section  
20 139, to read as follows:

21 **Sec. 139. DOWNTOWN PARK SPECIAL FUND.**

22 **(a) Findings and Purposes.** Existing public park facilities located in the  
23 downtown office districts are at or approaching capacity utilization by the daytime population  
24 in those districts. The need for additional public park and recreation facilities in the downtown  
25 districts will increase as the daytime population increases as a result of continued office  
development in those areas. While the open space requirements imposed on individual office

1 and retail developments address the need for plazas and other local outdoor sitting areas to  
2 serve employees and visitors in the districts, such open space cannot provide the same  
3 recreational opportunities as a public park. In order to provide the City and County of San  
4 Francisco with the financial resources to acquire and develop public park and recreation  
5 facilities which will be necessary to serve the burgeoning daytime population in these districts,  
6 a Downtown Park Fund shall be established as set forth herein.

7 **(b) Definitions.** For purposes of this Section 139, the following definitions  
8 shall apply:

9 (1) "First certificate of occupancy" shall mean either a temporary certificate of  
10 occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco  
11 Building Code Section 307, whichever is issued first.

12 (2) "Net addition of gross floor area of office use" shall mean gross floor area  
13 as defined in Planning Code Section ~~102.8~~ 102.9, to be occupied by, or primarily serving, office  
14 use, less the gross floor area in any structure demolished or rehabilitated as part of the  
15 proposed office development project which gross floor area was used primarily and  
16 continuously for office use and was not accessory to any use other than office use for at least  
17 five years prior to the City Planning Department approval of the office development project  
18 subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is  
19 shorter.

20 (3) "Office development project" shall mean any new construction, addition,  
21 extension, conversion or enlargement, or combination thereof, of an existing structure which  
22 includes any gross floor area of office use; provided, however, that this term shall not include  
23 an addition to an existing structure which would add gross floor area in an amount less than  
24 20 percent of the gross floor area of the existing structure.

25

1           (4) “Office use” shall mean any structure or portion thereof intended for  
2 occupancy by business entities which will primarily provide clerical, professional or business  
3 services of the business entity, or which will provide clerical, professional, or business  
4 services to other business entities or to the public at that location including, but not limited to,  
5 the following services: banking, law, accounting, insurance, management, consulting,  
6 technical, and the office functions of manufacturing and warehousing businesses, and  
7 ~~excluding space primarily used for, or where the most recent use was primarily for, the display~~  
8 ~~of goods, wares, or merchandise, including but not limited to: (1) showrooms, design~~  
9 ~~showrooms, and design showcases, (2) space displaying goods, wares, and merchandise~~  
10 ~~either as samples or for sale, (3) space in which the occupants negotiate sales transactions,~~  
11 ~~(4) display space in buildings that also contain office use, and (5) space actually used for~~  
12 ~~display of goods, wares, and merchandise even if intended and primarily suitable for offices.~~  
13 Such definition shall include all uses encompassed within the meaning of Planning Code  
14 Section 219; provided, however, that the term “office use” shall not include any such use  
15 which qualifies as an accessory use, as defined and regulated in Sections 204 through 204.5  
16 of this Code.

17           (5) “Retail use” shall mean space within any structure or portion thereof  
18 intended or primarily suitable for occupancy by persons or entities which supply commodities  
19 to customers on the premises including, but not limited to, stores, shops, restaurants, bars,  
20 eating and drinking businesses, and the uses defined in Planning Code Sections 218 and 220  
21 through 225, and also including all space accessory to such retail use.

22           (6) “Sponsor” shall mean an applicant seeking approval for construction of an  
23 office development project subject to this Section, the applicants' successors and assigns, and any entity  
24 which controls or is under common control with the applicant.

25

1           **(c) Requirements.** These requirements are in addition to any applicable  
2 requirements set forth in Section 138. ~~An applicant for a permit to construct an~~ The sponsor of a  
3 proposed office development project within the C-3-O, C-3-O (SD), C-3-R, C-3-G or C-3-S Use  
4 Districts shall, ~~as a condition of approval prior to issuance of the~~ initial site or building permit  
5 certificate of occupancy for the project, pay a fee to the ~~Controller~~ Treasurer of the City and  
6 County of San Francisco to be deposited in the Downtown Park Fund, in accordance with the  
7 standards set forth in this Section. ~~The initial site or building permit~~ certificate of occupancy for  
8 the project shall not be issued without proof of payment of the fee issued by the Treasurer.

9           **(d) Imposition of the Downtown Park Fee.** The amount of the fee shall be \$2  
10 per square foot of the net addition of gross floor area of office use to be constructed as set  
11 forth in the final approved building or site permit. The amount of the fee shall be reviewed  
12 every third year, beginning three years after the effective date of this ordinance, by a joint  
13 session of the Recreation and Park Commission and the City Planning Commission. The  
14 Commissions shall jointly review the fee to determine whether inflation in land and  
15 development costs justifies an increase in the fee, and if they so find, shall recommend an  
16 amendment of the fee provisions of this ordinance to the Board of Supervisors.

17           **(e) Determination of Amount.** (1) Prior to approval by either the Planning  
18 Department or the Planning Commission of a building or site permit for a development project subject  
19 to this section, the Department shall issue a notice complying with Planning Code Section 306.3 setting  
20 forth its initial determination of the net addition of gross floor area of office use subject to this section.

21           (2) Any person may appeal the initial determination by delivering an appeal in  
22 writing to the Planning Department within 15 days of the notice. If the initial determination is not  
23 appealed within the time allotted, the initial determination shall become a final determination. If the  
24 initial determination is appealed, the Planning Commission shall schedule a public hearing prior to the  
25 approval of the development project by the Department or the Commission to determine the net

1 addition of gross floor area of office use subject to this ordinance. The public hearing may be  
2 scheduled separately or simultaneously with a hearing under Planning Code Sections 306.2, 309(h),  
3 313.4, 314.5, 315.3 or a Discretionary Review hearing under San Francisco Municipal Code Part III,  
4 Section 26. The Commission shall make a final determination of the net addition of gross floor area of  
5 office use subject to this section at the hearing.

6 (3) The Planning Department or the Planning Commission shall set forth the final  
7 determination of the net addition of gross floor area of office use subject to this section in the  
8 conditions of approval of any building or site permit application. The Planning Department shall  
9 notify the Treasurer of the final determination of the net addition of gross floor area of office use  
10 subject to this section within 30 days following the date of the final determination. The Planning  
11 Department shall also notify the Department of Building Inspection (“DBI”) and the Mayor’s Office of  
12 Housing that a development project is subject to this section at the time the Planning Department or the  
13 Planning Commission approves the building or site permit for the development project.

14 (4) In the event that the Planning Department or the Planning Commission takes  
15 action affecting any development project subject to this section and such action is thereafter modified,  
16 superseded, vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by court action,  
17 the permit application for such development project shall be remanded to the Department or the  
18 Commission to determine whether the proposed project has been changed in a manner which affects  
19 the calculation of the amount of housing required under this ordinance and, if so, the Department or  
20 the Commission shall revise the housing requirement imposed on the permit application in compliance  
21 with this section within 60 days following such remand and notify the sponsor in writing of such  
22 revision or that a revision is not required. If the net addition of gross floor area of office use subject to  
23 this section is revised, the Commission shall promptly notify the Treasurer of the revision.

24 ~~(e)(f)~~ **Procedure Regarding Temporary Temporary Site or Building Permit of**  
25 **Occupancy of Occupancy.** The Planning Department of City Planning shall impose a condition

1 requiring payment of the Downtown Park fee on approval of any office development project ~~a~~  
2 ~~building or site permit application~~ subject to ~~the provisions of~~ this Section, requiring that such fee  
3 be paid prior to the issuance of the first ~~certificate of occupancy~~ site or building permit certificate  
4 of occupancy for the office development project. Upon the sponsor's payment of the fee in full to  
5 the Treasurer and upon the sponsor's request, the Treasurer shall issue a certification that the fee has  
6 been paid. The sponsor shall present such certification to ~~the~~ DBI and the Planning Department prior  
7 to the issuance by DBI of the first ~~site or building permit~~ certificate of occupancy for the  
8 development project. At the time the ~~City~~ Planning Department or Planning Commission approves  
9 an application for a site or building permit to construct an office development project subject to  
10 this Section, the ~~Director of City Planning~~ Department shall notify in writing ~~the Superintendent of~~  
11 ~~the Bureau of Building Inspection ("Superintendent")~~ DBI and the Treasurer, identifying the office  
12 development project. ~~The Superintendent shall provide notice in writing to the Zoning Administrator~~  
13 ~~at least five business days prior to issuing the first certificate of occupancy for any office development~~  
14 ~~subject to this Section. If the Zoning Administrator notifies the Superintendent within five business~~  
15 ~~days that the provisions of this Section have not been complied with, the Superintendent~~ DBI shall deny  
16 ~~any and all certificates of occupancy~~ not issue the ~~site or building permit~~ certificate of occupancy  
17 without proof of payment of the fee from the Treasurer. ~~If the Zoning Administrator notifies the~~  
18 ~~Superintendent that the provisions of this Section have been complied with or fails to respond within~~  
19 ~~five business days, a certificate of occupancy shall not be disapproved pursuant to this Section. Any~~  
20 ~~failure of the Treasurer, DBI, or the Planning Department to give any notice under this Section shall~~  
21 ~~not relieve a sponsor from compliance with this Section.~~ Where DBI inadvertently issues a site or  
22 building permit without payment of the fee, DBI shall not issue any certificate of occupancy for  
23 the project without notification from the Treasurer that the fee required by this Section has  
24 been paid. The procedure set forth in this Subsection is not intended to preclude enforcement  
25

1 of the provisions of this section pursuant to any other section of this Code, or other authority  
2 under the laws of the State of California.

3 ~~(f)~~(g) **Downtown Park Fund.** There is hereby established a separate fund set  
4 aside for a special purpose entitled the Downtown Park Fund (“Fund”). All monies collected by  
5 the ~~Controller~~ Treasurer pursuant to this Section shall be deposited in the Fund. All monies  
6 deposited in the Fund shall be used solely to acquire and develop public recreation and park  
7 facilities for use by the daytime population of the C-3 Use Districts. The Controller's Office  
8 shall file an annual report with the Board of Supervisors, beginning one year after the effective  
9 date of this ordinance, which report shall set forth the amount of money collected in the Fund.  
10 The Fund shall be administered jointly by the Recreation and Park Commission and the City  
11 Planning Commission. The two Commissions shall conduct business related to their duties  
12 under this Section at joint public hearings, which hearings may be initiated by either the  
13 Recreation and Park Commission or the City Planning Commission. A joint public hearing  
14 shall be held by the Commissions to elicit public comment on proposals for the acquisition of  
15 property using monies in the Fund. Notice of any joint public hearings shall be published in an  
16 official newspaper at least 20 days prior to the date of the hearing, which notice shall set forth  
17 the time, place, and purpose of the hearing. The hearing may be continued to a later date by a  
18 majority vote of the members of both Commissions present at the hearing. At a joint public  
19 hearing, a quorum of the membership of both Commissions may vote to allocate the monies  
20 in the Fund for acquisition of property for park use and/or for development of property for park  
21 use. The Recreation and Park Commission shall alone administer the development of the  
22 recreational and park facilities on any acquired property designated for park use by the Board  
23 of Supervisors, using such monies as have been allocated for that purpose at a joint hearing  
24 of both Commissions.

1                    (h) Collection of Fee; Interest; Lien. (1) The Downtown Park Fee is due and  
2 payable to the Treasurer prior to issuance of the first ~~building or site permit~~ certificate of  
3 occupancy in accordance with paragraph (e) of this Section. If, for any reason, the fee remains  
4 unpaid following issuance of the permit certificate, any amount due shall accrue interest at the rate of  
5 one and one-half percent per month, or fraction thereof, from the date of issuance of the permit  
6 certificate until the date of final payment.

7                    (2) If, for any reason, the fee imposed by this section remains unpaid following  
8 issuance of the permit certificate of occupancy, the Treasurer shall initiate proceedings in  
9 accordance with Article XX of Chapter 10 of the San Francisco Administrative Code to make the entire  
10 unpaid balance of the Downtown Park Fee, including interest, a lien against all parcels used for the  
11 development project. The Treasurer shall send all notices required by that Article to the owner of the  
12 property as well as the sponsor. The Treasurer shall also prepare a preliminary report notifying the  
13 sponsor of a hearing to confirm such report by the Board of Supervisors at least 10 days before the  
14 date of the hearing. The report to the sponsor shall contain the sponsor's name, a description of the  
15 sponsor's development project, a description of the parcels of real property to be encumbered as set  
16 forth in the Assessor's Map Books for the current year, a description of the alleged violation of this  
17 Section, and shall fix a time, date, and place for hearing. The Treasurer shall cause this report to be  
18 mailed to the sponsor and each owner of record of the parcels of real property subject to lien. Except  
19 for the release of the lien recording fee authorized by Administrative Code Section 10.237, all sums  
20 collected by the Tax Collector under this Section shall be held in trust by the Treasurer and deposited  
21 in the Downtown Park Fund established under subsection (f).

22                    (3) Any notice required to be given to a sponsor or owner shall be sufficiently given or  
23 served upon the sponsor or owner for all purposes in this Section if personally served upon the sponsor  
24 or owner or if deposited, postage prepaid, in a post office letterbox addressed in the name of the  
25 sponsor or owner at the official address of the sponsor or owner maintained by the Tax Collector for



1 the mailing of tax bills or, if no such address is available, to the sponsor at the address of the  
2 development project, and to the applicant for the site or building permit at the address on the permit  
3 application.

4 (i) ~~Fee Refund When Permit Expires Prior to Completion of Work.~~ In the event  
5 a building permit expires prior to completion of the work on and commencement of occupancy  
6 of a development project so that it will be necessary to obtain a new permit to carry out any  
7 development, the obligation to comply with this Section shall be cancelled, and any in-lieu fee  
8 previously paid to the Treasurer shall be refunded. If and when the sponsor applies for a new  
9 permit, the procedures set forth in this ordinance regarding construction of housing or  
10 payment of the in-lieu fee shall be followed.

11 ~~(j)~~(i) **One Time Fee Payment.** In the event that a development project for which the fee  
12 imposed by this Section has been fully paid is demolished or converted to a use or uses not subject to  
13 this Section prior to the expiration of its estimated useful life, the City shall refund to the sponsor a  
14 portion of the amount of the fee paid. The portion of the fee refunded shall be determined on a pro rata  
15 basis according to the ratio of the remaining useful life of the project at the time of demolition or  
16 conversion in relation to its total useful life. For purposes of this ordinance, the useful life of a  
17 development project shall be 50 years.

18 Section 2. The San Francisco Planning Code is amended by amending Sections  
19 313.1, 313.4, 313.5, 313.6, 313.7, 313.8, 313.9 and 313.10, to read as follows:

20 **SEC. 313.1. DEFINITIONS.**

21 The following definitions shall govern interpretation of this ordinance:

22 (1) "Affordable housing project" shall mean a housing project containing units  
23 constructed to satisfy the requirements of Sections 313.5 or 313.7 of this ordinance or  
24 receiving funds from the Citywide Affordable Housing Fund under Section 313.12.

1           (2)    “Affordable to a household” shall mean a purchase price that a household  
2 can afford to pay based on an annual payment for all housing costs of 33 percent of the  
3 combined household annual net income, a 10 percent down payment, and available financing,  
4 or a rent that a household can afford to pay based on an annual payment for all housing costs  
5 of 30 percent of the combined annual net income.

6           (3)    “Affordable to qualifying households” shall mean:

7           (A)    With respect to owned units, the average purchase price on the initial  
8 sale of all affordable owned units in an affordable housing project shall not exceed the  
9 allowable average purchase price. Each unit shall be sold:

10           (i)    Only to households with an annual net income equal to or less than that  
11 of a household of moderate income; and

12           (ii)   At or below the maximum purchase price.

13           (B)    With respect to rental units in an affordable housing project, the average  
14 annual rent shall not exceed the allowable average annual rent. Each unit shall be rented:

15           (i)    Only to households with an annual net income equal to or less than that  
16 of a household of lower income;

17           (ii)   At or less than the maximum annual rent.

18           (4)    “Allowable average purchase price” shall mean:

19           (A)    For all affordable one-bedroom units in a housing project, a price  
20 affordable to a two- person household of median income as set forth in Title 25 of the  
21 California Code of Regulations Section 6932 (“Section 6932”) on January 1st of that year;

22           (B)    For all affordable two-bedroom units in a housing project, a price  
23 affordable to a three-person household of median income as set forth in Section 6932 on  
24 January 1st of that year;

25

1 (C) For all affordable three-bedroom units in a housing project, a price  
2 affordable to a four- person household of median income as set forth in Section 6932 on  
3 January 1st of that year;

4 (D) For all affordable four-bedroom units in a housing project, a price  
5 affordable to a five- person household of median income as set forth in Section 6932 on  
6 January 1st of that year.

7 (5) "Allowable average annual rent" shall mean:

8 (A) For all affordable one-bedroom units in a housing project, 18 percent of  
9 the median income for a household of two persons as set forth in Section 6932 on January 1st  
10 of that year;

11 (B) For all affordable two-bedroom units in a housing project, 18 percent of  
12 the median income for a household of three persons as set forth in Section 6932 on January  
13 1st of that year;

14 (C) For all affordable three-bedroom units in a housing project, 18 percent of  
15 the median income for a household of four persons as set forth in Section 6932 on January  
16 1st of that year;

17 (D) For all affordable four-bedroom units in a housing project, 18 percent of  
18 the median income for a household of five persons as set forth in Section 6932 on January 1st  
19 of that year.

20 (6) "Annual net income" shall mean net income as defined in Title 25 of the  
21 California Code of Regulations Section 6916.

22 (7) "Average annual rent" shall mean the total annual rent for the calendar  
23 year charged by a housing project for all affordable rental units in the project of an equal  
24 number of bedrooms divided by the total number of affordable units in the project with that  
25 number of bedrooms.

1 (8) "Average purchase price" shall mean the purchase price for all affordable  
2 owned units in an affordable housing project of an equal number of bedrooms divided by the  
3 total number of affordable units in the project with that number of bedrooms.

4 (9) "City" shall mean the City and County of San Francisco.

5 (10) "Community apartment" shall be defined in San Francisco Subdivision  
6 Code Section 1308(b).

7 (11) "Condominium" shall be as defined in California Civil Code Section 783.

8 (12) *"Director of Building Inspection" "DBI" shall mean the Director of the*  
9 *Department of Building Inspection or his or her designee, including other City agencies or*  
10 *departments.*

11 ~~(13) "Director of the Mayor's Office of Housing" shall mean the Director of the~~  
12 ~~Mayor's Office of Housing or his or her designee, including the director of any agency designated by~~  
13 ~~the Mayor as a successor to the Mayor's Office of Housing."~~

14 ~~(1413) "Director of Planning" shall mean the Director of "Department" shall mean the~~  
15 ~~Planning Department or his or her designee, including the Mayor's Office of Housing and other City~~  
16 ~~agencies or departments.~~

17 ~~(1514)~~ "Entertainment development project" shall mean any new construction,  
18 addition, extension, conversion, or enlargement, or combination thereof, of an existing  
19 structure which includes any gross square feet of entertainment use.

20 ~~(1615)~~ "Entertainment use" shall mean space within a structure or portion thereof  
21 intended or primarily suitable for the operation of a nighttime entertainment use as defined in  
22 San Francisco Planning Code Section 102.17, a movie theater use as defined in San  
23 Francisco Planning Code Sections 790.64 and 890.64, an adult theater use as defined in San  
24 Francisco Planning Code Section 191, any other entertainment use as defined in San  
25 Francisco Planning Code Sections 790.38 and 890.37, and, notwithstanding San Francisco

1 Planning Code Section 790.38, an amusement game arcade (mechanical amusement  
2 devices) use as defined in San Francisco Planning Code Sections 790.4 and 890.4. Under  
3 this ordinance, "entertainment use" shall include all office and other uses accessory to the  
4 entertainment use, but excluding retail uses and office uses not accessory to the  
5 entertainment use.

6 (~~1716~~) "First certificate of occupancy" shall mean either a temporary certificate of  
7 occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco  
8 Building Code Section 109, whichever is issued first.

9 (~~1817~~) "Hotel development project" shall mean any new construction, addition,  
10 extension, conversion, or enlargement, or combination thereof, of an existing structure which  
11 includes any gross square feet of hotel use.

12 (~~1918~~) "Hotel use" shall mean space within a structure or portion thereof  
13 intended or primarily suitable for rooms, or suites of two or more rooms, each of which may or  
14 may not feature a bathroom and cooking facility or kitchenette and is designed to be occupied  
15 by a visitor or visitors to the City who pays for accommodations on a daily or weekly basis but  
16 who do not remain for more than 31 consecutive days. Under this ordinance, "hotel use" shall  
17 include all office and other uses accessory to the renting of guest rooms, but excluding retail  
18 uses and office uses not accessory to the hotel use.

19 (~~2019~~) "Household" shall mean any person or persons who reside or intend to  
20 reside in the same housing unit.

21 (~~2120~~) "Household of lower income" shall mean a household composed of one  
22 or more persons with a combined annual net income for all adult members which does not  
23 exceed the qualifying limit for a lower-income family of a size equivalent to the number of  
24 persons residing in such household, as set forth for the County of San Francisco in Title 25 of  
25 the California Code of Regulations Section 6932.

1           (~~22~~21) “Household of median income” shall mean a household composed of one  
2 or more persons with a combined annual net income for all adult members which does not  
3 exceed the qualifying limit for a median-income family of a size equivalent to the number of  
4 persons residing in such household, as set forth for the County of San Francisco in Title 25 of  
5 the California Code of Regulations Section 6932.

6           (~~23~~22) “Household of moderate income” shall mean a household composed of  
7 one or more persons with a combined annual net income for all adult members which does  
8 not exceed the qualifying limit for a moderate-income family of a size equivalent to the number  
9 of persons residing in such household, as set forth for the County of San Francisco in Title 25  
10 of the California Code of Regulations Section 6932.

11           (~~24~~23) “Housing developer” shall mean any business entity building housing  
12 units which receives a payment from a sponsor for use in the construction of the housing  
13 units. A housing developer may be (a) the same business entity as the sponsor, (b) an entity  
14 in which the sponsor is a partner, joint venturor, or stockholder, or (c) an entity in which the  
15 sponsor has no control or ownership.

16           (~~25~~24) “Housing unit” or “unit” shall mean a dwelling unit as defined in San  
17 Francisco Housing Code Section 401.

18           (~~26~~25) “Interim Guidelines” shall mean the Office Housing Production Program  
19 Interim Guidelines adopted by the City Planning Commission on January 26, 1982, as  
20 amended.

21           (~~27~~26) “Maximum annual rent” shall mean the maximum rent that a housing  
22 developer may charge any tenant occupying an affordable unit for the calendar year. The  
23 maximum annual rent shall be 30 percent of the annual income for a lower-income household  
24 as set forth in Section 6932 on January 1st of each year for the following household sizes:

25           (A) For all one-bedroom units, for a household of two persons;

1 (B) For all two-bedroom units, for a household of three persons;

2 (C) For all three-bedroom units, for a household of four persons;

3 (D) For all four-bedroom units, for a household of five persons.

4 (~~2827~~) "Maximum purchase price" shall mean the maximum purchase price that  
5 a household of moderate income can afford to pay for an owned unit based on an annual  
6 payment for all housing costs of 33 percent of the combined household annual net income, a  
7 10 percent down payment, and available financing, for the following household sizes:

8 (A) For all one-bedroom units, for a household of two persons;

9 (B) For all two-bedroom units, for a household of three persons;

10 (C) For all three-bedroom units, for a household of four persons;

11 (D) For all four-bedroom units, for a household of five persons.

12 (~~28~~) "MOH" shall mean the Mayor's Office of Housing.

13 (29) "Net addition of gross square feet of entertainment space" shall mean  
14 gross floor area as defined in San Francisco Planning Code Section 102.9 to be occupied by,  
15 or primarily serving, entertainment use, less the gross floor area in any structure demolished  
16 or rehabilitated as part of the proposed entertainment development project that was used  
17 primarily and continuously for entertainment, hotel, office, research and development, or retail  
18 use and was not accessory to any use other than entertainment, hotel, office, research and  
19 development, or retail use, for five years prior to Planning Commission approval of an  
20 entertainment development project subject to this Section, or for the life of the structure  
21 demolished or rehabilitated, whichever is shorter, so long as such space was subject to this  
22 ordinance or the Interim Guidelines.

23 (30) "Net addition of gross square feet of hotel space" shall mean gross floor  
24 area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily  
25 serving, hotel use, less the gross floor area in any structure demolished or rehabilitated as

1 part of the proposed hotel development project that was used primarily and continuously for  
2 entertainment, hotel, office, research and development, or retail use and was not accessory to  
3 any use other than entertainment, hotel, office, research and development, or retail use, for  
4 five years prior to Planning Commission approval of a hotel development project subject to  
5 this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter, so  
6 long as such space was subject to this ordinance or the Interim Guidelines.

7 (31) "Net addition of gross square feet of office space" shall mean gross floor  
8 area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily  
9 serving, office use, less the gross floor area in any structure demolished or rehabilitated as  
10 part of the proposed office development project that was used primarily and continuously for  
11 entertainment, hotel, office, research and development, or retail use and was not accessory to  
12 any use other than entertainment, hotel, office, research and development, or retail use for  
13 five years prior to Planning Commission approval of an office development project subject to  
14 this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

15 (32) "Net addition of gross square feet of research and development space"  
16 shall mean gross floor area as defined in San Francisco Planning Code Section 102.9 to be  
17 occupied by, or primarily serving, research and development use, less the gross floor area in  
18 any structure demolished or rehabilitated as part of the proposed research and development  
19 project that was used primarily and continuously for entertainment, hotel, office, research and  
20 development, or retail use and was not accessory to any use other than entertainment, hotel,  
21 office, research and development, or retail use, for five years prior to Planning Commission  
22 approval of a research and development project subject to this Section, or for the life of the  
23 structure demolished or rehabilitated, whichever is shorter.

24 (33) "Net addition of gross square feet of retail space" shall mean gross floor  
25 area as defined in San Francisco Planning Code Section 102.9 to be occupied by, or primarily



1 serving, retail use, less the gross floor area in any structure demolished or rehabilitated as  
2 part of the proposed retail development project that was used primarily and continuously for  
3 entertainment, hotel, office, research and development, or retail use and was not accessory to  
4 any use other than entertainment, hotel, office, research and development, or retail use, for  
5 five years prior to Planning Commission approval of a retail development project subject to  
6 this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

7 (34) "Office development project" shall mean any new construction, addition,  
8 extension, conversion, or enlargement, or combination thereof, of an existing structure which  
9 includes any gross square feet of office use.

10 (35)(A) "Office use" shall mean space within a structure or portion thereof  
11 intended or primarily suitable for occupancy by persons or entities which perform, provide for  
12 their own benefit, or provide to others at that location services including, but not limited to, the  
13 following:

14 (~~H~~) Professional, banking; insurance; management; consulting; technical;  
15 sales; and design; and the non-accessory office functions of manufacturing and warehousing  
16 businesses; all uses encompassed within the definition of "office" at Section 219 of this Code;  
17 multimedia, software development, web design, electronic commerce, information technology  
18 and other computer based technology; all uses encompassed within the definition of  
19 "administrative services" at Section 790.106 or Section 890.106 of this Code; all "business or  
20 professional services" as proscribed at Section 890.108 of this Code excepting only those  
21 uses which are limited to the Chinatown Mixed Use District; all "business services," as  
22 described at Section 890.11 of this Code which are conducted in space designated for office  
23 use under the San Francisco Building Code and which are not excluded pursuant to  
24 Subsection B below.

25

1 (B) Under this ordinance, "office use" shall exclude: retail uses; repair; any  
2 business characterized by the physical transfer of tangible goods to customers on the  
3 premises; wholesale shipping, receiving and storage; research and development; and space  
4 ~~primarily used for, or where the most recent use was primarily for, the display of goods,~~  
5 ~~wares, or merchandise, including but not limited to: (1) showrooms, design showrooms, and~~  
6 ~~design showcases, (2) space displaying goods, wares, and merchandise either as samples or~~  
7 ~~for sale, (3) space in which the occupants negotiate sales transactions, (4) display space in~~  
8 ~~buildings that also contain office use as defined in subsection (A), and (5) space actually used~~  
9 ~~for display of goods, wares, and merchandise even if intended and primarily suitable for~~  
10 ~~offices *design showcases or any other space intended and primarily suitable for display of goods*~~  
11 design showcases or any other space intended and primarily suitable for display of goods.

12 (36) "Ordinance" shall mean San Francisco Planning Code Sections 313.1  
13 through 313.14.

14 (37) "Owned unit" shall mean a unit affordable to qualifying households which  
15 is a condominium, stock cooperative, community apartment, or detached single-family home.  
16 The owner or owners of an owned unit must occupy the unit as their primary residence.

17 (38) "Owner" shall mean the record owner of the fee or a vendee in  
18 possession.

19 (39) "Rent" or "rental" shall mean the total charges for rent, utilities, and  
20 related housing services to each household occupying an affordable unit.

21 (40) "Rental unit" shall mean a unit affordable to qualifying households which  
22 is not a condominium, stock cooperative, or community apartment.

23 (41) "Research and Development ("R&D") project" shall mean any new  
24 construction, addition, extension, conversion, or enlargement, or combination thereof, of an  
25 existing structure which includes any gross square feet of R&D use.

1           (42) "Research and development use" shall mean space within any structure  
2 or portion thereof intended or primarily suitable for basic and applied research or systematic  
3 use of research knowledge for the production of materials, devices, systems, information or  
4 methods, including design, development and improvement of products and processing,  
5 including biotechnology, which involves the integration of natural and engineering sciences  
6 and advanced biological techniques using organisms, cells, and parts thereof for products and  
7 services, excluding laboratories which are defined as light manufacturing uses consistent with  
8 Section 226 of the Planning Code.

9           (43) "Retail development project" shall mean any new construction, addition,  
10 extension, conversion, or enlargement, or combination thereof, of an existing structure which  
11 includes any gross square feet of retail use.

12           (44) "Retail use" shall mean space within any structure or portion thereof  
13 intended or primarily suitable for occupancy by:

14           (A) Persons or entities which supply commodities to customers on the  
15 premises including, but not limited to, stores, shops, restaurants, bars, eating and drinking  
16 businesses, and the uses defined in San Francisco Planning Code Sections 218 and 220  
17 through 225, and also including all space accessory to such retail use; and

18           (B) All space accessory to such retail use.

19           (45) "Section 6932" shall mean Section 6932 of Title 25 of the California Code  
20 of Regulations as such section applies to the County of San Francisco.

21           (46) "Sponsor" shall mean an applicant seeking approval for construction of an  
22 office development project subject to this Section, such applicants' successors and assigns,  
23 and/or any entity which controls or is under common control with such applicant.

24           (47) "Stock cooperative" shall be as defined in California Business and  
25 Professions Code Section 11003.2.

1           **SEC. 313.4. IMPOSITION OF HOUSING REQUIREMENT.**

2           (a)     The Planning Department or the Planning Commission shall impose a  
3     condition on the approval of an application for a development project subject to this ordinance  
4     in order to mitigate the impact on the availability of housing which will be caused by the  
5     employment facilitated by that project. The condition shall require that the applicant pay or  
6     contribute land suitable for housing to a housing developer to construct housing or pay an in-  
7     lieu fee to the City ~~Controller~~ Treasurer which shall thereafter be used exclusively for the  
8     development of housing affordable to households of lower or moderate income.

9           (b)     Prior to either the Department's or the Commission's approval of a  
10    building or site permit for a development project subject to this ordinance, the Department  
11    shall issue a notice complying with Planning Code Section 306.3 setting forth its initial  
12    determination of the net addition of gross square feet of each type of space subject to this  
13    ordinance.

14          (c)     Any person may appeal the initial determination by delivering an appeal  
15    in writing to the Department within 15 days of such notice. If the initial determination is not  
16    appealed within the time allotted, the initial determination shall become a final determination.  
17    If the initial determination is appealed, the Commission shall schedule a public hearing prior to  
18    the approval of the development project by the Department or the Commission to determine  
19    the net addition of gross square feet of each type of space subject to this ordinance. The  
20    public hearing may be scheduled separately or simultaneously with a hearing under Planning  
21    Code Sections 139(g), 306.2, 309(h), 314.5, 315.3 or a Discretionary Review hearing under  
22    San Francisco Municipal Code Part III, Section 26. The Commission shall make a final  
23    determination of the net addition of gross square feet of each type of space subject to this  
24    ordinance at the hearing.

1 (d) The final determination of the net addition of gross square feet of each  
2 type of space subject to this ordinance shall be set forth in the conditions of approval of any  
3 building or site permit application approved by the Department or the Commission. The  
4 Planning Department shall notify the Treasurer, DBI and MOH of the final determination of the net  
5 addition of gross square feet of each type of space subject to this ordinance within 30 days following  
6 the date of the final determination. The Director of Planning shall notify the Director of Building  
7 Inspection and the Director of the Mayor's Office of Housing that a development project is subject to  
8 this ordinance at the time the Department or the Commission approves the building or site permit for  
9 the development project.

10 (e) In the event that the Department or the Commission takes action affecting  
11 any development project subject to this ordinance and such action is thereafter modified,  
12 superseded, vacated, or reversed by the Board of Appeals, the Board of Supervisors, or by  
13 court action, the permit application for such development project shall be remanded to the  
14 Commission to determine whether the proposed project has been changed in a manner which  
15 affects the calculation of the amount of housing required under this ordinance and, if so, the  
16 Commission shall revise the housing requirement imposed on the permit application in  
17 compliance with this ordinance within 60 days of such remand and notify the sponsor in  
18 writing of such revision or that a revision is not required. If the net addition of gross square feet of  
19 any type of space subject to this ordinance is revised, the Commission shall notify the Treasurer, DBI  
20 and MOH of the nature and extent of the revision.

21 (f) The sponsor shall supply all information to the Department and the  
22 Commission necessary to make a determination as to the applicability of this ordinance and  
23 the number of gross square feet of each type of space subject to this ordinance.

24 (g) The sponsor of any development project subject to this ordinance shall  
25 have the option of:

1 (1) Contributing a sum or land of value at least equivalent to the in-lieu fee  
2 according to the formula set forth in Section 313.6 to one or more housing developers who will  
3 use the funds or land to construct housing units pursuant to Section 313.5 for each type of  
4 space subject to this ordinance; or

5 (2) Paying an in-lieu fee to the ~~Controller~~ Treasurer according to the formula  
6 set forth in Section 313.6 for each type of space subject to this ordinance; or

7 (3) Combining the above options pursuant to Section 313.7 for each type of  
8 space subject to this ordinance.

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

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

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

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

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

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

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

1 (b) Within one year of the final determination under Section 313.4(c) or a  
2 revised final determination under Section 313.4(e), or prior to the issuance by ~~the Director of~~  
3 ~~Building Inspection DBI~~ of the first site or building permit for a development project subject to  
4 this ordinance, whichever occurs first, the sponsor shall submit to the ~~Director of~~ Planning  
5 ~~Department~~, with a copy to ~~the Director of the Mayor's Office of Housing~~ MOH:

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

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

15 (3) A self-contained appraisal report as defined by the Uniform Standards of  
16 Professional Appraisal Practice prepared by an M.A.I. appraiser of the fair market value of any  
17 land to be contributed by the sponsor to a housing developer. The date of value of the  
18 appraisal shall be the date on which the sponsor submits the housing development plan and  
19 certification to the ~~Director of~~ Planning Department.

20 If the sponsor fails to comply with these requirements within one year of the final  
21 determination or revised final determination, it shall be deemed to have elected to pay the in-  
22 lieu fee under Section 313.6 to comply with this ordinance. In the event that the sponsor fails  
23 to pay the in-lieu fee within the time required by Section 313.6, ~~the Director of Building~~  
24 ~~Inspection DBI~~ shall deny any and all site or building permits or certificates of occupancy for  
25 the development project until the ~~Director of Planning~~ Treasurer notifies ~~the Director of Building~~

1 ~~Inspection DBI~~ and ~~the Director of the Mayor's Office of Housing MOH~~ that such payment has  
2 been made or land contributed, and the ~~Director of Planning Treasurer~~ shall immediately initiate  
3 lien proceedings against the sponsor's property pursuant to Section 313.9 to recover the fee.

4 (c) Within 30 days after the sponsor has submitted a written housing  
5 development project plan and, if necessary, an appraisal to the ~~Director of Planning~~  
6 ~~Department~~ and ~~the Director of the Mayor's Office of Housing MOH~~ under Subsection (b) of this  
7 Section, the ~~Director of Planning Department~~ shall notify the sponsor in writing of ~~his or her its~~  
8 initial determination as to whether the plan and appraisal are in compliance with this Section,  
9 publish the initial determination in the next Planning Commission calendar, and cause a public  
10 notice to be published in an official newspaper of general circulation stating that such housing  
11 development plan has been received and stating the ~~Director of Planning Department's~~ initial  
12 determination. In making the initial determination for an application where the sponsor elects  
13 to contribute land to a housing developer, the ~~Director of Planning Department~~ shall consult  
14 with the Director of Property and include within ~~his or her its~~ initial determination a finding as to  
15 the fair market value of the land proposed for contribution to a housing developer. Within 10  
16 days after such written notification and published notice, the sponsor or any other person may  
17 request a hearing before the Commission to contest such initial determination. If the ~~Director~~  
18 ~~of Planning Department~~ receives no request for a hearing within such 10-day period, the  
19 determination of the ~~Director of Planning Department~~ shall become a final determination. Upon  
20 receipt of any timely request for hearing, the ~~Director of Planning Department~~ shall schedule a  
21 hearing before the Commission within 30 days. The scope of the hearing shall be limited to  
22 the compliance of the housing development plan and appraisal with this Section, and shall not  
23 include a challenge to the amount of the housing requirement imposed on the development  
24 project by the Department or the Commission. At the hearing, the Commission may either  
25 make such revisions to the ~~Director of Planning Department's~~ initial determination as it may



1 deem just, or confirm the ~~Director of~~ Planning Department's initial determination. The  
2 Commission's determination shall then become a final determination, and the ~~Director of~~  
3 Planning Department shall provide written notice of the final determination to the sponsor, ~~the~~  
4 ~~Director of the Mayor's Office of Housing~~ MOH, and to any person who timely requested a  
5 hearing of the ~~Director of~~ Planning Department's determination. The ~~Director of~~ Planning  
6 Department shall also provide written notice to the Treasurer, Director of Building Inspection DBI  
7 and ~~the Director of the Mayor's Office of Housing~~ MOH that the housing units to be constructed  
8 pursuant to such plan are subject to this ordinance.

9 (d) In making a determination as to whether ~~a sponsor's~~ a sponsor's housing  
10 development plan complies with this Section, the Director of Planning and the Commission  
11 shall credit to the sponsor any excess Interim Guideline credits or excess credits that the  
12 sponsor elects to apply against its housing requirement. The remaining housing units required  
13 shall be subject to the requirements of Subsection (a) of this Section.

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

16 (1) Provide evidence to the ~~Director of~~ Planning Department in writing that it  
17 has paid in full the sum or transferred title of the land required by Subsection (a) of this  
18 Section to one or more housing developers;

19 (2) Notify the ~~Director of~~ Planning Department that construction of the housing  
20 units has commenced, evidenced by:

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

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

25

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

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

5 (3) Provide evidence satisfactory to the ~~Director of Planning~~ Department that  
6 the units required to be constructed will be affordable to qualifying households for 50 years  
7 through an enforcement mechanism approved by the ~~Director of Planning~~ Department pursuant  
8 to Subsection s (b) through (d) of this Section.

9 ~~The Director of Building Inspection DBI~~ shall provide notice in writing to the  
10 ~~Treasurer, the Director of Planning Department and the Director of the Mayor's Office of Housing~~  
11 ~~MOH~~ at least five business days prior to issuance of the first site or building permit for any  
12 development project for which the sponsor elects to pay a sum or contribute land to one or  
13 more housing developers. If the ~~Treasurer, or the Director of Planning Department~~ notifies ~~the~~  
14 ~~Director of Building Inspection DBI~~ within the five business days that the conditions of (1)  
15 through (3) of this Subsection have not been met, ~~the Director of Building Inspection DBI~~ shall  
16 ~~refuse any and all deny the~~ site or building permits ~~or certificates of occupancy or certificates of~~  
17 ~~occupancy~~ for the development project. ~~If the Director of Planning notifies the Director of~~  
18 ~~Building Inspection that the sponsor has complied with these conditions or fails to respond within five~~  
19 ~~business days, the Director of Building Inspection shall not disapprove a site or building permit or~~  
20 ~~certificate of occupancy pursuant to this Section.~~ Any failure of the ~~Treasurer, Director of Building~~  
21 ~~Inspection DBI~~ or the ~~Director of Planning Department~~ to give any notice under this Section shall  
22 not relieve a sponsor from compliance with this Section. ~~Where DBI inadvertently issues a site or~~  
23 ~~building permit or certificate of occupancy without complying with the requirements of this section,~~  
24 ~~the sponsor shall be deemed to have elected to pay the in-lieu fee pursuant to Section 313.6, and shall~~  
25 ~~immediately be liable for the amount of the fee plus accrued interest in accordance with Section 313.9.~~

1 In addition, DBI shall not issue any certificate of occupancy for the project without notification from  
2 the Treasurer that the sponsor has paid the fee plus any interest due. The procedure set forth in this  
3 Subsection is not intended to preclude enforcement of the provisions of this section under any other  
4 section of this Code or other authority under the laws of the State of California. ~~Where the Director of~~  
5 ~~Building Inspection issues any site or building permit or certificate of occupancy for the development~~  
6 ~~project in error, the Director of Planning shall initiate lien proceedings against the development~~  
7 ~~project under Section 313.9, and the Director of Building Inspection shall revoke any permit or~~  
8 ~~certificate issued in error and refuse any site or building permit or certificate of occupancy until the~~  
9 ~~sponsor has complied with this Section.~~

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

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

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

19 (g) Where the sponsor initially elects to pay a sum and/or contribute land of value  
20 equivalent to the in-lieu fee to one or more housing developers, but subsequently decides instead to pay  
21 the in-lieu fee, the sponsor shall immediately be liable for the amount of the in-lieu fee under Section  
22 313.6 and interest in accordance with Section 313.9.

### 23 **SEC. 313.6. COMPLIANCE THROUGH PAYMENT OF IN-LIEU FEE.**

24 (a) Commencing on March 11, 1999, the amount of the fee which may be  
25 paid by the sponsor of a development project subject to this ordinance in lieu of developing

1 and providing the housing required by Section 313.5 shall be determined by the following  
 2 formulas for each type of space proposed as part of the development project and subject to  
 3 this ordinance.

4	<i>Net Addition Gross Sq. Ft. Entertainment Space</i>	X	\$10.57	=	<i>Total Fee</i>
5					
6	<i>Net Addition Gross Sq. Ft. Hotel Space</i>	X	\$8.50	=	<i>Total Fee</i>
7					
8	<i>Net Addition Gross Sq. Ft. Office Space</i>	X	\$11.34	=	<i>Total Fee</i>
9					
10	<i>Net Addition Gross Sq. Ft. Research and Development</i>	X	\$7.55	=	<i>Total Fee</i>
11					
12	<i>Net Addition Gross Sq. Ft. Retail Space</i>	X	\$10.57	=	<i>Total Fee</i>
13					
14					

15 (b) Commencing on January 1, 2002, the amount of the fee which may be  
 16 paid by the sponsor of a development project subject to this ordinance in lieu of developing  
 17 and providing the housing required by Section 313.5 shall be determined by the following  
 18 formulas for each type of space proposed as part of the development project and subject to  
 19 this ordinance:

20 ///  
 21 ///  
 22 ///  
 23 ///  
 24 ///  
 25 ///

1	<i>Net Addition Gross Sq. Ft. Entertainment Space</i>	X	\$13.95	=	<i>Total Fee</i>
2					
3	<i>Net Addition Gross Sq. Ft. Hotel Space</i>	X	\$11.221	=	<i>Total Fee</i>
4					
5	<i>Net Addition Gross Sq. Ft. Office Space</i>	X	\$14.96	=	<i>Total Fee</i>
6					
7	<i>Net Addition Gross Sq. Ft. R &amp; D Space</i>	X	\$9.97	=	<i>Total Fee</i>
8					
9	<i>Net Addition Gross Sq. Ft. Retail Space</i>	X	\$13.95	=	<i>Total Fee</i>
10					
11					

12 Such in-lieu fee shall be revised effective January 1st of each year thereafter, by the  
13 percentage increase or decrease in the Average Area Purchase Price Safe Harbor Limitations  
14 for New Single-Family Residences for the San Francisco Primary Metropolitan Statistical Area  
15 ("PMSA") established by the Internal Revenue Service ("IRS") since January 1st of the  
16 previous year; provided, however, that in the event that said percentage increase exceeds 20  
17 percent, the in-lieu fee shall be increased by 20 percent, and the difference between the  
18 percentage increase in the Average Area Purchase Price and 20 percent shall be carried over  
19 and added to the in-lieu fee adjustment for the following calendar year. In the event that the  
20 IRS does not adjust the above figure within a 14-month period, the Commission shall  
21 authorize and certify a study for adjusting the last published IRS figure, to be effective until the  
22 IRS revises the figure. In making a determination as to the amount of the fee to be paid, the  
23 *Director of Planning Department* shall credit to the sponsor any excess Interim Guideline  
24 credits or excess credits which the sponsor elects to apply against its housing requirement.

25

1 (c) Prior to the issuance by ~~the Director of Building Inspection~~DBI of the first  
2 site or building permit for a development project subject to this ordinance, the sponsor must  
3 notify the ~~Director of Planning~~ Department and ~~Director of the Mayor's Office of Housing~~ MOH in  
4 writing that it has either (i) satisfied the conditions of Section 313.5(e) or (ii) paid in full the  
5 sum required by this Section to the ~~Controller~~Treasurer. If the sponsor fails by the applicable  
6 date to demonstrate to the ~~Director of Planning~~ Department that the sponsor has satisfied the  
7 conditions of Section 313.5(e) or paid the applicable sum in full to the ~~Controller~~Treasurer, ~~the~~  
8 ~~Director of Building Inspection~~DBI shall deny any and all site or building permits ~~or certificates of~~  
9 ~~occupancy~~ or certificates of occupancy for the development project until the ~~Director of Planning~~  
10 ~~Treasurer~~ notifies ~~the Director of Building Inspection~~ DBI and ~~the Director of the Mayor's Office of~~  
11 ~~Housing~~ MOH that such payment has been made, and the ~~Director of Planning~~ Treasurer shall  
12 immediately initiate lien proceedings against the sponsor's property pursuant to Section 313.9  
13 to recover the fee.

14 (d) Upon payment of the fee in full to the ~~Controller~~Treasurer and upon  
15 request of the sponsor, the ~~Controller~~Treasurer shall issue a certification that the fee has been  
16 paid. The sponsor shall present such certification to the ~~Director of Planning~~ Department, DBI  
17 and ~~the Director of the Mayor's Office of Housing~~ MOH prior to the issuance by ~~the Director of~~  
18 ~~Building Inspection~~ DBI of the first site or building permit ~~or certificate of occupancy~~ or certificate  
19 of occupancy for the development project. ~~The Director of Building Inspection shall provide~~  
20 ~~notice in writing to the Director of Planning and the Director of the Mayor's Office of Housing at least~~  
21 ~~five business days prior to issuing the first site or building permit or certificate of occupancy for any~~  
22 ~~development project subject to this Section.~~ ~~If the Director of Planning notifies the Director of~~  
23 ~~Building Inspection and the Director of the Mayor's Office of Housing within such time that the~~  
24 ~~sponsor has not complied with the provisions of this Section, the Director of Building Inspection~~ DBI  
25 shall ~~deny any and all the site or building permits~~ ~~or certificates of occupancy~~ not issue the site or

1 building permit or certificate of occupancy without proof of payment of the fee from the Treasurer.  
2 ~~If the Director of Planning notifies the Director of Building Inspection and the Director of the Mayor's~~  
3 ~~Office of Housing that the sponsor has complied with this Section, or fails to respond within five~~  
4 ~~business days, a site or building permit or certificate of occupancy shall not be disapproved pursuant to~~  
5 ~~this Section. Any failure of the Treasurer, Director of Building Inspection DBI or the Director of~~  
6 ~~Planning Department to give any notice under this Section shall not relieve a sponsor from~~  
7 ~~compliance with this Section. Where DBI inadvertently issues a site or building permit without~~  
8 ~~payment of the fee, DBI shall not issue any certificate of occupancy for the project without notification~~  
9 ~~from the Treasurer that the fee required by this Section has been paid. The procedure set forth in this~~  
10 ~~Subsection is not intended to preclude enforcement of the provisions of this section pursuant to any~~  
11 ~~other section of this Code, or other authority under the laws of the State of California. Where the~~  
12 ~~Director of Building Inspection issues any site or building permit or certificate of occupancy for the~~  
13 ~~development project in error, or where a sponsor fails for any reason to pay the in-lieu fee to the~~  
14 ~~Controller in compliance with this Section prior to the Director of Building Inspection's issuance of the~~  
15 ~~first site or building permit or certificate of occupancy for the development project, the Director of~~  
16 ~~Planning shall immediately initiate lien proceedings against the development project under Section~~  
17 ~~313.9 to recover the fee, and the Director of Building Inspection shall revoke any permit or certificate~~  
18 ~~issued in error and refuse any site or building permit or certificate of occupancy until the sponsor has~~  
19 ~~complied with this Section.~~

20 **SEC. 313.7. COMPLIANCE THROUGH COMBINATION OF PAYMENT TO**  
21 **HOUSING DEVELOPER AND PAYMENT OF IN-LIEU FEE.**

22 The sponsor of a development project subject to this ordinance may elect to  
23 satisfy its housing requirement by a combination of paying money or contributing land to one  
24 or more housing developers under Section 313.5 and paying a partial amount of the in-lieu fee  
25 to the ~~Controller~~Treasurer under Section 313.6. In the case of such election, the sponsor must

1 pay a sum such that each gross square foot of net addition of each type of space subject to  
2 this ordinance is accounted for in either the payment of a sum or contribution of land to one or  
3 more housing developers or the payment of a fee to the ~~Controller~~Treasurer. The housing units  
4 constructed by a housing developer must conform to all requirements of this ordinance,  
5 including, but not limited to, the proportion that must be affordable to qualifying households as  
6 set forth in Section 313.5. All of the requirements of Sections 313.5 and 313.6 shall apply,  
7 including the requirements with respect to the timing of issuance of site and building permits  
8 and certificates of occupancy for the development project and payment of the in-lieu fee.

9 **SEC. 313.8. TRANSFER OF HOUSING CREDITS.**

10 (a) In determining whether a sponsor is in compliance with this ordinance,  
11 the ~~Director of Planning~~ Department or the Commission shall credit against all or part of a  
12 housing requirement for any sponsor of any development project credits, which shall be  
13 denominated "excess Interim Guidelines credits," obtained by the sponsor which:

14 (1) Have received final approval under the Interim Guidelines as of August  
15 18, 1985, but which have not been applied to a development project because the  
16 development project has not been approved by the ~~Director of Planning~~ Department or the  
17 Commission or which are in excess of those credits required to satisfy the housing  
18 requirement under the Interim Guidelines; or

19 (2) Have received preliminary approval prior to August 18, 1985, received  
20 final approval within six months of August 18, 1985, and are in excess of those credits  
21 required to satisfy the housing requirement under the Interim Guidelines or this ordinance.  
22 This six-month period may be extended for a maximum of two six-month periods where,  
23 based upon evidence submitted by the sponsor, the ~~Director of Planning~~ Department or  
24 Planning Commission determine within six months of August 18, 1985, or within a six-month  
25 extension, that (1) there is good cause for an extension or an additional extension, (2) the



1 failure to obtain final approval of credits is beyond the sponsor's immediate control, and (3)  
2 the sponsor has made a reasonable effort to obtain final approval of credits.

3 Excess Interim Guideline credits may be applied against a sponsor's housing  
4 requirement under this ordinance on the basis of two and three tenths (2.3) excess Interim  
5 Guideline credits against one housing unit required to be provided under Section 313.5.  
6 Excess Interim Guideline Credits may be applied against a sponsor's housing requirement  
7 under this ordinance only for those projects obtaining project authorizations as defined in  
8 Planning Code Section 320(h) on or before February 28, 1999. No excess Interim Guideline  
9 Credits may be applied against a sponsor's housing requirement for any project authorization  
10 issued after that date. The ~~Director of Planning~~ Department shall notify ~~the Director of the~~  
11 ~~Mayor's Office of Housing~~ MOH of credits applied to the sponsor's housing requirement under  
12 this Section 313.8(a).

13 (b) In making their determination as to whether a sponsor's housing  
14 development plan complies with Sections 313.5, 313.6, and 313.7, the ~~Director of Planning~~  
15 Department or the Commission shall credit to the sponsor any housing units constructed or in-  
16 lieu fee paid in excess of that required to satisfy the housing unit requirement under this  
17 ordinance, which shall be denominated "excess credits." The ~~Director of Planning~~ Department  
18 or the Commission shall permit the transfer of any excess credits received under this  
19 ordinance to be applied to satisfy all or part of a housing requirement for any other  
20 development project that is subject to the provisions of this ordinance, and shall notify ~~the~~  
21 ~~Director of the Mayor's Office of Housing~~ MOH of such permitted transfer. Each excess credit  
22 shall be equivalent to one housing unit as computed under Section 313.5. Excess credits may  
23 be obtained only under Section 313.11 or if:

24 (1) They have been obtained after the commencement of construction of  
25 housing in compliance with all of the requirements of Section 313.5, the payment of a sum or

1 contribution of land to one or more housing developers in compliance with all of the  
2 requirements of Section 313.5, or payment of an in-lieu fee to the ~~Controller~~ Treasurer in  
3 compliance with all of the requirements of Section 313.6 or a combination of the above under  
4 Section 313.7. Compliance with these sections requires construction of the total number of  
5 housing units required, the percentage of such units which must be affordable to qualifying  
6 households, and the establishment of a mechanism approved by the ~~Director of Planning~~  
7 Department to enforce the requirement that the units constructed will be affordable for 50 years  
8 to qualifying households; and

9 (2) The excess credits result from either:

10 (A) Abandonment of the development project that received approval by the  
11 Planning Department or the Commission as evidenced by cancellation of the site or building  
12 permit or the site or building permit application; or

13 (B) A decrease in the net addition of gross square feet of each type of space  
14 subject to this ordinance as a result of Planning Department, Commission, Board of Appeals,  
15 Board of Supervisors, or court action taken after:

16 (i) The amount of such net addition of gross square feet of each type of  
17 space subject to this ordinance has been determined by the Planning Department or  
18 Commission under Section 313.4; and

19 (ii) The sponsor has paid a sum to one or more housing developers and  
20 construction of the housing units has commenced under Section 313.5, or the sponsor has  
21 paid an in-lieu fee under Section 313.6, or a combination of the above under Section 313.7.

22 Excess credits may be applied against a sponsor's housing requirement under  
23 this ordinance only for those applications for a building or site permit filed within three years of  
24 the date on which the excess credits are issued. The date on which such excess credits are  
25 issued shall be the earlier of the sponsor's abandonment of the development project under

1 which the credits were obtained as evidenced by the cancellation of the site or building permit  
2 or the site or building permit application, the commencement of construction of each of the  
3 housing units under Section 313.5, or the payment of the in-lieu fee under Section 313.6 with  
4 respect to such credits. No excess credits may be applied against a sponsor's housing  
5 requirement for any application for a building or site permit filed after that date.

6 (c) If the number of excess credits or excess Interim Guidelines credits held  
7 by a sponsor is not sufficient to satisfy the entire housing requirement of that sponsor's  
8 development project subject to the provisions of this ordinance, including, but not limited to  
9 the requirement that a percentage of the housing units must be affordable to qualifying house-  
10 holds, then the balance of the housing requirement shall be satisfied in accordance with the  
11 provisions of this ordinance, including the requirement set forth in Section 313.5 that the units  
12 constructed must be affordable to qualifying households.

13 (d) Excess credits and excess Interim Guideline credits may be transferred  
14 from one sponsor to another only if:

15 (1) The ~~Director of Planning~~ Department has been notified in writing of the  
16 proposed transfer of the credits;

17 (2) The ~~Director of Planning~~ Department has determined that the transfer or  
18 sponsor has obtained the credits through meeting the requirements of either Subsection (a) or  
19 (b) of this Section; and

20 (3) The transfer is made in writing, a true copy of which is provided to the  
21 ~~Director of Planning~~ Department.

22 (e) The City makes no warranties that any excess credits or excess Interim  
23 Guidelines credits will be marketable during the period in which this ordinance is in effect or  
24 thereafter. The City makes no warranties that an applicant possessing excess credits or  
25

1 excess Interim Guidelines credits is entitled to Commission approval of a development project  
2 subject to this ordinance.

3 **SEC. 313.9. COLLECTION; INTEREST; LIEN PROCEEDINGS.**

4 (a) ~~A sponsor's failure to comply with the requirements of Sections 313.5, 313.6 and~~  
5 ~~313.7 shall constitute cause for the City to record a lien against the development project in the sum of~~  
6 ~~the in-lieu fee required under this ordinance, as adjusted under Section 313.6. A sponsor's failure to~~  
7 comply with the requirements of Sections 313.5, 313.6 and 313.7 shall constitute cause for  
8 the City to record a lien against the development project in the sum of the in-lieu fee required  
9 under this ordinance, as adjusted under Section 313.6. The fee required by this ordinance is due  
10 and payable to the Treasurer prior to issuance of the first building or site permit for the office  
11 development project. If, for any reason, the fee remains unpaid following issuance of the permit, any  
12 amount due shall accrue interest at the rate of one and one-half percent per month, or fraction thereof,  
13 from the date of issuance of the permit until the date of final payment.

14 (b) ~~If, for any reason, the fee imposed pursuant to this ordinance remains unpaid~~  
15 ~~following issuance of the permit, the ~~The Director of Planning~~ Treasurer shall initiate proceedings in~~  
16 ~~accordance with Article XX of Chapter 10 of the San Francisco Administrative Code to make the entire~~  
17 ~~unpaid balance of the fee, including interest, a lien against all parcels used for the development~~  
18 ~~project.~~ ~~to impose the lien in accordance with the procedures set forth in Chapter 10, Article XX, of the~~  
19 ~~San Francisco Administrative Code,~~ and shall send all notices required by that Article to the  
20 owner of the property as well as the sponsor. The ~~Director~~ Treasurer shall also prepare a  
21 preliminary report notifying the sponsor of a hearing to confirm such report by the Board of  
22 Supervisors at least 10 days before the date of the hearing. The report to the sponsor shall  
23 contain the sponsor's name, a description of the sponsor's development project, a description  
24 of the parcels of real property to be encumbered as set forth in the Assessor's Map Books for  
25 the current year, a description of the alleged violation of this ordinance, and shall fix a time,

1 date, and place for hearing. The ~~Director of Planning~~ Treasurer shall cause this report to be  
2 mailed to the sponsor and each owner of record of the parcels of real property subject to lien.  
3 Except for the release of lien recording fee authorized by Administrative Code Section 10.237,  
4 all sums collected by the Tax Collector pursuant to this ordinance shall be held in trust by the  
5 Treasurer and deposited in the Citywide Affordable Housing Fund established in Section  
6 313.12.

7 (c) Any notice required to be given to a sponsor or owner shall be sufficiently  
8 given or served upon the sponsor or owner for all purposes hereunder if personally served  
9 upon the sponsor or owner or if deposited, postage prepaid, in a post office letterbox  
10 addressed in the name of the sponsor or owner at the official address of the sponsor or owner  
11 maintained by the Tax Collector for the mailing of tax bills or, if no such address is available,  
12 to the sponsor at the address of the development project, and to the applicant for the site or  
13 building permit at the address on the permit application.

14 **SEC. 313.10. IN-LIEU FEE REFUND WHEN BUILDING PERMIT EXPIRES PRIOR**  
15 **TO COMPLETION OF WORK AND COMMENCEMENT OF OCCUPANCY.**

16 In the event a building permit expires prior to completion of the work on and  
17 commencement of occupancy of a development project so that it will be necessary to obtain a  
18 new permit to carry out any development, the obligation to comply with this ordinance shall be  
19 cancelled, and any in-lieu fee previously paid to the ~~Controller~~ Treasurer shall be refunded. If  
20 and when the sponsor applies for a new permit, the procedures set forth in this ordinance  
21 regarding construction of housing or payment of the in-lieu fee shall be followed.

22 Section 3. The San Francisco Planning Code is hereby amended by amending  
23 Sections 314.1 and 314.4 to read as follows:

24 **SEC. 314.1. DEFINITIONS.**

25 The following definitions shall govern interpretation of this Section:

1 (a) "Child-care facility" shall mean a child day-care facility as defined in  
2 California Health and Safety Code Section 1596.750.

3 (b) "Child care provider" shall mean a provider as defined in California Health  
4 and Safety Code Section 1596.791.

5 (c) "Commission" shall mean the City Planning Commission.

6 (d) "DBI" shall mean the Department of Building Inspection.

7 (e) "Department" shall mean the Department of City Planning.

8 ~~(e) "Director" shall mean the Director of City Planning or his or her designee,~~  
9 ~~including other City agencies or departments.~~

10 (f) "First certificate of occupancy" shall mean either a temporary certificate of  
11 occupancy or a Certificate of Final Completion and Occupancy, as defined in San Francisco  
12 Building Code Section 109, whichever is issued first.

13 (g) "Hotel" shall mean a building containing six or more guest rooms as  
14 defined in San Francisco Housing Code Section 401 intended or designed to be used, or  
15 which are used, rented, or hired out to be occupied, or which are occupied for sleeping  
16 purposes and dwelling purposes by guests, whether rent is paid in money, goods, or services,  
17 including motels as defined in San Francisco Housing Code Section 401.

18 (h) "Hotel use" shall mean space within a structure or portion thereof  
19 intended or primarily suitable for the operation of a hotel, including all office and other uses  
20 accessory to the renting of guest rooms, but excluding retail uses and office uses not  
21 accessory to the hotel use.

22 (i) "Household of low income" shall mean a household composed of one or  
23 more persons with a combined annual net income for all adult members which does not  
24 exceed the qualifying limit for a lower-income family of a size equivalent to the number of  
25

1 persons residing in such household, as set forth for the County of San Francisco in California  
2 Administrative Code Section 6932.

3 (j) "Household of moderate income" shall mean a household composed of  
4 one or more persons with a combined annual net income for all adult members which does  
5 not exceed the qualifying limit for a median-income family of a size equivalent to the number  
6 of persons residing in such household, as set forth for the County of San Francisco in  
7 California Administrative Code Section 6932.

8 (k) "Licensed child-care facility" shall mean a child-care facility which has been  
9 issued a valid license by the California Department of Social Services pursuant to California  
10 Health and Safety Code Sections 1596.80—1596.875, 1596.95—1597.09, or 1597.30—  
11 1597.61.

12 (l) "Net addition of gross square feet of hotel space" shall mean gross floor  
13 area as defined in Planning Code Section 102.9 to be occupied by, or primarily serving, hotel  
14 use, less the gross floor area in any structure demolished or rehabilitated as part of the  
15 proposed hotel development project space used primarily and continuously for office or hotel  
16 use and not accessory to any use other than office or hotel use for five years prior to Planning  
17 Commission approval of the hotel development project subject to this Section, or for the life of  
18 the structure demolished or rehabilitated, whichever is shorter.

19 (m) "Net addition of gross square feet of office space" shall mean gross floor  
20 area as defined in Planning Code Section 102.9 to be occupied by, or primarily serving, office  
21 use, less the gross floor area in any structure demolished or rehabilitated as part of the  
22 proposed office development project space used primarily and continuously for office or hotel  
23 use and not accessory to any use other than office or hotel use for five years prior to Planning  
24 Commission approval of the office development project subject to this Section, or for the life of  
25 the structure demolished or rehabilitated, whichever is shorter.

1 (n) "Nonprofit child-care provider" shall mean a child-care provider that is an  
2 organization organized and operated for nonprofit purposes within the provisions of California  
3 Revenue and Taxation Code Sections 23701—23710, inclusive, as demonstrated by a written  
4 determination from the California Franchise Tax Board exempting the organization from taxes  
5 under Revenue and Taxation Code Section 23701.

6 (o) "Nonprofit organization" shall mean an organization organized and  
7 operated for nonprofit purposes within the provisions of California Revenue and Taxation  
8 Code Sections 23701—23710, inclusive, as demonstrated by a written determination from the  
9 California Franchise Tax Board exempting the organization from taxes under Revenue and  
10 Taxation Code Section 23701.

11 (p) "Office development project" shall mean any new construction, addition,  
12 extension, conversion or enlargement, or combination thereof, of an existing structure which  
13 includes any gross square feet of office space.

14 (q) "Office use" shall mean space within a structure or portion thereof  
15 intended or primarily suitable for occupancy by persons or entities which perform, provide for  
16 their own benefit, or provide to others at that location services including, but not limited to, the  
17 following: Professional, banking, insurance, management, consulting, technical, sales and  
18 design, or the office functions of manufacturing and warehousing businesses, but excluding  
19 retail uses; repair; any business characterized by the physical transfer of tangible goods to  
20 customers on the premises; wholesale shipping, receiving and storage; ~~space primarily used~~  
21 ~~for, or where the most recent use was primarily for, the display of goods, wares, or~~  
22 ~~merchandise, including but not limited to: (1) showrooms, design showrooms, and design~~  
23 ~~showcases, (2) space displaying goods, wares, and merchandise either as samples or for~~  
24 ~~sale, (3) space in which the occupants negotiate sales transactions, (4) display space in~~  
25 ~~buildings that also contain office use, and (5) space actually used for display of goods, wares,~~



1 ~~and merchandise even if intended and primarily suitable for offices; *design showcases or any*~~  
2 ~~*other space intended and primarily suitable for display of goods*~~ design showcases or any other  
3 space intended and primarily suitable for display of goods; and child-care facilities. This  
4 definition shall include all uses encompassed within the meaning of Planning Code Section  
5 219.

6 (r) "Retail use" shall mean space within any structure or portion thereof  
7 intended or primarily suitable for occupancy by persons or entities which supply commodities  
8 to customers on the premises including, but not limited to, stores, shops, restaurants, bars,  
9 eating and drinking businesses, and the uses defined in Planning Code Sections 218 and 220  
10 through 225, and also including all space accessory to such retail use.

11 (s) "Sponsor" shall mean an applicant seeking approval for construction of an  
12 office or hotel development project subject to this Section and such applicant's successors  
13 and assigns.

14 **SEC. 314.4. IMPOSITION OF CHILD CARE REQUIREMENT.**

15 (a)(1) The Department or the Commission shall impose conditions on the  
16 approval of building or site permit applications for office or hotel development projects covered  
17 by this Section in order to mitigate the impact on the availability of child-care facilities which  
18 will be caused by the employees attracted to the proposed development project. The  
19 conditions shall require that the sponsor construct or provide a child-care facility on or near  
20 the site of the development project, either singly or in conjunction with the sponsors of other  
21 office or hotel development projects, or arrange with a nonprofit organization to provide a  
22 child-care facility at a location within the City, or pay an in-lieu fee to the City *Controller*  
23 *Treasurer* which shall thereafter be used exclusively to foster the expansion of and ease  
24 access to child-care facilities affordable to households of low or moderate income.

1 (2) Prior to either the Department's or the Commission's approval of a  
2 building or site permit for a development project subject to this Section, the Department shall  
3 issue a notice complying with Planning Code Section 306.3 setting forth its initial  
4 determination of the net addition of gross square feet of office or hotel space subject to this  
5 Section.

6 (3) Any person may appeal the initial determination by delivering an appeal  
7 in writing to the Department within 15 days of such notice. If the initial determination is not  
8 appealed within the time allotted, the initial determination shall become a final determination.  
9 If the initial determination is appealed, the Commission shall schedule a public hearing prior to  
10 the approval of the development project by the Commission or the Department to determine  
11 the net addition of gross square feet of office or hotel space subject to this Section. The public  
12 hearing may be scheduled separately or simultaneously with a hearing under City Planning  
13 Code Sections 139, 306.2, 309(h), ~~or~~ 313.4, 315.3 or a Discretionary Review hearing under  
14 San Francisco ~~Municipal~~ Business and Tax Regulations Code ~~[Part III]~~ Section 26. The  
15 Commission shall make a final determination of the net addition of gross square feet at the  
16 hearing.

17 (4) The final determination of the net addition of gross square feet of office or  
18 hotel space subject to this Section shall be set forth in the conditions of approval relating to  
19 the child-care requirement in any building or site permit application approved by the  
20 Department or the Commission. The Department shall notify the Treasurer of the final  
21 determination of the net addition of gross square feet of office or hotel space subject to this ordinance  
22 within 30 days of the date of the final determination. ~~The Director~~ Department shall notify the  
23 Treasurer and Director of the Department of Building Inspections DBI that the development project  
24 is subject to this Section ~~at~~ prior to the time the Department or the Commission approves the  
25 permit application.

1 (b)(1) The sponsor of a development project subject to this Section may elect to  
 2 provide a child-care facility on the premises of the development project for the life of the  
 3 project to meet the requirements of this Section. The sponsor shall, prior to the issuance of  
 4 the first certificate of occupancy by ~~the Director of the Department of Building Inspections~~ DBI for  
 5 the development project, provide proof to the Treasurer and the Director of Planning Department  
 6 that:

7 (A) A space on the premises of the development project has been provided  
 8 to a nonprofit child-care provider without charge for rent, utilities, property taxes, building  
 9 services, repairs, or any other charges of any nature, as evidenced by a lease and an  
 10 operating agreement between the sponsor and the provider with minimum terms of three  
 11 years;

12 (B) The child-care facility is a licensed child-care facility;

13 (C) The child-care facility has a minimum gross floor area of 3,000 square  
 14 feet or an area determined according to the following formula, whichever is greater:

<i>Net Addition Gross Sq. Ft. Hotel Space</i>	X	\$.01	=	<i>Sq. Ft. of Child Care Facility</i>
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17 In the event that the net addition of gross square feet of office or hotel of the  
 18 development project is less than 300,000 square feet, the child-care facility may have a  
 19 minimum gross floor area of 2,000 square feet or the area determined according to the above  
 20 formula, whichever is greater; and

21 (D) A notice of special restriction has been recorded stating that the  
 22 development project is subject to this Section and is in compliance herewith by providing a  
 23 child-care facility on the premises.

24 (2) The sponsor of a development project subject to this Section in  
 25 conjunction with the sponsors of one or more other development projects subject to this

1 Section located within ½ mile of one another may elect to provide a single child-care facility on  
 2 the premises of one of their development projects for the life of the project to meet the  
 3 requirements of this Section. The sponsors shall, prior to the issuance of the first certificate of  
 4 occupancy by ~~the Director of the Department of Building Inspections DBI~~ for any one of the  
 5 development projects complying with this part, provide proof to the Treasurer and the Director of  
 6 Planning Department that:

7 (A) A space on the premises of one of their development projects has been  
 8 provided to a nonprofit child-care provider without charge for rent, utilities, property taxes,  
 9 building services, repairs, or any other charges of any nature, as evidenced by a lease and an  
 10 operating agreement between the sponsor in whose project the facility will be located and the  
 11 provider with minimum terms of three years;

12 (B) The child-care facility is a licensed child-care facility;

13 (C) The child-care facility has a minimum gross floor area of 3,000 square  
 14 feet or an area determined according to the following formula, whichever is greater:

<i>Combined net          add.          Gross. Sq. Ft.          Office          Or hotel space          of          All participating          Dev. Projects</i>	X	\$.01	=	<i>Sq. Ft. of          Child Care          Facility</i>
---	---	-------	---	---

15 In the event that the net addition of gross square feet of office or hotel space of all  
 16 participating projects is less than 300,000 square feet, the child-care facility may have a  
 17 minimum gross floor area of 2,000 square feet or the area determined according to the above  
 18 formula, whichever is greater; and

19 (D) A written agreement binding each of the participating project sponsors  
 20 guaranteeing that the child-care facility will be provided for the life of the development project  
 21  
 22  
 23  
 24  
 25

1 in which it is located, or for as long as there is a demonstrated demand, as determined under  
 2 Subsection (h) of this Section 314.4, has been executed and recorded in the chain of title of  
 3 each participating building.

4 (3) The sponsor of a development project subject to this Section, either  
 5 singly or in conjunction with the sponsors of one or more other development projects subject  
 6 to this Section located within ½ mile of one another, may elect to provide a single child-care  
 7 facility to be located within one mile of the development project(s) to meet the requirements of  
 8 this Section. Subject to the discretion of the ~~Director~~Department, the child-care facility shall be  
 9 located so that it is reasonably accessible to public transportation or transportation provided  
 10 by the sponsor(s). The sponsor(s) shall, prior to the issuance of the first certificate of  
 11 occupancy by ~~the Director of the Department of Building Inspections~~DBI for any development  
 12 project complying with this part, provide proof to the Treasurer and the Director of Planning  
 13 Department that:

14 (A) A space has been provided to a nonprofit child-care provider without  
 15 charge for rent, utilities, property taxes, building services, repairs, or any other charges of any  
 16 nature, as evidenced by a lease or sublease and an operating agreement between the  
 17 sponsor(s) and the provider with minimum terms of three years;

18 (B) The child-care facility is a licensed child-care facility;

19 (C) The child-care facility has a minimum gross floor area of 3,000 square  
 20 feet or an area determined according to the following formula, whichever is greater:

21 22 23 24 25	<i>Combined net add. Gross. Sq. Ft. Office Or hotel space of All participating Dev. Projects</i>	X	\$.01	=	<i>Sq. Ft. of Child Care Facility</i>
----------------------------	--	---	-------	---	---

1 In the event that the net addition of gross square feet of office or hotel space of all  
 2 participating projects is less than 300,000 square feet, the child-care facility may have a  
 3 minimum gross floor area of 2,000 square feet or the area determined according to the above  
 4 formula, whichever is greater; and

5 (D) A written agreement binding each of the participating project sponsors,  
 6 with a term of 20 years from the date of issuance of the first certificate of occupancy for any  
 7 development project complying with this part, guaranteeing that a child-care facility will be  
 8 leased or subleased to one or more nonprofit child-care providers for as long as there is a  
 9 demonstrated demand under Subsection (h) of this Section 314.4 has been executed and  
 10 recorded in the chain of title of each participating building.

11 (4) The sponsor of a development project subject to this Section may elect to  
 12 pay a fee in lieu of providing a child-care facility. The fee shall be computed as follows:

<i>Net Addition Gross Sq. Ft. Office or Hotel Space</i>	X	\$1.00	=	<i>Total Fee</i>
---	---	--------	---	------------------

13 Upon payment of the fee in full to the ~~Controller~~ Treasurer and upon request of the  
 14 sponsor, the ~~Controller~~ Treasurer shall issue a certification that the fee has been paid. The  
 15 sponsor shall present such certification to the ~~Director~~ Department prior to the issuance by ~~the~~  
 16 ~~Director of the Department of Building Inspections DBI~~ of the first ~~certificate of occupancy~~ building  
 17 ~~or site permit~~ certificate of occupancy for the development project.

18 (5) The sponsor of a development project subject to this Section may elect to  
 19 satisfy its child-care requirement by combining payment of an in-lieu fee to the Child Care  
 20 Capital Fund with construction of a child-care facility on the premises or providing child-care  
 21 facilities near the premises, either singly or in conjunction with other sponsors. The child-care  
 22 facility to be constructed on-site or provided near-site under this election shall be subject to all  
 23  
 24  
 25

1 of the requirements of whichever of Parts (b)(1), (2) and (3) of this Section 314.4 is applicable,  
 2 and shall have a minimum floor area of 3,000 gross square feet. If the net addition of gross  
 3 square feet of office or hotel space of all participating projects is less than 300,000 square  
 4 feet, the minimum gross floor area of the facility shall be 2,000 square feet. The in-lieu fee to  
 5 be paid under this election shall be subject to all of the requirements of Part (b)(4) of this  
 6 Section 314.4 and shall be determined by the Commission according to the following formula:

$$\begin{array}{|c|c|c|c|c|c|c|c|c|c|c|c|}
 \hline
 \text{Net. Add} & & & \text{Net. add. gross} & & & & & & & & & \\
 \text{gross sq.} & & & \text{Sq. Ft. Space} & & & & & & & & & \\
 \text{ft. space} & - & [ & \text{Subject Project} & \times & \text{Sq. Ft.} & \times & 100 & \times & \$1.00 & ] & = & \text{Total Fee for} \\
 \text{subject} & & & \text{Net. add grossSq.} & & \text{Child-care} & & & & & & & \text{Subject} \\
 \text{project} & & & \text{Ft. Space all} & & \text{facility} & & & & & & & \text{Project} \\
 & & & \text{participating} & & & & & & & & & \\
 & & & \text{projects} & & & & & & & & & \\
 \hline
 \end{array}$$

12 (6) The sponsor of a development project subject to this Section may elect to  
 13 satisfy its child-care requirement by entering into an arrangement pursuant to which a  
 14 nonprofit organization will provide a child-care facility at a site within the City. The sponsor  
 15 shall, prior to the issuance of the first certificate of occupancy by ~~the Director of the Department~~  
 16 ~~of Building Inspection~~ DBI for the development project, provide proof to the Treasurer and the  
 17 Department Director of Planning that:

18 (A) A space for a child-care facility has been provided by the nonprofit  
 19 organization, either for its own use if the organization will provide child-care services, or to a  
 20 nonprofit child-care provider without charge for rent, utilities, property taxes, building services,  
 21 repairs, or any other charges of any nature, as evidenced by a lease or sublease and an  
 22 operating agreement between the nonprofit organization and the provider with minimum terms  
 23 of three years;

24 (B) The child-care facility is a licensed child-care facility;

25

1 (C) The child-care facility has a minimum gross floor area of 3,000 square  
 2 feet or an area determined according to-the following formula, whichever is greater:

<i>Net Addition Gross Sq. Ft. Office or Hotel Space</i>	X	\$.01	=	<i>Sq. Ft. of Child- care facility</i>
---	---	-------	---	--

3  
 4  
 5 In the event that the net addition of gross square feet of office or hotel space is less  
 6 than 300,000 square feet, the child-care facility may have a minimum gross floor of 2,000  
 7 square feet or the area determined according to the above formula, whichever is greater;

8 (D) The nonprofit organization has executed and recorded a binding written  
 9 agreement, with a term of 20 years from the date of issuance of the first certificate of  
 10 occupancy for the development project, pursuant to which the nonprofit organization  
 11 guarantees that it will operate a child-care facility or it will lease or sublease a child-care  
 12 facility to one or more nonprofit child-care providers for as long as there is a demonstrated  
 13 need under Subsection (h) of this Section 314.4, and that it will comply with all of the  
 14 requirements imposed on the nonprofit organization under this Paragraph (b)(6) and imposed  
 15 on a sponsor under Subsections (g), (h) and (i) of Section 314.4.

16 (E) To support the provision of a child-care facility in accordance with the  
 17 foregoing requirements, the sponsor has paid to the nonprofit organization a sum which  
 18 equals or exceeds the amount of the in-lieu fee which would have been applicable to the  
 19 project under Section 314.4(b)(4).

20 (F) The Department of Children, Youth and Their Families has determined  
 21 that the proposed child-care facility will help meet the needs identified in the San Francisco  
 22 Child Care Needs Assessment and will be consistent with the City Wide Child Care Plan;  
 23 provided, however, that this Paragraph (F) shall not apply to any office or hotel development  
 24  
 25



1 project approved by the Planning Department or the Planning Commission prior to December  
2 31, 1999.

3 Upon compliance with the requirements of this Part, the nonprofit organization  
4 shall enjoy all of the rights and be subject to all of the obligations of the sponsor, and the  
5 sponsor shall have no further rights or obligations under this Section.

6 ~~(7) — Where the sponsor initially elects to comply with the requirements of this~~  
7 ~~Section by any means other than solely paying the in-lieu fee under Section 314.4(b)(4), the~~  
8 ~~sponsor shall make that election not later than the date on which the in-lieu fee would~~  
9 ~~otherwise be due. If, subsequent to making that election and issuance of the initial site or~~  
10 ~~building permit for the project, the sponsor decides instead to pay any part of the sponsor's~~  
11 ~~obligation in the form of the in-lieu fee, the sponsor shall be liable for the amount of the in-lieu~~  
12 ~~fee plus interest at the rate of one and one-half per cent per month or fraction thereof from the~~  
13 ~~date of the sponsor's initial election until the date the full amount due is paid.~~

14 ~~(c) If the sponsor is liable for an in-lieu fee pursuant to this section, such fee shall be~~  
15 ~~due prior to issuance of the first site or building permit certificate of occupancy for the project.~~  
16 ~~Upon payment of the fee in full to the Treasurer and upon request of the sponsor, the Treasurer shall~~  
17 ~~issue a certification that the fee has been paid. The sponsor shall present such certification to DBI~~  
18 ~~prior to the issuance by DBI of the first site or building permit certificate of occupancy for the~~  
19 ~~development project. The Director of the Department of Building Inspections shall provide notice in~~  
20 ~~writing to the Director of Planning at least five business days prior to issuing the first certificate of~~  
21 ~~occupancy for any development project subject to this Section. If the Director of Planning notifies the~~  
22 ~~Director of the Department of Building Inspections within such time that the sponsor has not complied~~  
23 ~~with the provisions of this Section, the Director of the Department of Building Inspections DBI shall~~  
24 ~~not issue the site or building permit certificate of occupancy without proof of payment of the fee~~  
25 ~~from the Treasurer deny any and all certificates of occupancy. If the Director of Planning notifies the~~

1 ~~Director of the Department of Building Inspections that the sponsor has complied with this Section or~~  
2 ~~fails to respond within five business days, a certificate of occupancy shall not be disapproved pursuant~~  
3 ~~to this Section.~~ Any failure of the Treasurer, DBI, Director of the Department of Building Inspections  
4 or the Director of Planning Department to give any notice under this Subsection shall not relieve  
5 a sponsor from compliance with this Section. ~~Where DBI inadvertently issues a site or~~  
6 ~~building permit without payment of the fee, DBI shall not issue any certificate of occupancy for~~  
7 ~~the project without notification from the Treasurer that the fee required by this Section has~~  
8 ~~been paid.~~ The procedure set forth in this Subsection is not intended to preclude enforcement of the  
9 provisions of this section under any other section of this Code, or other authority under the laws of the  
10 State of California.

11 (d) In the event that the Department or the Commission takes action affecting  
12 any development project subject to this Section and such action is thereafter modified,  
13 superseded, vacated, or reversed by the Department or the Commission, Board of Appeals,  
14 the Board of Supervisors, or by court action, the permit application for such office  
15 development project shall be remanded to the Department or Commission ~~for a hearing~~ within  
16 60 days ~~of following~~ the date on which such action is final to determine whether the proposed  
17 project has been changed in a manner which affects the area of the child-care facility or the  
18 amount of the in-lieu fee to be provided under this Section 314.4 and, if so, the Department or  
19 the Commission shall revise the child-care requirement imposed on the permit application in  
20 compliance with this Section, and shall promptly notify the Treasurer and DBI of that revision.

21 (e) The sponsor shall supply all information to the Treasurer, the Department,  
22 and the Commission necessary to make a determination as to the applicability of this Section  
23 and the number of gross square feet of office or hotel space subject to this Section.

24 ///

25 ///

1 (f) Within nine months of the effective date of this Section, the Commission  
2 shall, after public notice and a hearing pursuant to Charter Section ~~3.500~~ 4.104, adopt rules  
3 and regulations by which compliance with this Subsection shall be determined.

4 (g) In the event that a sponsor elects to satisfy its child-care requirement  
5 under Section 314(b)(1), (2), (3) or (5) by providing an on-site or near-site child-care facility,  
6 the sponsor shall submit a report to the ~~Director~~ Department in January of each year for the life  
7 of the child-care facility. The report shall have attached thereto a copy of the license issued by  
8 the California Department of Social Services permitting operation of the child-care facility, and  
9 shall state:

10 (1) The address of the child-care facility;

11 (2) The name and address of the child-care provider operating the facility;

12 (3) The size of the center in terms of floor area;

13 (4) The capacity of the child-care facility in terms of the maximum number of  
14 children for which the facility is authorized to care under the license;

15 (5) The number and ages of children cared for at the facility during the  
16 previous year; and

17 (6) The fees charged parents for use of the facility during the previous year.

18 (h) In the event that a sponsor elects to satisfy its child-care requirement  
19 under Paragraphs 314.4(b)(1), (2), (3) or (5) by providing an on-site or near-site child-care  
20 facility, or under Paragraph 314.4(b)(6) by agreement with a nonprofit organization, the  
21 sponsor, or in the case of a facility created pursuant to Paragraph 314.4(b)(6) the nonprofit  
22 organization, may apply to the ~~Director~~ Department to eliminate the facility or to reduce the  
23 floor area of the facility in any amount, providing, however, that the gross floor area of a  
24 reduced facility is at least 2,000 square feet. The ~~Director~~ Department shall schedule a public  
25 hearing on any such application before the Commission and provide notice pursuant to City

1 Planning Code Section 306.3(a) at least two months prior to the hearing. The application may  
 2 be granted only where the sponsor has demonstrated that there is insufficient demand for the  
 3 amount of floor area then devoted to the on-site or near-site child-care facility. The actual  
 4 reduction in floor area or elimination of the child-care facility shall not be permitted in any case  
 5 until six months after the application is granted. Such application may be made only five  
 6 years or more after the issuance of the first certificate of occupancy for the project. Prior to  
 7 the reduction in floor area or elimination of the child care facility, the sponsor shall pay an in-  
 8 lieu fee to the City's ~~Controller~~ Treasurer to be computed as follows:

$$\left( \frac{[20 - \text{No. of years since issuance of first cert. occ.}]}{20} \times \left[ \text{Net reduction gross sq. ft. child care facility} \right] \times (\$100) = \text{Total Fee} \right)$$

13 Upon payment of the fee in full to the ~~Controller~~ Treasurer and upon request of the  
 14 sponsor, the ~~Controller~~ Treasurer shall issue a certification that the fee has been paid. The  
 15 sponsor shall present such certification to the Director prior to the reduction in the floor area or  
 16 elimination of the child care facility.

17 (i) The child care provider operating any child care facility pursuant to Sections  
 18 314.4(b)(1), (2), (3) or (5) shall reserve at least 10 percent of the maximum capacity of the  
 19 child care facility as determined by the license for the facility issued by the California  
 20 Department of Social Services to be affordable to children of households of low income. The  
 21 ~~Director~~ Department shall adopt rules and regulations to determine the rates to be charged to  
 22 such regulations under Section 314.5.

23 (j) The fee required by this ordinance is due and payable to the Treasurer prior to issuance  
 24 of the first building or site permit certificate of occupancy for the office development project.  
 25 Except in the case of a reduction in space of the child care facility pursuant to Subsection (h), if the fee

1 remains unpaid following issuance of the permit certificate, any amount due shall accrue interest at  
2 the rate of one and one-half percent per month, or fraction thereof, from the date of issuance of the  
3 permit certificate until the date of final payment. Where the amount due is as a result of a reduction in  
4 space of the child care facility pursuant to subsection (h), such interest shall accrue from the date on  
5 which the available space is reduced until the date of final payment.

6 ~~(k)~~ — In the event a building permit expires prior to completion of the work on and  
7 commencement of occupancy of a development project so that it will be necessary to obtain a  
8 new permit to carry out any development, the obligation to comply with this ordinance shall be  
9 cancelled, and any in-lieu fee previously paid to the Treasurer shall be refunded. If and when  
10 the sponsor applies for a new permit, the procedures set forth in this ordinance regarding  
11 provision of child care facilities or payment of the in-lieu fee shall be followed.

12 ~~(l)~~ ~~(k)~~ In the event that a development project for which an in-lieu fee imposed under this  
13 Section has been fully paid is demolished or converted to a use or uses not subject to this ordinance  
14 prior to the expiration of its estimated useful life, the City shall refund to the sponsor a portion of the  
15 amount of an in-lieu fee paid. The portion of the fee refunded shall be determined on a pro rata basis  
16 according to the ratio of the remaining useful life of the project at the time of demolition or conversion  
17 in relation to its total useful life. For purposes of this ordinance, the useful life of a development project  
18 shall be 50 years.

19 ~~(m)~~ ~~(l)~~ (1) A sponsor's failure to pay the fee imposed pursuant to this Section shall constitute  
20 cause for the City to record a lien against the development project in the sum of the in-lieu fee required  
21 under this ordinance, as adjusted under this Section.

22 (2) If, for any reason, the fee imposed pursuant to this ordinance remains unpaid  
23 following issuance of the permit certificate, the Treasurer shall initiate proceedings in accordance  
24 with the procedures set forth in Article XX of Chapter 10, of the San Francisco Administrative Code to  
25 make the entire unpaid balance of the fee, including interest, a lien against all parcels used for the

1 development project. The Treasurer shall send all notices required by that Article to the owner of the  
2 property as well as the sponsor. The Treasurer shall also prepare a preliminary report notifying the  
3 sponsor of a hearing to confirm such report by the Board of Supervisors at least 10 days before the  
4 date of the hearing. The report to the sponsor shall contain the sponsor's name, a description of the  
5 sponsor's development project, a description of the parcels of real property to be encumbered as set  
6 forth in the Assessor's Map Books for the current year, a description of the alleged violation of this  
7 ordinance, and shall fix a time, date, and place for hearing. The Treasurer shall cause this report to be  
8 mailed to the sponsor and each owner of record of the parcels of real property subject to lien. Except  
9 for the release of lien recording fee authorize by Administrative Code Section 10.237, all sums  
10 collected by the Tax Collector pursuant to this ordinance shall be held in trust by the Treasurer and  
11 deposited in the Child Care Capital Fund established in Section 314.5.

12 (3) Any notice required to be given to a sponsor or owner shall be sufficiently given or  
13 served upon the sponsor or owner for all purposes hereunder if personally served upon the sponsor or  
14 owner or if deposited, postage prepaid, in a post office letterbox addressed in the name of the sponsor  
15 or owner at the official address of the sponsor or owner maintained by the Tax Collector for the  
16 mailing of tax bills or, if no such address is available, to the sponsor at the address of the development  
17 project, and to the applicant for the site or building permit at the address on the permit application.

18 Section 4. The San Francisco Planning Code is hereby amended by amending  
19 Sections 315.3 and 315.6 to read as follows:

20 **Section 315.3: APPLICATION**

21 (a) This Ordinance shall apply to

22 (1) all applications for a building permit or a site permit filed with the Department of  
23 Building Inspection or the Planning Department on or after June 18, 2001 for housing projects  
24 which:

25 (A) consist of ten or more units; and

1 (B) do not require Planning Commission approval as a conditional use or planned  
2 unit development; and

3 (C) have a project site which was optioned or acquired or an environmental  
4 evaluation application that was filed after June 18, 2001.

5 (2) all applications for a conditional use or planned unit development permit filed  
6 with the Planning Department on or after June 18, 2001 for housing projects which:

7 (A) consist of ten or more units; and

8 (B) require Planning Commission approval as a conditional use or planned unit  
9 development.

10 (3) all applications for a building permit or a site permit filed with the Planning  
11 Department or the Building Department on or after June 18, 2001 for housing projects which:

12 (A) consist of ten or more units; and

13 (B) consist of live/work units as defined by Planning Code Section 102.13.

14 (4) housing projects which require Planning Commission approval of replacement  
15 housing destroyed by earthquake, fire or natural disaster only where the destroyed housing  
16 included units restricted under the Residential Inclusionary Housing Program or the City's  
17 predecessor inclusionary housing policy, condominium conversion requirements, or other  
18 affordable housing program.

19 (b) This Ordinance shall not apply to:

20 (1) that portion of a housing project located on property owned by the United States  
21 or any of its agencies or leased by the United States or any of its agencies for a period in  
22 excess of 50 years, with the exception of such property not used exclusively for a  
23 governmental purpose;

24 ///

25 ///

1 (2) that portion of a housing project located on property owned by the State of  
2 California or any of its agencies, with the exception of such property not used exclusively for a  
3 governmental or educational purpose; or

4 (3) that portion of a housing project located on property under the jurisdiction of the  
5 San Francisco Redevelopment Agency or the Port of San Francisco where the  
6 application of this Ordinance is prohibited by California or local law;

7 (4) that portion of a housing project for which a project applicant can demonstrate  
8 that an impact fee under the Jobs-Housing Linkage Program, commencing with  
9 Planning Code Section 313, has been paid.

10 (c) Waiver or Reduction:

11 (1) A project applicant of any project subject to the requirements in this Program  
12 may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of the  
13 requirements based upon the absence of any reasonable relationship or nexus between the  
14 impact of development and either the amount of the fee charged or the inclusionary  
15 requirement.

16 (2) A project applicant subject to the requirements of this Program who has  
17 received an approved building permit, conditional use permit or similar discretionary approval  
18 and who submits a new or revised building permit, conditional use permit or similar  
19 discretionary approval for the same property may appeal for a reduction, adjustment or waiver  
20 of the requirements with respect to the number of lots or square footage of construction  
21 previously approved.

22 (3) Any such appeal shall be made in writing and filed with the Clerk of the Board no  
23 later than 15 days after the date the Planning Department sends notice to the project  
24 applicant of the number of affordable units required as provided in Section 315.4(a) and  
25 315.5(a). The appeal shall set forth in detail the factual and legal basis for the claim of waiver,



1 reduction, or adjustment. The Board of Supervisors shall consider the appeal at the hearing  
2 within 60 days after the filing of the appeal. The appellant shall bear the burden of presenting  
3 substantial evidence to support the appeal including comparable technical information to  
4 support appellant's position. The decision of the Board shall be by a simple majority vote and  
5 shall be final. If a reduction, adjustment, or waiver is granted, any change in use within the  
6 project shall invalidate the waiver, adjustment, or reduction of the fee or inclusionary  
7 requirement. If the Board grants a reduction, adjustment or waiver, the Clerk of the Board shall  
8 promptly transmit the nature and extent of the reduction, adjustment or waiver to the Treasurer.

9 (d) Except for projects listed in subsection "b" of this Section 315.3, the Planning  
10 Commission's Guidelines for Application of San Francisco's Inclusionary Affordable Housing  
11 Policy shall apply, where applicable, to housing projects not otherwise covered by this  
12 Ordinance because of the application dates set forth in Section 315.3(a),(b, and (c).

### 13 **Section 315.6: COMPLIANCE THROUGH IN LIEU FEE**

14 If the project applicant elects, pursuant to Section 315.4(e) 2 that the project applicant will pay  
15 an in-lieu fee to satisfy the requirements of this Program, the project applicant shall meet the  
16 following requirements:

17 (a) By paying an in lieu fee to the ~~Controller~~ Treasurer for use by the Mayor's Office  
18 of Housing for the purpose of constructing at an alternate site the type of housing required by  
19 Section 315.5 within the City and County of San Francisco.

20 (b) The amount of the fee which may be paid by the project applicant subject to this  
21 ordinance in lieu of developing and providing housing required by Section 315.4 shall be  
22 determined by Mayor's Office of Housing ("MOH") utilizing the following factors:

23 (1) The number of units required by Section 315.5 if the project applicant were to  
24 elect to meet the requirements of this section by off-site housing development.

1 (2) The affordability gap as identified in the “Jobs Housing Nexus Analysis”  
2 prepared by Keyser Marston Associates, Inc. in June 1997 for the Maximum Annual Rent or  
3 Maximum Purchase Price for the equivalent unit sizes.

4 (3) Annual adjustments to the affordability gap based upon the percentage increase  
5 or decrease in the Average Area Purchase Price Safe Harbor Limitations for New Single  
6 Family Residences for the San Francisco Primary Metropolitan Statistical (“PMSA”)  
7 established by the Internal Revenue Service (“IRS”) since January 1st of the previous year;  
8 provided, however that in the event that said percentage increase exceeds 20 percent, the in-  
9 lieu fee shall be increased by 20 percent, and the difference between the percentage increase  
10 in the Average Area Purchase Price and 20 percent shall be carried over and added to the in-  
11 lieu fee adjustment for the following calendar year. In the event that the IRS does not adjust  
12 the above figure within 14 months, the Mayor's Office of Housing shall authorize and certify a  
13 study for adjusting the last published IRS figure to be effective until IRS revises the figure.

14 (c) Within 30 days of determining the amount of the fee to be paid by the applicant, MOH  
15 shall transmit the amount of the fee to the Treasurer. Prior to the issuance by ~~the Director of~~  
16 ~~Building Inspection DBI~~ of the first site or building permit for the project applicant, the project  
17 applicant must notify the ~~Director of Planning Department~~ and ~~the Director of the Mayor's Office~~  
18 ~~of Housing MOH~~ in writing that it has paid in full the sum required to the ~~Controller~~Treasurer. If  
19 the project applicant fails by the applicable date to demonstrate to the ~~Director of Planning~~  
20 ~~Department~~ that the project applicant has paid the applicable sum in full to the  
21 ~~Controller~~Treasurer, ~~the Director of Building Inspection DBI~~ shall deny any and all site or building  
22 permits or certificates of occupancy for the development project until the ~~Director of Planning~~  
23 ~~Department~~ notifies ~~the Director of Building Inspection DBI~~ and the ~~Director of the Mayor's Office of~~  
24 ~~Housing MOH~~ that such payment has been made.

1           (d)     Upon payment of the fee in full to the ~~Controller~~ Treasurer and upon request of  
2 the project applicant, the ~~Controller~~ Treasurer shall issue a certification that the fee has been  
3 paid. The project applicant shall present such certification to the ~~Director of Planning~~  
4 Department, DBI and ~~the Director of the Mayor's Office of Housing MOH~~ prior to the issuance by  
5 ~~the Director of Building Inspection DBI~~ of the first site or building permit or certificate of  
6 occupancy for any development subject to this Section. ~~If the Director of Planning notices the~~  
7 ~~Director of Building Inspection and the Director of the Mayor's Office of Housing that the sponsor has~~  
8 ~~complied with this Section, or fails to respond within five business days, a site or building permit or~~  
9 ~~certificate of occupancy shall not be disapproved pursuant to this Section.~~ Any failure of the  
10 Treasurer, DBI, Director of Building Inspection or ~~the Director of Planning Department~~ to give any  
11 notice under this Section shall not relieve a project applicant from compliance with this  
12 Section. Where DBI inadvertently issues a site or building permit without payment of the fee, DBI  
13 shall not issue any certificate of occupancy for the project without notification from the Treasurer that  
14 the fee required by this Section has been paid. The procedure set forth in this Subsection is not  
15 intended to preclude enforcement of the provisions of this section pursuant to any other section of this  
16 Code, or other authority under the laws of the State of California. ~~Where the Director of Building~~  
17 ~~Inspection issues any site or building permit or certificate of occupancy for the development project in~~  
18 ~~error, or where a sponsor fails for any reason to pay the in-lieu fee to the Controller in compliance~~  
19 ~~with this Section prior to the Director of Building Inspection's issuance of the first site or building~~  
20 ~~permit or certificate of occupancy for the development project, the Director of Planning shall~~  
21 ~~immediately initiate lien proceedings against the development project under Section 315.6(f) to recover~~  
22 ~~the fee, and the Director of Building Inspection shall revoke any permit or certificate issued in error~~  
23 ~~and refuse any site or building permit or certificate of occupancy until the project applicant has~~  
24 ~~complied with this Section.~~

25

1 (e) All monies contributed pursuant to this section shall be deposited in the special  
2 fund maintained by the Controller called the Citywide Affordable Housing Fund. The receipts  
3 in the Fund are hereby appropriated in accordance with law to be used solely to (1) increase  
4 the supply of housing affordable to qualifying households subsection subject to the conditions  
5 of this Section, and (2) pay the expenses of ~~the Mayor's Office of Housing~~ MOH in connection  
6 with monitoring and administering compliance with the requirements of the Program.  
7 Monitoring and administrative expenses shall be appropriated through the annual budget  
8 process or supplemental appropriation for ~~the Mayor's Office of Housing~~ MOH. The fund shall  
9 be administered and expended by ~~the Director of the Mayor's Office of Housing~~ MOH, who which  
10 shall have the authority to prescribe rules and regulations governing the Fund which are  
11 consistent with this Section.

12 (f) Lien Proceedings

13 (1) A project applicant's failure to comply with the requirements of this Section shall  
14 constitute cause for the City to record a lien against the development project in the sum of the  
15 in-lieu fee required under this ordinance, as adjusted under this Section.

16 (2) ~~The Director of Planning~~ If, for any reason, the fee imposed pursuant to this ordinance  
17 remains unpaid following issuance of the permit, the Treasurer shall initiate proceedings to impose  
18 the lien in accordance with the procedures set forth in Chapter 10, Article XX, of the San  
19 Francisco Administrative Code to make the entire unpaid balance of the fee, including interest, a lien  
20 against all parcels used for the development project. The Treasurer, ~~and~~ shall send all notices  
21 required by that Article to the owner of the property as well as the sponsor. The ~~Director~~  
22 Treasurer shall also prepare a preliminary report notifying the sponsor of a hearing to confirm  
23 such report by the Board of Supervisors at least 10 days before the date of the hearing. The  
24 report to the sponsor shall contain the sponsor's name, a description of the sponsor's  
25 development project, a description of the parcels of real property to be encumbered as set

1 forth in the Assessor's Map Books for the current year, a description of the alleged violation of  
2 this ordinance, and shall fix a time, date, and place for hearing. The *Director of Planning*  
3 *Treasurer* shall cause this report to be mailed to the sponsor and each owner of record of the  
4 parcels of real property subject to lien. Except for the release of lien recording fee authorize  
5 by Administrative Code Section 10.237, all sums collected by the Tax Collector pursuant to  
6 this ordinance shall be held in trust by the Treasurer and deposited in the Citywide Affordable  
7 Housing Fund established in Section 313.12.

8 (3) Any notice required to be given to a sponsor or owner shall be sufficiently given  
9 or served upon the sponsor or owner for all purposes hereunder if personally served upon the  
10 sponsor or owner or if deposited, postage prepaid, in a post office letterbox addressed in the  
11 name of the sponsor or owner at the official address of the sponsor or owner maintained by  
12 the Tax Collector for the mailing of tax bills or, if no such address is available, to the sponsor  
13 at the address of the development project, and to the applicant for the site or building permit at the  
14 address on the permit application.

15 (g) In the event a building permit expires prior to completion of the work on and  
16 commencement of occupancy of a housing project so that it will be necessary to obtain a new  
17 permit to carry out any development, the obligation to comply with this Program shall be  
18 cancelled, and any in-lieu fee previously paid to the ~~Controller~~ *Treasurer* shall be refunded. If  
19 and when the sponsor applies for a new permit, the procedures set forth in this ordinance  
20 regarding construction of housing or payment of the in-lieu fee shall be followed.

21 (h) In the event that a development project for which an in-lieu fee imposed under this  
22 Section has been fully paid is demolished or converted to a use or uses not subject to this ordinance  
23 prior to the expiration of its estimated useful life, the City shall refund to the sponsor a portion of the  
24 amount of an in-lieu fee paid. The portion of the fee refunded shall be determined on a pro rata basis  
25 according to the ratio of the remaining useful life of the project at the time of demolition or conversion

1 in relation to its total useful life. For purposes of this ordinance, the useful life of a development  
2 project shall be 50 years.

3 Section 5. The San Francisco Administrative Code is hereby amended by amending  
4 Sections 38.1, 38.3, 38.4, 38.5, 38.6, 38.8, 38.8.5, 38.9, 38.10, 38.11 and 38.45 to read as  
5 follows:

6 **SEC. 38.1. DEFINITIONS.**

7 For the purposes of this Chapter, the following definitions shall apply:

8 (a) Board. The Board of Supervisors of the City and County of San  
9 Francisco.

10 (b) "Certificate of Final Completion and Occupancy" shall mean a certificate  
11 of final completion and occupancy issued by any authorized entity or official of the City and  
12 County of San Francisco including the ~~Superintendent, Bureau~~ Director of the Department of  
13 Building Inspection, pursuant to the Building Code.

14 (c) City. The City and County of San Francisco.

15 (d) Director. The Director of the Municipal Transportation Agency.

16 (e) Downtown Area. That portion of the City and County bounded by Van  
17 Ness Avenue as for north as Broadway, from Van Ness Avenue and Broadway easterly on  
18 Broadway to Sansome Street, then northerly on Sansome Street to the Embarcadero; then  
19 southeasterly on the Embarcadero to Berry Street; then southwesterly on Berry Street to De  
20 Haro Street; then southerly on De Haro Street to Alameda Street; then westerly on Alameda  
21 Street to Bryant Street; then northerly on Bryant Street to Thirteenth Street; then westerly on  
22 Thirteenth Street to South Van Ness Avenue; then northerly to Van Ness Avenue. The  
23 downtown area includes all property which abuts upon any of or is within the area surrounded  
24 by the above enumerated boundary streets. This definition shall apply to all developments  
25

1 which have not received a certificate of final completion and occupancy or for which the transit  
2 impact development fee has not been billed on the effective date of this amendment.

3 ~~(e)~~(f) Gross Square Foot of Office Use. A square foot of floor space within a  
4 structure, whether or not within a room, to be occupied by, or primarily serving, office use.

5 ~~(f)~~(g) New Development. Any new construction, addition, extension,  
6 conversion, or enlargement of an existing structure which includes any gross square feet of  
7 office use.

8 ~~(g)~~(h) Office Use. Any structure or portion thereof intended for occupancy by  
9 business entities which will primarily provide clerical, professional or business services of the  
10 business entity, or which will primarily provide clerical, professional or business services to  
11 other business entities or to the public, at that location. ~~Among uses excluded from the~~  
12 ~~definition of "office use" are the following uses, including space devoted to the management~~  
13 ~~or administration of the uses, located in the same structure, building, or portion thereof:~~  
14 ~~transient lodgings; sale of merchandise or personal services at retail to the public; storage of~~  
15 ~~goods; buildings or portions thereof exclusively devoted to machines, computer equipment,~~  
16 ~~telephone equipment, mechanical equipment, electrical equipment, or other utility operations;~~  
17 ~~a building or portion thereof exclusively devoted to the storage of money, valuable securities~~  
18 ~~or other valuables; manufacturing activities; residences; and space primarily used for, or~~  
19 ~~where the most recent use was primarily for, the display of goods, wares, or merchandise,~~  
20 ~~including but not limited to: (1) showrooms, design showrooms, and design showcases, (2)~~  
21 ~~space displaying goods, wares, and merchandise either as samples or for sale, (3) space in~~  
22 ~~which the occupants negotiate sales transactions, (4) display space in buildings that also~~  
23 ~~contain office use, and (5) space actually used for display of goods, wares, and merchandise~~  
24 ~~even if intended and primarily suitable for offices. Where the words "office space" are used in~~  
25 this ordinance they shall mean the same as "office use."

1            ~~(h)~~(i) Peak Period. The total number of minutes in an average working day,  
2 determined in accordance with Section 38.5(a), during which the Municipal Railway deploys  
3 all its operable equipment so that the system experiences no excess vehicular capacity.

4            ~~(i)~~(j) Public Transit Service. Services of the Municipal Railway of the City and  
5 County of San Francisco.

6            (k) Sponsor. An applicant seeking approval for construction of an office  
7 development project subject to this Section, such applicants' successors and assigns, and/or any entity  
8 which controls or is under common control with such applicant.

9            ~~(j)~~(l) Temporary Permit of Occupancy. Permission which is granted by any authorized  
10 entity or official of the City and County of San Francisco, including the ~~Superintendent, Bureau~~  
11 Director of the Department of Building Inspection, to occupy any building, structure or portion  
12 thereof for office use prior to the completion of the entire building or structure.

13            **SEC. 38.3. PURPOSES.**

14            In order to be able to provide public transit services for new development in the  
15 Downtown Area, the City and County must impose a fee. This fee shall be known as the  
16 Transit Impact Development Fee.

17            It is the purpose of this ordinance to require ~~developers~~ sponsors of new  
18 development in the Downtown Area to pay a fee which is related directly to the incremental  
19 financial burden imposed upon the Municipal Railway both for initial capital outlay for the  
20 acquisition of rolling stock and the construction of facilities; and for the long term operation,  
21 maintenance and replacement of those facilities once they are in place.

22            The Transit Impact Development Fee is the most practical and equitable method  
23 of financing the construction and operation of required public transit service additions and  
24 improvements for the Downtown Area. This fee is intended to recover all costs incurred by the  
25 Municipal Railway in meeting peak-period public transit service demands created by office



1 uses in each new development subject to the fee, including the expansion of service capacity  
2 through the purchase of rolling stock, the installation of new lines, the addition to existing lines  
3 and the long term operation, maintenance, repair and replacement of those expanded  
4 facilities.

5 The rate-making process established by this ordinance is intended to identify  
6 and measure the total incremental burdens imposed on the City and County's Municipal  
7 Railway by virtue of the demands created by office uses in new development in the Downtown  
8 Area. Such burdens are to be allocated equitably among new developments in the Downtown  
9 Area subject to the Transit Impact Development Fee. This fee is designed to reflect the  
10 benefits conferred on new development because of the added peak-period capacity to carry  
11 the passengers generated by office uses in the new developments. Such benefits shall be  
12 measured in terms of the costs incurred by the City and County in expanding and operating  
13 the additional capacity in the Downtown Area required to meet the estimated long-term peak-  
14 period public transit service needs of such office use in new development.

15 The Transit Impact Development Fee shall be collected as a condition for the  
16 issuance of a ~~certificate of final completion and occupancy~~ site or building permit certificate of  
17 final completion and occupancy for new development in the Downtown Area.

18 This fee will enable the City and County to pay the capital and operating costs of  
19 all additional peak- period public transit services in the Downtown Area necessitated by office  
20 use in new development. The fee schedule shall be reviewed annually and adjusted over time  
21 to insure that it continues to reflect the projected cost of providing the additional public transit  
22 service required by new developments.

23 Notwithstanding the basic purposes of this ordinance, the Transit Impact  
24 Development Fee shall not exceed \$5 per square foot.

25 **SEC. 38.4. IMPOSITION OF TRANSIT IMPACT DEVELOPMENT FEE.**

1           A.     Each ~~developer sponsor~~ of a new development in the Downtown Area shall  
2 pay to the City and County of San Francisco ~~and deliver to the Treasurer upon~~ prior to upon the  
3 issuance of ~~any temporary permit of occupancy and as a condition precedent to issuance of any~~  
4 ~~certificate of final completion and occupancy whichever occurs first, the initial building or site permit~~  
5 any temporary permit of occupancy and as a condition precedent to issuance of any certificate  
6 of final completion and occupancy, whichever occurs first, for such new development in the  
7 Downtown Area, a Transit Impact Development Fee. That fee shall be calculated on the basis  
8 of the number of gross square feet of office use added by the new development, multiplied by  
9 the per square foot rate in effect (a) on the effective date of this ordinance for new  
10 developments for which building permits were issued prior to the effective date hereof, and (b)  
11 on the date of the filing of the building permit application as to all other new development.  
12 The rate shall be established as a current estimate of the total cost incurred by the City and  
13 County providing the additional peak-period Municipal Railway transit capacity necessitated  
14 by the public transit service needs generated by office uses in the new development over its  
15 estimate useful life.

16           B.     No city official or agency including the ~~Bureau~~ Department of Building  
17 Inspection ("DBI") may issue an ~~certificate of final completion and occupancy initial site or~~  
18 ~~building permit~~ certificate of final completion and occupancy for any new development in the  
19 Downtown Area subject to the fee until it has received notification from the Treasurer ~~evidence of~~  
20 ~~payment of that~~ the Transit Impact Development Fee (or of the initial installment if installment  
21 payment is permitted pursuant to Section 38.4) as set in accordance with Section 38.8 of this  
22 Chapter has been paid.

23           C.     Except as provided in Section 38.4(D) herein, the fee imposed by this  
24 ordinance shall be payable with respect to (1) all new developments in the Downtown Area for  
25 which building or site permits are issued on or after ~~the effective date of this ordinance~~ June 5,

1 1981, (2) such new developments in the Downtown Area for which building permits were  
2 issued prior to ~~the effective date of this ordinance~~ June 5, 1981 where the developers had, in  
3 receiving approval by the City Planning Commission, committed themselves to pay a  
4 reasonable fee or participate in an assessment district or other financing mechanism designed  
5 to enable the City and County to provide and operate additional peak-period public transit  
6 service necessary to accommodate the additional number of peak-period public transit service  
7 person-trips generated by office use in the new development, and (3) all other new  
8 developments in the Downtown Area for which building permits were issued prior to ~~the~~  
9 ~~effective date of this ordinance~~ June 5, 1981 but which had not received a certificate of final  
10 completion and occupancy prior to ~~the effective date of this ordinance~~ that date.

11 D. The fee imposed by this ordinance shall not be payable with respect to  
12 new construction or the addition, alteration, conversion, enlargement, extension, or  
13 rehabilitation of an existing structure for which a valid building permit was issued prior to ~~the~~  
14 ~~effective date of this ordinance~~ (June 5, 1981), if:

15 (1) No commitment was made to pay a reasonable fee or participate in an  
16 assessment district or other financing mechanism designed to enable the City and County to  
17 provide and operate additional peak-period public transit service as specified above; and

18 (2) One or more of the following occurred prior to June 5, 1981:

19 (a) In the case of new construction or the addition, alteration, conversion,  
20 enlargement, extension or rehabilitation of an existing building involving building on vacant  
21 land, whether previously occupied or not, the site or portion thereof on which the new building  
22 or addition, alteration, conversion, enlargement, extension or rehabilitation of an existing  
23 building is to be located has been fully prepared and the first structural element has been  
24 erected thereon or the foundation has been completed.

25

1 (b) In the case of addition, alteration, conversion, enlargement, extension or  
2 rehabilitation of an existing building not otherwise described in paragraph (1) above, any work  
3 has been performed to change the configuration of space in the existing structure by the  
4 movement of walls or otherwise.

5 (c) In the case of a conversion space within an existing structure not  
6 requiring any physical changes nor a building permit, the space is first occupied for office use.

7 E. As to those new developments for which building *or site* permits are  
8 issued on or after ~~the effective date of this ordinance June 5, 1981, but prior to [September 2,~~  
9 ~~2002]~~, the Transit Impact Development Fee is payable on the earliest of the following dates:

10 (1) The date when 50 percent of the net rentable area of the project has  
11 been occupied;

12 (2) The date of issuance of the first temporary permit of occupancy with  
13 respect to any office use in the new development;

14 (3) The date of issuance of a final certificate of occupancy.

15 F. Upon payment of the fee in full to the Treasurer and upon request of the  
16 sponsor, the Treasurer shall issue a certification that the fee has been paid. The sponsor  
17 shall present such certification to DBI prior to the issuance of the first certificate of occupancy  
18 for the development project. DBI shall provide notice in writing to the Treasurer and the  
19 Planning Department at least five business days prior to issuing the first certificate of  
20 occupancy for any development project subject to this Section. DBI may not issue a  
21 certificate for occupancy for any new development in the downtown area until it has received  
22 notice from the Municipal Transportation Agency of the final determination of the amount of  
23 the Transit Impact Development Fee to be paid, and the sponsor has provided DBI with  
24 certification from the Treasurer that the fee has been paid.  
25

1           (G)   (1)   As to those developments subject to the Transit Impact  
2   Development Fee for which building permits have been issued prior to ~~the effective date of this~~  
3   ~~ordinance June 5, 1981~~, the Transit Impact Development Fee shall be payable on ~~the effective~~  
4   ~~that date of this ordinance~~ unless on that date none of the following has occurred:

5                   (a)   The date when 50 percent of the net rentable area of the project has  
6   been occupied;

7                   (b)   Eight months after the date of issuance of the first temporary permit of  
8   occupancy with respect to any office use in the new development;

9                   (c)   The date of issuance of a final certificate of occupancy; and

10                  (d)   The owner or developer has elected to make installment payments.

11                  (2)   If none of the foregoing has occurred on ~~the effective date of this ordinance~~  
12   ~~June 5, 1981~~, the Transit Impact Development Fee shall be due when the earliest of the  
13   following occurs:

14                   (a)   The date when 50 percent of the net rentable area of the project has  
15   been occupied;

16                   (b)   The date of issuance of the first temporary permit of occupancy with  
17   respect to any office use in the new development;

18                   (c)   The date of issuance of a final certificate of occupancy.

19                  (3)   By electing to defer payment by delivery to the City and County a written  
20   election acknowledging the obligation therefor, the owner of the new development may  
21   obligate itself to pay the fee in monthly installments of interest only, at the rate of one percent  
22   per month, for a period of five years, and thereafter in level monthly payments of principal and  
23   interest, at the rate of one percent per month on the outstanding balance amortizing over (1)  
24   the remaining useful life of the development, or (2) 30 years, whichever is the shorter, such  
25

1 payments to be made on or before the first day of each calendar month during the payment  
2 period.

3 (4) The first monthly installment of the fee (if monthly installments are to be  
4 made) shall be due on the first day of the first calendar month following the date the fee would  
5 otherwise become due and such first payment shall be prorated according to the number of  
6 days by which the due date follows the date the fee would otherwise become due.

7 ~~G. As to those new developments for which building or site permits are issued on or~~  
8 ~~after [September 2, 2002], the Transit Impact Development Fee is due and payable prior to~~  
9 ~~issuance of the initial building or site permit for the project.~~

#### 10 **SEC. 38.5. TRANSIT IMPACT DEVELOPMENT FEE SCHEDULE.**

11 This Transit Impact Development Fee Schedule is set at an actuarially sound  
12 level to ~~insure~~ ensure that the proceeds from the Transit Impact Development Fee from each  
13 new development is sufficient, including such earnings as may be derived from investment of  
14 all proceeds and amortization thereof, to pay for all capital and operating costs incurred in  
15 providing and operating additional required peak-period public transit service capacity, over  
16 the life of such new development; without, however, exceeding \$5 per square foot.

17 The following principals have been and, in the future, shall be observed in  
18 calculating the amount of the Fee:

19 (a) The times during the day which constitute the peak-period shall be  
20 determined functionally as the period of time during which a decision to add additional  
21 scheduled vehicle runs would require Muni to purchase or lease additional vehicles because  
22 the existing available fleet is fully committed in the sense that vehicles are actually in revenue  
23 service, being held for deployment later in the peak-period, in reserve, or scheduled for repair  
24 or preventive maintenance.

25

1 (b) State, federal and private operating and capital subsidies for the cost of  
2 providing additional peak-period service shall be assumed only when and to the extent that  
3 receipt of such subsidies is reasonably probable.

4 (c) The calculation of future costs of providing service for additional  
5 passengers during the peak-periods should assume no increase in the level of crowding for  
6 the system as a whole or material decreases in the frequency of service.

7 (d) The cost of electricity shall be calculated based on the price which the  
8 City could receive for such power were it sold to PG&E assigned customers rather than the  
9 cost at which it is furnished to the Municipal Railway by the Hetch Hetchy Water and Power  
10 Department.

11 (e) Costs and revenue attributable to trips taken outside the peak-periods by  
12 office workers and visitors shall not be included.

13 (f) In calculating the revenue from additional peak-period trips, a weighted  
14 average fare (reflecting the frequency of trips paid by for cash fares as opposed to fast  
15 passes) shall be estimated. In making this calculation, the average fare for a fast pass trip  
16 shall be determined by dividing the cost of a fast pass by an estimate of the total number of  
17 trips per month (whether or not taken in the peak-period) which will be taken by a fast pass  
18 purchaser. In projecting future revenues, peak-period revenue shall be assumed to increase  
19 at the same rate as peak-period operating costs.

20 (g) Where feasible, actual information for the fiscal year for which the fee is  
21 being calculated should be used. Where estimates must be made, those estimates should be  
22 based on such information as the ~~General Manager of the Public Utilities Commission~~ Director or  
23 his or her delegate considers reasonable for the purpose. Possible changes in the operation  
24 or productivity of the Municipal Railway shall be taken into account only if such changes are  
25 the announced policy of the Municipal Railway or the ~~Public Utilities Commission~~ Municipal

1 Transportation Agency and the impact of such change on peak-period costs or revenues can be  
2 estimated with reasonable certainty.

3 The Transit Impact Fee Schedule shall be as follows:  
4 FOR EACH GROSS SQUARE FOOT OF OFFICE USE IN NEW DEVELOPMENT IN THE  
5 DOWNTOWN AREA, \$5.00\*.

6 \*Formula fee rate calculated to be in excess of \$5.00; limited to \$5.00.

7 **SEC. 38.6. ADJUSTMENTS TO AND REVIEW OF THE TRANSIT IMPACT**  
8 **DEVELOPMENT FEE SCHEDULE.**

9 The Transit Impact Development Fee Schedule as set forth in Section 38.5 shall  
10 be reviewed annually by the Board, or more often as it may deem necessary, to insure that,  
11 subject to the limit of \$5 per square foot, the fee accurately measures the cost of adding,  
12 operating, and maintaining the additional peak- period public transit service required by office  
13 uses in new development in the Downtown Area.

14 In determining the number of peak-period person-trips generated annually by  
15 office uses in new developments in the Downtown Area the Board shall obtain a report from  
16 the City Planning Commission. Such report shall estimate the number of peak-period person-  
17 trips generated annually per gross square foot of office use in new developments.

18 The Board shall obtain a report from the ~~General Manager of Public Utilities~~  
19 Director regarding the then- current cost per peak-period Municipal Railway person-trip  
20 necessary to provide the expanded public transit services required by new development. The  
21 ~~General Manager~~Director shall also report the estimated useful life in years of new  
22 development, and may recommend different useful-life categories if deemed necessary or  
23 desirable to ensure a fair and accurate fee schedule.

24 The ~~General Manage~~ Director shall also report the projected annual increases in  
25 the cost per peak-period Municipal Railway person-trip necessary to provide the necessary



1 additional transit services during the estimated useful lives of new developments. Finally, the  
2 ~~General Manager~~ Director shall report the estimated annual rate of return on the proceeds of  
3 this fee which would be invested prior to their use to provide the necessary additional transit  
4 services during the useful lives of new developments.

5           After receiving these reports and making them available for public distribution,  
6 the Board of Supervisors shall conduct a public hearing in which it shall consider these  
7 reports, hear testimony from any interested members of the public and receive such other  
8 evidence as it may deem necessary. At the conclusion of that hearing the Board shall  
9 determine the number of peak-period person-trips of the Municipal Railway generated  
10 annually per gross square foot of office use in new development. The Board shall also  
11 determine whether differing categories of useful lives expressed in years should be used to  
12 ensure a fair and accurate fee schedule; and, if so, what the different categories should be.  
13 The Board shall then determine the current cost per peak-period Municipal Railway person-  
14 trip for the additional peak-period service necessary to serve new developments. The Board  
15 shall also determine the appropriate annual rate of increase of the cost of providing additional  
16 peak-period Municipal Railway person-trips and the appropriate annual rate of return on the  
17 invested proceeds of this fee.

18           The Board shall then establish a Transit Impact Development Fee Schedule  
19 expressed in terms of a sum per gross square foot for office use in new developments using  
20 the general formula: annual peak- period Municipal Railway person-trips per gross square foot  
21 times current cost per additional peak-period Municipal Railway person-trip times the present  
22 value factor appropriate to the difference between the annual rate of cost increases; and  
23 return on invested funds over the useful lives of new developments, establishing as many  
24 separate rates as are deemed appropriate to the determinations of useful life categories.

25

1           The rates of the fee schedule shall be set at an actuarially sound level to insure  
2 that the proceeds will be sufficient to pay for all capital and operating costs incurred in  
3 providing and operating additional required peak-period capacity, including such earnings as  
4 may be derived from investment of the proceeds and amortization thereof, over the life of  
5 such new developments; provided, however, that said sum may not, for any category of useful  
6 life, exceed \$5 per square foot.

7           In the event that the City and County shall impose and collect any additional  
8 fees or assessments specifically to recover the costs of transit services, including transit  
9 services the cost of which are included in the fee imposed by Section 38.4, the owner of a  
10 development for which the Transit Impact Development Fee has been fully paid shall annually  
11 receive a credit, up to the total amount of such fees or assessments, of that portion of the  
12 prorated annual amount of the Transit Impact Development Fee equal to those costs of transit  
13 services included in such fees or assessments which are also included in the Transit Impact  
14 Development Fee: The prorated annual amount of the Transit Impact Development Fee is  
15 obtained by dividing the total Transit Impact Development Fee already paid by the estimated  
16 useful life of the development, in years.

17           The portion credited against the such fees or assessments shall be determined  
18 by comparing those costs included in the Transit Impact Development Fee and those included  
19 in such fees or assessments.

20           In the event that the City and County shall impose and collect any additional  
21 fees or assessments specifically to recover the costs of transit services, including transit  
22 services the cost of which are included in the fee imposed by Section 38.4, the owner of a  
23 development for which the Transit Impact Development Fee is being paid in installments shall  
24 annually receive a credit, up to the total amount of such fees or assessments, for that portion  
25 of such annual installment, whether interest only or principal and interest, equal to those costs

1 of transit services included in such fees or assessments which are also included in the Transit  
2 Impact Development Fee.

3 In the event the City and County shall impose and collect any additional fees or  
4 assessments specifically to recover the costs of transit services, including transit services the  
5 cost of which are included in the fee imposed by Section 38.4, the owner of a development for  
6 which the Transit Impact Development Fee will be due but has not been paid shall receive a  
7 credit against the development fee otherwise due in an amount equal to that portion of the  
8 Transit Impact Development Fee equal to the value of those costs of transit services included  
9 in such fees or assessments which are also included in the Transit Impact Development Fee.

10 **SEC. 38.8. SETTING OF FEE.**

11 (a) ~~This subsection shall apply where the initial site or building permit for a~~  
12 ~~development is issued on or before September 2, 2002.~~ Each *developer sponsor*, prior to  
13 obtaining a building *or site* permit for any new development in the downtown area after the  
14 effective date of this ordinance, shall file with the *General Manager of the Public Utilities*  
15 *Commission Director*, on such form as he *or she* may develop, a report indicating the number of  
16 gross square feet of the new development intended for office use. Each *developer sponsor* of a  
17 new development for which a building permit was issued prior to ~~the effective date of this~~  
18 ~~ordinance June 5, 1981~~ and for which a final certificate of occupancy had not been issued prior  
19 to ~~the effective date of this ordinance June 5, 1981~~ shall file the same report prior to obtaining a  
20 final certificate of occupancy. The *General Manager Director* shall determine the number of  
21 gross square feet of office use to which the Transit Impact Development Fee Schedule  
22 applies, disregarding the number of gross square feet of office use being retained, determine  
23 the useful life category if the Fee Schedule includes useful life categories, apply the fee  
24 schedule, and determine the fee which reflects the additional cost of peak-period public transit  
25 service generated by the office use in the new development. The applicant shall be notified of

1 the ~~General Manager's~~Director's determination in writing. The ~~General Manager~~Director shall  
2 mail a copy of his or her determination to the applicant. The applicant may appeal the  
3 determination of the number of gross square feet of office use subject to the fee, the  
4 adjustment factor described in Section 38.8.5(b), or the useful-life category if the fee schedule  
5 includes useful life categories, to the ~~Public Utilities Commission~~ Board of Directors of the  
6 Municipal Transportation Agency in order to reduce the amount of the fee obligation. If the  
7 applicant notifies the ~~General Manager~~Director of his or her acceptance of the determination, or  
8 does not appeal to the ~~Public Utilities Commission~~ Board of Directors of the Municipal  
9 Transportation Agency within 15 days of the date of personal service or mailing of notice of the  
10 ~~General Manager's~~Director's determination, the ~~General Manager's~~Director's determination shall  
11 be final, and a notice of such determination shall be provided to the Central Permit BureauDBI  
12 and the Treasurer. ~~The Central Permit Bureau~~ DBI may not issue a site or building permit for any  
13 new development in the downtown area until it has received notice from the ~~General Manager~~  
14 ~~of the Public Utilities Commission or the Public Utilities Commission~~ Municipal Transportation  
15 Agency of the final determination of the amount of the Transit Impact Development Fee to be  
16 paid.

17 ~~(b)~~—The following requirements shall apply where the initial site or building permit for  
18 any new development subject to this ordinance is issued on or after September 2, 2002.

19 ~~(1)~~—Each sponsor, prior to obtaining a building or site permit for any new  
20 development in the downtown area, shall file with the Director, on such form as he or she may  
21 develop, a report indicating the number of gross square feet of the new development intended  
22 for office use. The Director shall determine the number of gross square feet of office use to  
23 which the Transit Impact Development Fee Schedule applies, disregarding the number of  
24 gross square feet of office use being retained, determine the useful life category if the Fee  
25 Schedule includes useful life categories, apply the fee schedule, and determine the fee which

1 reflects the additional cost of peak-period public transit service generated by the office use in  
2 the new development. The Director shall mail a written copy of his or her determination to the  
3 applicant. The applicant may appeal the determination of the number of gross square feet of  
4 office use subject to the fee, the adjustment factor described in Section 38.8.5(b), or the  
5 useful-life category if the fee schedule includes useful-life categories, to the Board of Directors  
6 of the Municipal Transportation Agency in order to reduce the amount of the fee obligation. If  
7 the applicant notifies the Director of his or her acceptance of the determination, or does not  
8 appeal to the Board of Directors of the Municipal Transportation Agency within 15 days of the  
9 date of personal service or mailing of notice of the Director's determination, the Director's  
10 determination shall be final. The Director shall provide notice of such determination to DBI  
11 and the Treasurer within 30 days from the date the determination is final. Upon payment of  
12 the fee in full to the Treasurer and upon request of the sponsor, the Treasurer shall issue a  
13 certification that the fee has been paid. The sponsor shall present such certification to DBI  
14 prior to the issuance of the first site or building permit for the development project. DBI shall  
15 provide notice in writing to the Treasurer and the Planning Department at least five business  
16 days prior to issuing the first site or building permit for any development project subject to this  
17 Section. DBI may not issue a site or building permit for any new development in the  
18 downtown area until it has received notice from the Municipal Transportation Agency of the  
19 final determination of the amount of the Transit Impact Development Fee to be paid, and the  
20 sponsor has provided DBI with certification from the Treasurer that the fee has been paid.

21 ~~(2)~~—Where DBI inadvertently issues a site or building permit without payment of the  
22 fee, DBI shall not issue any certificate of final completion and occupancy for the project  
23 without notification from the Treasurer that the fee required by this Section has been paid.

24 ///

25 ///

1           **SEC. 38.8.5. CREDITS FOR PRIOR USE.**

2           In determining the number of gross square feet of office use to which the Transit  
3           Impact Development Fee Schedule applies, the ~~General Manager~~Director shall provide for the  
4           following credits:

5           a.       For prior office uses, there shall be credit for the number of gross square  
6           feet of office use being eliminated as part of the project.

7           b.       For prior uses other than office use, there shall be a credit for the number  
8           of gross square feet of nonoffice use being eliminated multiplied by an adjustment factor to  
9           reflect the difference between office building peak-period Municipal Railway trip generation  
10          rates and peak-period Municipal Railway trip generation rates for other uses. The adjustment  
11          factor shall be determined by the ~~General Manager~~Director as follows:

12          (1)       The adjustment factor shall be a fraction, the numerator of which shall be  
13          the peak-period Municipal Railway trip generation rate which the ~~General Manager~~Director  
14          shall determine, in consultation with the Department of City Planning applies to the class of  
15          prior use being eliminated by the project.

16          (2)       The denominator of the fraction shall be the peak-period Municipal  
17          Railway trip generation rate for office use used in the most recent calculation of the Transit  
18          Impact Development Fee Schedule approved by the Board of Supervisors.

19          (3)       Notwithstanding the foregoing, the adjustment factor shall not exceed 1.

20           **SEC. 38.9. RULES AND REGULATIONS.**

21           The ~~Public Utilities Commission~~ Municipal Transportation Agency is empowered to  
22           adopt such rules, regulations, and administrative procedures as it deems necessary to  
23           implement this Chapter, including the determination, collection, refund, and utilization of the  
24           proceeds, of the Transit Impact Development Fee.

1           **SEC. 38.10. NONPAYMENT, RECORDATION OF NOTICE OF FEE AND NOTICE**  
2 **OF DELINQUENCY, ADDITIONAL REQUEST; NOTICE OF ASSESSMENT OF INTEREST**  
3 **AND INSTITUTION OF LIEN PROCEEDINGS FOR PENDING PROJECTS.**

4           The following procedures shall govern development projects subject to this ordinance  
5 for which the initial site or building permit was issued prior to September 2, 2002.

6           A.     Upon the ~~General Manager's~~Director's determination that a development is  
7 within the transit impact development fee boundaries as defined by Section 38.1(d) of this  
8 ordinance, ~~he~~the Director shall notify the Treasurer that the development is subject to the fee. The  
9 Treasurer may cause the County Recorder to record a notice that such development is subject  
10 to the Transit Impact Development Fee. ~~He~~The Treasurer shall serve or mail a copy of such  
11 notice to the persons liable for payment of the fee and the owners of the real property  
12 described in the notice. The notice shall include (1) a description of the real property subject  
13 to the fee; (2) a statement that the development is within the transit impact development fee  
14 downtown area boundaries as defined by Section 38.1(d) of this ordinance and is subject to  
15 the imposition of the fee; and (3) a statement that the amount of the fee to which the building  
16 is subject is determined pursuant to San Francisco Administrative Code Section 38.8 and  
17 related provisions of said ordinance.

18           B.     When the Director determines that the fee is due, the Director shall notify  
19 the Treasurer, who shall send a request for payment to the sponsor.

20           C.     Payment of the transit impact development fee imposed by this ordinance  
21 is delinquent if (1) in the case of a fee not payable in installments the fee is not paid within 30  
22 days of request for payment; (2) in the case of a fee payable in installments the fee  
23 installment is not paid within 30 days of the date fixed for payment.

24           D.     Where the transit impact development fee, not payable in installments  
25 pursuant to Section 38.4 hereof is not paid within 30 days of request for payment and where

1 the transit impact development fee is payable in installments pursuant to Section 38.4 of this  
2 ordinance and any installment is not paid within 30 days of the date fixed for payment;

3 (1) The ~~General Manager~~ Treasurer or his or her designee may cause the  
4 County Recorder to record a notice of delinquent transit impact development fee which shall  
5 include: (a) The amount of the delinquent fee; (b) the amount of the entire fee as reflected on  
6 the final determination and a statement of whether the fee is payable in installments; (c) the  
7 fee, interest and penalty there due; (d) the interest and penalties that shall accrue on the  
8 delinquent fee if not promptly paid; (e) a description of the real property subject to the fee; (f)  
9 notification that if the fee is not promptly paid proceedings will be instituted before the Board  
10 of Supervisors to impose a lien for the unpaid fee together with any penalties and interest  
11 against the real property described in the delinquency notice; (g) notification of the fee payer's  
12 right to appeal the delinquency determination to the ~~Public Utilities Commission~~ Board of  
13 Directors of the Municipal Transportation Agency within 15 days of the notice to the fee payer.

14 (2) Where the ~~General Manager~~ Treasurer determines to record a notice of  
15 delinquency he or she shall also serve or mail the notice of delinquent transit impact  
16 development fee to the persons liable for the fee and to the owners of the real property  
17 described on the notice.

18 (3) Where a notice of transit impact development fee delinquency has been  
19 recorded and the delinquent fee is paid, or the ~~General Manager's~~ Treasurer's determination of  
20 delinquency is reversed by appeal to the ~~Public Utilities Commission~~ Board of Directors of the  
21 Municipal Transportation Agency or the delinquency is otherwise cured, the ~~General Manager~~  
22 Treasurer shall promptly cause the County Recorder to record a notice that the transit impact  
23 development fee delinquency has been cured. Said notice shall include: (a) Description of the  
24 real property affected; (b) the book and page number of the county record wherein the notice  
25 of delinquency was recorded; (c) the date the notice of delinquency was recorded; (d)



1 notification that the delinquency reflected on the notice of delinquency was cured and the date  
2 of cure; (e) the amount of the entire fee as reflected on the final determination; (f) if applicable,  
3 the amount of the fee paid to effect the cure; and (g) if applicable, a statement that the fee  
4 was payable in installments and specification of the delinquency installments cured; (h) if  
5 applicable, the amount of the fee paid to effect the cure.

6 (4) The ~~General Manager~~ Treasurer shall serve or mail the notice that the  
7 transit impact development fee delinquency has been cured, referred to in Section 38.10B~~D~~(3)  
8 of this ordinance, to the persons liable for the fee and to the owners of the real property  
9 described in such notice.

10 ~~D~~E. Where the transit impact development fee, not payable in installments  
11 pursuant to Section 38.4 hereof is not paid within 30 days of request for payment and where  
12 the transit impact development fee is payable in installments pursuant to Section 38.4 of this  
13 ordinance and the installment is not paid within 30 days of the date fixed for payment, the  
14 ~~General Manager~~ Treasurer or his or her designee shall mail an additional request for payment  
15 and notice to the owner stating the following:

16 (1) If the amount due is not paid within 30 days of the date of mailing the  
17 additional request and notice, interest at the ~~legal~~ rate of one and one-half percent per month or  
18 portion thereof shall be assessed upon the fee or installment due.

19 (2) With respect to both noninstallment and installment fees, if the account is  
20 not current within 60 days of the date of mailing the additional request and notice, the ~~General~~  
21 ~~Manager~~ Treasurer shall institute proceedings to record a ~~special assessment~~ lien in accordance  
22 with Section 38.11 for the entire balance and any accrued interest against the property upon  
23 which the fee is owed.

24 ~~E~~F. Thirty days after mailing the additional request for payment the ~~General~~  
25 ~~Manager~~ Treasurer may assess interest as specified in paragraph 38.10(A)(C)D (1) above.

1 Sixty days after mailing the additional request for payment and notice, the *General Manager*  
2 *Treasurer* may institute lien proceedings as specified in Section 38.11.

3 G. Notwithstanding anything to the contrary in this Chapter, the Municipal  
4 Transportation Agency shall continue to collect payments from any sponsor who has been  
5 paying the fee on an installment basis or pursuant to settlement agreement entered into prior  
6 to September 30, 2002.

7 **SEC. 38.10-1. COLLECTION OF FEE AND IMPOSITION OF INTEREST ON NEW**  
8 **PROJECTS.**

9 The following procedures shall govern development projects subject to this Chapter for  
10 which the initial site or building permit is issued on or after September 2, 2002.

11 (a) — The fee required by this Chapter is due and payable to the Treasurer prior to  
12 issuance of the first building or site permit building or site permit for the office development  
13 project. If, for any reason, the fee remains unpaid following issuance of the permit, any  
14 amount due shall accrue interest at the rate of one and one-half percent per month, or fraction  
15 thereof, from the date of issuance of the permit until the date of final payment.

16 (b) — If, for any reason, the fee remains unpaid following issuance of the permit, the  
17 Treasurer shall institute lien proceedings as specified in Section 38.11.

18 **SEC. 38.11. LIEN PROCEEDINGS; NOTICE.**

19 (a) A. ~~If~~ For projects subject to Section 38.10, if lf payment of the fee not payable in  
20 installments is not received within 30 days following mailing of the additional request and  
21 notice or if with respect to installment payments the account is not brought current within 60  
22 days of the mailing of the additional request and notice, ~~or, for projects subject to Section~~  
23 ~~38.10-1, the fee remains unpaid following issuance of the permit the~~ *General Manager of the*  
24 *Public Utilities Commission* *Treasurer* shall initiate proceedings in accordance with Article XX of  
25 Chapter 10 of the San Francisco Administrative Code to make the entire unpaid balance of

1 the Transit Impact Development Fee, including interest on the unpaid fee or installments, a  
2 lien against all parcels used for the development project. The Treasurer shall send all notices required  
3 by that Article to the owner of the property as well as the sponsor. The Treasurer shall also prepare a  
4 preliminary report notifying the sponsor of a hearing to confirm such report by the Board of  
5 Supervisors at least 10 days before the date of the hearing. The report to the sponsor shall contain the  
6 sponsor's name, a description of the sponsor's development project, a description of the parcels of real  
7 property to be encumbered as set forth in the Assessor's Map Books for the current year, a description  
8 of the alleged violation of this ordinance, and shall fix a time, date, and place for hearing. The  
9 Treasurer shall cause this report to be mailed to the sponsor and each owner of record of the parcels of  
10 real property subject to lien against the property served. Such charges against delinquent accounts  
11 shall be reported to the Board at least once each year. Except for the release of lien recording fee  
12 authorized by Administrative Code Section 10.237, all sums collected by the Tax Collector  
13 pursuant to this ordinance shall be held in trust by the Treasurer and distributed as provided in  
14 Section 38.6 of this Chapter.

15 ~~(b)~~B. Any notice required to be given to a sponsor or owner shall be sufficiently given or  
16 served upon the sponsor or owner for all purposes hereunder if personally served upon the sponsor or  
17 owner or if deposited, postage prepaid, in a post office letterbox addressed in the name of the sponsor  
18 or owner at the official address of the sponsor or owner maintained by the Tax Collector for the  
19 mailing of tax bills or, if no such address is available, to the sponsor at the address of the development  
20 project, and to the applicant for the site or building permit at the address on the permit application.

21 **SEC. 38.45. CHARITABLE EXEMPTIONS.**

22 ~~(a)~~A. When the property or a portion thereof will be exempt from real property  
23 taxation pursuant to California Constitution, Article XIII, Section 4, as implemented by  
24 California Revenue and Taxation Code, Section 214, then the ~~developer~~ sponsor shall not be  
25 required to pay the Transit Impact Development Fee attributed to the net new office space in

1 the exempt property or portion thereof, so long as the property or portion thereof continues to  
2 enjoy the aforementioned exemption from real property taxation.

3 ~~(b)~~B. The Transit Impact Development Fee shall be calculated for exempt  
4 structures in the same manner and at the same time as for all other structures. The ~~developer~~  
5 sponsor may apply to the ~~Public Utilities Commission~~ Municipal Transportation Agency for an  
6 exemption pursuant to the standards set forth herein. In the event the ~~Commission~~ Municipal  
7 Transportation Agency determines that the ~~developer~~ sponsor is entitled to an exemption  
8 under this Section, it shall cause to be recorded a notice advising that the Transit Impact  
9 Development Fee has been calculated and imposed upon the structure and that the structure  
10 or a portion thereof has been exempted from payment of the fee but that if the property or  
11 portion thereof loses its exempt status during the 10-year period commencing with the date of  
12 the imposition of the Transit Impact Development Fee, then the building owner shall be  
13 subject to the requirement to pay the fee.

14 ~~(c)~~C. If within 10 years from the date of the issuance of the Certificate of Final  
15 Completion and occupancy, the exempt property or portion thereof loses its exempt status,  
16 then the property owner shall, within 90 days thereafter, be obligated to pay the Transit Impact  
17 Development Fee, reduced by an amount reflecting the duration of the charitable exempt  
18 status in relation to the useful life estimate used in determining the Transit Impact  
19 Development Fee for that structure. The amount remaining to be paid shall be determined by  
20 recalculating the fee using a useful life equal to the useful life used in the initial calculation  
21 minus the number of years during which the exempt status has been in effect. If the exempt  
22 property or a portion thereof loses its exempt status, the property owner shall notify the  
23 Municipal Transportation Agency within 30 days. Upon being notified or otherwise  
24 determining that the property has lost its exempt status, the Municipal Transportation Agency  
25 shall promptly notify the Treasurer of the change in status.

1                    ~~(d)~~D. In the event a property owner fails to pay a fee within the 90-day period, a  
2 notice for request of payment shall be served by the ~~Public Utilities Commission~~ Treasurer  
3 pursuant to Section 38.10 of this Chapter. Thereafter, upon nonpayment, a lien proceeding  
4 shall be instituted pursuant to Sections 38.11 ~~to 38.17, inclusive,~~ of this Chapter.

5  
6 APPROVED AS TO FORM:  
7 DENNIS J. HERRERA, City Attorney

8 By: \_\_\_\_\_  
9       DAVID A. GREENBURG  
10       Deputy City Attorney

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