

BOARD of SUPERVISORS



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May 17, 2019

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

Dear Commissioners:

On May 14, 2019, Supervisor Haney introduced the following legislation:

File No. 190548

Ordinance amending the Planning Code to update the Jobs Housing Linkage Fee; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

c: John Rahaim, Director
Scott Sanchez, Acting Deputy Zoning Administrator
Corey Teague, Zoning Administrator
Lisa Gibson, Environmental Review Officer
Devyani Jain, Deputy Environmental Review Officer
AnMarie Rodgers, Director of Citywide Planning
Dan Sider, Director of Executive Programs
Aaron Starr, Manager of Legislative Affairs
Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

1 [Planning Code - Jobs Housing Linkage Fee]

2
3 **Ordinance amending the Planning Code to update the Jobs Housing Linkage Fee;**
4 **affirming the Planning Department's determination under the California**
5 **Environmental Quality Act; making findings of consistency with the General Plan,**
6 **and the eight priority policies of Planning Code, Section 101.1; and making**
7 **findings of public necessity, convenience, and welfare pursuant to Planning**
8 **Code, Section 302.**

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

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

17 Section 1. Findings.

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

23 (b) On _____, the Planning Commission, in Resolution No. _____,
24 adopted findings that the actions contemplated in this ordinance are consistent, on
25 balance, with the City's General Plan and eight priority policies of Planning Code
Section 101.1. The Board adopts these findings as its own. A copy of said Resolution

1 is on file with the Clerk of the Board of Supervisors in File No. _____, and is
2 incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning
4 Code amendment will serve the public necessity, convenience, and welfare for the
5 reasons set forth in Planning Commission Resolution No. _____, and the Board
6 incorporates such reasons herein by reference.

7
8 Section 2. The Planning Code is hereby amended by revising Sections 413.1
9 and 413.6 to read as follows:

10 **SEC. 413.1. FINDINGS.**

11 The Board hereby finds and declares as follows:

12 A. Large-scale entertainment, hotel, office, research and development,
13 and retail developments in the City ~~and County of San Francisco~~ have attracted and
14 continue to attract additional employees to the City, and there is a causal connection
15 between such developments and the need for additional housing in the City, particularly
16 housing affordable to households of lower and moderate income. Such commercial
17 uses in the City benefit from the availability of housing close by for their employees.
18 However, the supply of housing units in the City has not kept pace with the demand for
19 housing created by these new employees. Due to this shortage of housing, employers
20 will have difficulty in securing a labor force, and employees, unable to find decent and
21 affordable housing, will be forced to commute long distances, having a negative impact
22 on quality of life, limited energy resources, air quality, social equity, and already
23 overcrowded highways and public transport.

24 B. There is a low vacancy rate for housing affordable to persons of
25 lower and moderate income. In part, this low vacancy rate is due to factors unrelated to

1 large-scale commercial development, such as high interest rates, high land costs in the
2 City, immigration from abroad, demographic changes such as the reduction in the
3 number of persons per household, and personal, subjective choices by households that
4 San Francisco is a desirable place to live. This low vacancy rate is also due in part to
5 large-scale commercial developments which have attracted and will continue to attract
6 additional employees and residents to the City. ~~Consequently, some of the employees~~
7 ~~attracted to these developments are competing with present residents for scarce, vacant~~
8 ~~affordable housing units in the City.~~ Competition for housing generates the greatest
9 pressure on the supply of housing affordable to households of lower and moderate
10 income. In San Francisco, office or retail uses of land generally yield higher income to
11 the owner than housing. Because of these market forces, the supply of these affordable
12 housing units will not be expanded. Furthermore, Federal and State housing finance
13 and subsidy programs are not sufficient by themselves to satisfy the lower and
14 moderate income housing requirements of the City.

15 C. According to a 2016 Jobs-Housing Balance Report by the San Francisco
16 Planning Department, since 1980 the City's residential population and job base both grew
17 steadily (+27% and +32%, respectively), and much faster than the rate of housing production
18 (+17%). As the historical regional job center, San Francisco has the highest ratio of jobs-to-
19 housing units in the Bay Area. The ratio of jobs-to-housing units in San Francisco has remained
20 relatively unchanged since 1980 at about 1.75 jobs per 1 unit of housing.

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

1 E. The City has consistently set housing production goals to address the
2 regional and citywide forecasts for population, households, and employment. Although San
3 Francisco has seen increased housing production each successive decade since the 1970s, the
4 City has not been able to close the gap between its housing production goals and actual
5 production. During the years 1980 through 1995, it was determined that overall housing
6 production in the City should average approximately 2,200 units a year to keep up with the
7 City's share of regional housing demand. As demonstrated in the "Jobs Housing Nexus
8 Analysis" prepared by Keyser Marston Associates, Inc. in June 1997, construction of
9 new housing units in the City decreased to a low of 288 units in 1993 compared to an
10 average annual production of 1,330 units during the years 1980 through 1995. During
11 this same time period, affordable housing production in the City averaged approximately 340
12 units per year. Overall housing production in the City should average approximately 2,200 units
13 a year to keep up with the City's share of regional housing demand.

14 F. Demand for affordable housing has continued to rise. During the years
15 2000 through 2015, the demand for new affordable housing was approximately 1,300 units per
16 year. As demonstrated in the 2018 Jobs Housing Balance Report, between 2008 through 2018,
17 the City produced only 657 net new affordable units per year, which represented 23.5% of
18 housing production during that time period. From 2008 to 2018, the City produced 27,995 net
19 new units, or approximately 2,780 a year. According to the 2018 Housing Inventory Report, this
20 indicates a slight decrease in housing production over the decade measured. In 2018, the net
21 addition of units represented a 42% decrease from 2017.

22 G. For the years 2015 through 2022, housing production targets in the City's
23 2015 Housing Element increased, calling for 3,849 units a year. Of those, 57%, or 2,178 new
24 units per year, should be affordable to meet a growing demand.

1 H.D. There is a continuing shortage of low- and moderate-income
2 housing in San Francisco. Although the 2018 production numbers were only slightly smaller
3 than the 10-year average of net additional units, affordable housing production in 2018 was
4 23% below the five-year average of 840 affordable units. In 2018, affordable housing production
5 totaled 645 units, representing a 56% decrease from 2017. Affordable housing production in the
6 City averaged approximately 340 units per year during the years 1980 through 1995. However,
7 the demand for new affordable housing will be approximately 1,300 units per year for the years
8 2000 through 2015.

9 I.E. Objective 1, Policy 7 of the Residence Element of the San
10 Francisco General Plan calls for the provision of additional housing to accommodate the
11 demands of new residents attracted to the City by expanding employment opportunities
12 caused by the growth of large-scale commercial activities in the City. Such development
13 projects should assist in meeting the City's housing needs by contributing to the
14 provision of housing.

15 J.F. It is desirable to impose the cost of the increased burden of
16 providing housing necessitated by large-scale commercial development projects directly
17 upon the sponsors of the development projects by requiring that the project sponsors
18 contribute land or money to a housing developer or pay a fee to the City to subsidize
19 housing development as a condition of the privilege of development and to assist the
20 community in solving those of its housing problems generated by the development.

21 K. Impact fees are considered to be a charge on new development to help
22 fund and pay for the construction or needed expansion of offsite capital improvements. These
23 fees are usually implemented to help reduce the economic burden on local jurisdictions that are
24 trying to deal with population growth within the area.

1 L-G. Until a new "Jobs Housing Nexus Analysis" is released, the required
2 housing exaction shall be based upon formulas derived in the report entitled "Jobs
3 Housing Nexus Analysis" prepared by Keyser Marston Associates, Inc. in June 1997.
4 The "Jobs Housing Nexus Analysis" demonstrates the validity of the nexus between
5 new, large-scale entertainment, hotel, office, research and development, and retail
6 development and the increased demand for housing in the City, and the numerical
7 relationship between such development projects and the formulas for provision of
8 housing set forth in Section 413.1 *et seq.*

9 M. The Keyser Marston "Jobs Housing Nexus Analysis" determined a nexus
10 maximum based on: 1) an assumed office density of 275 square feet per employee; 2) the
11 coefficients expressing the number of housing units by affordability level that are linked to each
12 square foot of building area; and 3) the affordability gap for each income category.

13 NH. In-lieu fees for new office construction to the City's Office Affordable
14 Housing Production Program, the predecessor to the Jobs Housing Linkage Program, were
15 last increased by ordinance in 1994/1997 to \$19.96/\$7.05 per square foot, based on the
16 1997 "Jobs Housing Nexus Analysis." "Analysis of the OAHPP Formula prepared by the
17 Department of City Planning in November 1994." Existing law provides for potential increases
18 to such fees up to 20% annually based on increases to the Average Area Purchase Price Safe
19 Harbor Limitations for New Single-Family Residences for the San Francisco Primary
20 Metropolitan Statistical Area ("PMSA") published by the Internal Revenue Service.

21 O. Planning Code Section 413.6(b) authorizes MOHCD to develop an
22 appropriate methodology for indexing the fee based on adjustments in the costs of constructing
23 housing and in the price of housing in San Francisco consistent with the indexing for the
24 Residential Inclusionary Affordable Housing Program in lieu fee set out in Section 415.6.
25 Between 1997 and 2018, MOHCD indexed the Jobs-Housing Linkage Fee using the Engineering

1 News & Record's Construction Cost Index ("CCI"). During this time, CCI increased 180%. As
2 of May 7, 2019, the Jobs-Housing Linkage Fee for new Office development was \$28.57 per
3 square foot.

4 PI. As of 2000, ~~The Internal Revenue Service last published its Average~~
5 ~~Area Purchase Price Safe Harbor Limitations for New Single-Family Residences for the~~
6 ~~San Francisco PMSA in 1994. The 2019 report published by the Internal Revenue Service~~
7 ~~indicates that the 2019 updated purchase price figures for new construction are \$726,537, a~~
8 ~~191.8% increase over the 1994 purchase price. In 1998 and again in 2000, the City contracted~~
9 ~~for an analysis of average area purchase price for the San Francisco PMSA, in lieu of IRS~~
10 ~~publication of the index. The 2000 report prepared by Vernazza Wolfe Associates for mortgage~~
11 ~~purposes, which was certified by Orrick, Herrington & Sutcliffe, indicates that the 1999 updated~~
12 ~~purchase price figures for new construction are \$431,568, a 73.3% increase over the 1994~~
13 ~~purchase price of \$248,969.~~

14 Q. Objective 8, Policy 2 of the Residence Element of the San Francisco
15 General Plan encourages the Commission to periodically reassess requirements placed on
16 large-scale commercial development under the Office Affordable Housing Production Program
17 ("OAHPP"), predecessor to the Jobs-Housing Linkage Program.

18 J. If OAHPP fees had been increased consistent with these increases in the
19 Average Area Purchase Price Safe Harbor Limitations for New Single-Family Residences for the
20 San Francisco PMSA, the OAHPP in-lieu fee for net new office construction would be \$54.80
21 12.22 per square foot, or approximately 54% of the maximum derived by the "Jobs Housing
22 Nexus Analysis" prepared by Keyser Marston Associates, Inc. in June 1997.

23 RK. Since preparation of the 1997 Keyser Marston "Jobs Housing Nexus
24 Analysis," the Bay Area has seen dramatic increases in land acquisition costs for
25 housing, the cost of new housing development and the affordability gap for low to

1 moderate income workers seeking housing. Commute patterns for the region have also
2 changed, with more workers who work outside of San Francisco seeking to live in the
3 City, thus increasing demand for housing and decreasing housing availability.

4 SL. Because the shortage of affordable housing created by large-scale
5 commercial development in the City can be expected to continue for many years, it is
6 necessary to maintain the affordability of the housing units constructed by developers of
7 such projects under this program. In order to maintain the long-term affordability of such
8 housing, the City is authorized to enforce affordability requirements through
9 mechanisms such as shared appreciation mortgages, deed restrictions, enforcement
10 instruments, and rights of first refusal exercisable by the City at the time of resale of
11 housing units built under the program.

12 T. The current fee is inadequate because it is based off of assumptions about
13 office space and housing demand from 1997. In 2016-2017, the City retained a consultant to
14 study office worker densities in San Francisco. The draft study findings demonstrate that the
15 average worker density is likely around 240 square feet per employee, a 12.7% decrease in
16 square footage per employee from 1994. This indicates a downward trend in per-employee space
17 meaning that there are more employees per square foot, which creates demand for additional
18 housing based on impact from new office development. These trends also necessitate an update
19 in the Jobs-Housing Nexus Analysis.

20 M. — Objective 8, Policy 2 of the Residence Element of the San Francisco
21 General Plan encourages the Commission to periodically reassess requirements placed on
22 large-scale commercial development under the Office Affordable Housing Production Program
23 ("OAHPP"), predecessor to the Jobs-Housing Linkage Program.

24 * * * *

| | |
|----------------------------|---------|
| Small Enterprise Workspace | \$15.69 |
|----------------------------|---------|

TABLE 413.6B
FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE

| <i>Previous Use</i> | <i>New Use</i> | <i>Fee per Gross Square Foot</i> |
|---|---|---|
| Entertainment, Hotel, Integrated PDR, Office, Research & Development, Retail, or Small Enterprise Workspace | Entertainment, Hotel, Integrated PDR, Office, Retail, or Small Enterprise Workspace | \$0.00 |
| PDR which received its First Certificate of Occupancy on or before April 1, 2010 | Entertainment, Hotel, Integrated PDR, Office, Research & Development, Retail, or Small Enterprise Workspace | Use Fee from Table 413.6A minus \$14.09 |
| Institutional which received its First Certificate of Occupancy on or before April 1, 2010 | Entertainment, Hotel, Integrated PDR, Office, Research & Development, Retail, or Small Enterprise Workspace | \$0.00 |

| | | |
|---|--|--------------------------|
| 1 2 3 4 Institutional or PDR which received its First Certificate of Occupancy on or before April 1, 2010 | Institutional, PDR, Research & Development, Residential | \$0.00 |
| 5 6 7 8 Institutional or PDR which received its First Certificate of Occupancy after April 1, 2010 | Any | Use Fee from Table 413.6 |
| 9 10 11 12 13 14 Residential | Entertainment, Hotel, Integrated PDR, Office, PDR, Research & Development, Retail, or Small Enterprise Workspace | Use Fee from Table 413.6 |

15 No later than January 1 of each year, MOHCD shall adjust the in-lieu fee
16 payment option. No later than November 1 of each year, MOHCD shall provide the
17 Planning Department, DBI, and the Controller with information on the adjustment to the
18 in-lieu fee payment option so that it can be included in the Planning Department's and
19 DBI's website notice of the fee adjustments and the Controller's Citywide Development
20 Fee and Development Impact Requirements Report described in Section 409(a).
21 MOHCD is authorized to develop an appropriate methodology for indexing the fee,
22 based on adjustments in the costs of constructing housing and in the price of housing in
23 San Francisco consistent with the indexing for the Residential Inclusionary Affordable
24 Housing Program in lieu fee set out in Section 415.6. The method of indexing shall be
25 published in the Procedures Manual for the Residential Inclusionary Affordable Housing

1 Program. In making a determination as to the amount of the fee to be paid, the
2 Department shall credit to the sponsor any excess Interim Guideline credits or excess
3 credits which the sponsor elects to apply against its housing requirement.

4 (be) Any in-lieu fee required under this Section is due and payable to
5 the Development Fee Collection Unit at DBI at the time of and in no event later than
6 issuance of the first construction document, with an option for the project sponsor to
7 defer payment to prior to issuance of the first certificate of occupancy upon agreeing to
8 pay a deferral surcharge that would be deposited into the Citywide Affordable Housing
9 Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

10 * * * *

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

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

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By:

24 
AUSTIN M. YANG
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Jobs Housing Linkage Fee]

Ordinance amending the Planning Code to update the Jobs Housing Linkage Fee; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302

Existing Law

Consistent with the California Mitigation Fee Act, the Planning Code provides that certain commercial developments must pay a Jobs-Housing Linkage fee.

Amendments to Current Law

This legislation would raise the Jobs-Housing Linkage fee for new Office development to \$38.00.

Background Information

The Jobs-Housing Linkage program quantifies the demand for affordable housing for households earning up to 120% of area median income created by construction of new or expanded non-residential buildings adding more than 25,000 square feet of development. The program is supported by a nexus study that was prepared by Keyser Maston Associates, Inc. This fee is consistent with that nexus.

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