

1 [Planning Code - Development Impact Fees and Requirements for Non-Residential to
2 Residential Conversion Projects]

3 **Ordinance amending the Planning Code to: 1) exempt certain types of projects in the**
4 **downtown area that replace non-residential uses with residential uses from**
5 **development impact fees and requirements, including the Inclusionary Housing fee; 2)**
6 **create a process for previously approved projects to request modification to conditions**
7 **of approval related to development impact fees, subject to delegation by the Planning**
8 **Commission; and 3) remove the application deadline from the Commercial to**
9 **Residential Adaptive Reuse Program; affirming the Planning Department's**
10 **determination under the California Environmental Quality Act; making findings of**
11 **consistency with the General Plan, and the eight priority policies of Planning Code,**
12 **Section 101.1; and making findings of public necessity, convenience, and welfare**
13 **pursuant to Planning Code, Section 302.**

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

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

22 Section 1. Land Use and Environmental Findings.

23 (a) The Planning Department has determined that the actions contemplated in this
24 ordinance comply with the California Environmental Quality Act (California Public Resources
25 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
2 determination.

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

8

9 Section 2. Legislative Findings.

10 (a) San Francisco's Regional Housing Needs Allocation in the current 2023-2031
11 Housing Element cycle is 82,069 units over eight years, which is more than 2.5 times the
12 allocation of the previous eight-year cycle.

13 (b) The City's Chief Economist has estimated that approximately 5,000 new market-
14 rate housing units per year would be required to keep housing prices in San Francisco
15 consistent with the general rate of inflation.

16 (c) At the same time, demand for office space has declined and commercial vacancy
17 rates have increased. The impacts to office space demands wrought by the COVID-19
18 pandemic – most notably the shift toward remote work – persist even as public health threats
19 have waned. These changes have been particularly prominent in the Greater Downtown Area,
20 defined as the North Financial District, South Financial District, Mid-Market, Union Square,
21 Jackson Square, Mission Bay/China Basin, North Waterfront, Showplace Square, South of
22 Market, and the Van Ness Corridor (collectively, "Downtown"). In the Greater Downtown Area,
23 the office sector has experienced a fivefold increase in total vacancy rate between the first
24 quarter of 2019 and the first quarter of 2024.

25

1 (d) To address the twin problems of under-utilized office space and lack of affordable
2 and available housing in San Francisco, a recent report from the Board of Supervisors'
3 Budget and Legislative Analyst, dated January 6, 2023, urges City policymakers to consider
4 programs to incentivize the conversion of office space into residential units ("BLA Report").
5 The BLA Report identifies various policy options to incentivize the conversion of office
6 buildings, including reducing regulatory hurdles, such as protracted approval timeframes;
7 exempting projects from or relaxing various standards in the Planning Code; and offering
8 financial incentives to offset the costly architectural and engineering challenges of these
9 conversions.

10 (e) San Francisco is also the economic hub for the Bay Area. Prior to the COVID-19
11 pandemic, two-thirds of the City's total jobs were located Downtown, representing more than
12 three-quarters of the City's gross domestic product ("GDP"). With a \$250 billion annual GDP
13 in 2022, San Francisco accounted for more than one-quarter of the nine-county Bay Area
14 economy – and 79% of the City's share of the Bay Area economy stems from office-based
15 industries concentrated Downtown. Downtown-based businesses have historically generated
16 nearly half of the City's sales tax revenue and almost all (95%) of the City's business tax
17 revenue. This revenue funds many key services such as public safety, cleaning, open space,
18 and transportation.

19 (f) The shift to hybrid work, with its consequent reduction in office workers and foot
20 traffic, has adversely impacted the City's Downtown and other sectors of the City's economy,
21 including retail and small business, and more broadly has impacted use and activation of
22 public space, transportation, and public safety.

23 (g) On February 9, 2023, Mayor Breed issued a Roadmap to San Francisco's Future.
24 Several of the plan's key policies include: (1) the economic diversification of Downtown and
25 repurposing underutilized office space there; (2) expanding Downtown housing; (3) activating

1 Downtown and enacting zoning controls that draw people Downtown; and (4) maximizing
2 flexibility for uses and economic activity in the Union Square area, which has historically
3 played a unique role citywide, regionally, and internationally as a center for shopping,
4 entertainment, and services.

5 (h) On July 5, 2023, the City approved Ordinance 122-23 which established the
6 Commercial to Residential Adaptive Reuse Program to facilitate residential uses Downtown
7 by exempting eligible projects from certain Planning Code standards and requirements,
8 including those concerning rear yard, open space, streetscape improvements, dwelling unit
9 exposure, bike parking, transportation demand management, dwelling unit mix, and
10 Intermediate Length Occupancy controls.

11 (i) On December 14, 2023, consistent with Housing Element Implementing Action
12 8.5.2, and following the Board of Supervisors' approval of the Housing Production Ordinance,
13 enacted as Ordinance No. 248-23, the Planning Commission passed Resolution No. 21473,
14 which delegated authority to the Planning Director to make findings necessary for waivers and
15 concessions under the State Density Bonus law, pursuant to Planning Code Section 206.6.

16 (j) In March 2024, San Francisco voters approved Proposition C, which amended the
17 Business and Tax Regulations Code by waiving the real estate transfer tax for first time
18 transfers on non-residential properties converted to residential use, as long as the property
19 owner receives permission to convert the property before January 1, 2030. The exemption is
20 available for up to 5 million square feet of converted properties.

21 (k) Despite these efforts, increased costs of construction and financing continue to
22 present obstacles to the conversion of under-utilized non-residential spaces. Permit
23 applications for new projects have declined and many previously approved projects have
24 stalled.

1 (l) It is reasonable to further incent the conversion of non-residential space into
2 residential units by exempting eligible projects from local inclusionary housing requirements
3 and development impact fees in Article 4 of the Planning Code.

4
5 Section 3. Articles 2 and 4 of the Planning Code are hereby amended by revising
6 Sections 210.5 and 406, to read as follows:

7 **SEC. 210.5. COMMERCIAL TO RESIDENTIAL ADAPTIVE REUSE PROGRAM.**

8 * * * *

9 ~~(f) **Applications.** Any application to establish a residential use pursuant to this Section 210.5~~
10 ~~must be filed on or before December 31, 2028.~~

11 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT**
12 **PROJECT REQUIREMENTS.**

13 * * * *

14 (j) **Waiver for Certain Non-Residential to Residential Conversion Projects.** This subsection
15 406(j) provides eligible Non-Residential to Residential conversion projects with a waiver of any
16 Development fee or Development impact requirement imposed by this Article 4, as specified in this
17 subsection.

18 (1) **Eligible Projects.** To be eligible for the waiver, a project must replace Gross Floor
19 Area of existing Non-Residential uses, other than a Hotel use, with Gross Floor Area established as
20 Residential use, whether as part of a change of use of existing Gross Floor Area, or through the
21 demolition of Non-Residential Gross Floor Area and construction of new Gross Floor Area for
22 Residential use. For purposes of this subsection 406(j), any Gross Floor Area established as
23 Live/Work use shall be considered as Residential use. Projects must be located in a C-3 district, or a
24 C-2 district east of or fronting Franklin Street/13th Street and north of Townsend Street.

1 (2) **Waiver Amount.** Eligible projects shall be entitled to a waiver from any applicable
2 Development fee or Development impact requirement imposed by this Article 4 on any net new Gross
3 Floor Area of Residential use in an amount up to 110% of the Gross Floor Area of Non-Residential use
4 converted to Residential use. Converted Non-Residential Gross Floor Area shall be calculated as the
5 net reduction of Non-Residential Gross Floor Area resulting from the project.

6 (3) **Calculation of Space.** In a mixed-use project with Residential and Non-Residential
7 uses, the Gross Floor Area of Residential use shall include mechanical space and common areas such
8 as spaces for circulation, lobbies, storage rooms, balconies, roof terraces, laundry rooms, and other
9 resident amenity spaces, including parking spaces or garages, in the proportion that such areas serve
10 the Residential use to the total square feet of Gross Floor Area served by such areas.

11 (4) **Limitation of Waiver.** Any portion of a project's Gross Floor Area that is not
12 entitled to this waiver shall be subject to the otherwise applicable Development fees and Development
13 impact requirements of this Article 4, including the Inclusionary Housing Program. Applicable
14 Development fees and Development impact requirements shall be calculated based solely on the
15 proportion of the project that is not entitled to this waiver, and not on the project as a whole. In the
16 event the project provides On-site or Off-site Affordable Units to satisfy the requirements of Section
17 415.1 et seq., the equivalency, minimum size, and distribution of any such Affordable Units shall be
18 based on consideration of the project as a whole, and the requirements of the Inclusionary Housing
19 Program shall apply.

20 (5) **Modification of Previously Approved Projects.** Notwithstanding the definitions in
21 Section 401 and 415A.2, a project shall be considered Finally Approved for purposes of this subsection
22 406(j), if prior to January 1, 2025, it received: (1) approval of its first Development Application; or (2)
23 planning approval of its first site or building permit, if a project only requires a building permit; or (3)
24 if either of the Development Application or building permit were appealed, the final decision upholding
25 the Development Application, or first site or building permit, on the appeal by the relevant City Board

1 or Commission. Projects that have been Finally Approved, and have not been issued a First
2 Construction Document shall be entitled to request a modification under this subsection 406(j) to that
3 project's conditions of approval, conditions on a project permit, notice of special restrictions, or other
4 requirements necessary to: (1) waive any Development fee, and/or Development impact requirement of
5 this Article 4, as specified in this subsection 406(j); and (2) modify conditions that require a project
6 sponsor to obtain a site permit or building permit within a certain timeframe after project approval.
7 The project shall comply with all other conditions of approval, conditions on a project permit, or notice
8 of special restrictions and any applicable requirements of the Planning Code.

9 (A) **Planning Commission Review.** Any modification of the conditions of
10 approval, conditions on a project permit, or notice of special restrictions consistent with this subsection
11 406(j) that would result in the significant modification of approved plans shall require review and
12 approval by the Planning Commission under the modification process otherwise applicable to the
13 project, including but not limited to Planning Code Sections 303(e), 309(j), or 329(f)(7). A significant
14 modification shall include:

15 (i) a change in the number of Residential or Group Housing units by
16 more than 20%, or a change of more than 10% in Gross Floor Area; or,

17 (ii) a change of use from Dwelling Units to Group Housing.

18 (B) **Administrative Modifications.** If the Planning Commission has delegated its
19 authority to the Planning Director to review and approve requests for modifications consistent with this
20 subsection 406(j), the following modifications shall be reviewed and approved by the Director of the
21 Planning Department, and the Planning Commission shall not hold a public hearing for discretionary
22 review. Modifications under this subsection 406(j) shall not be subject to review under Planning Code
23 Sections 303(e), 309(f), 309(j), or 329(f)(7). If so delegated, the Planning Director shall be authorized
24 to modify one or more of the following:

1 (i) The applicable Development fee or Development impact requirement,
2 including the applicable Inclusionary Housing fee.

3 (ii) The applicable percentage of On-site or Off-site units.

4 (iii) For projects that elected to develop using the State Density Bonus
5 Law, Government Code Section 65915, or State Density Bonus Program: Individually Requested, under
6 Planning Code Section 206.6, the number of on-site Affordable Units, and the affordability levels of
7 those on-site Affordable Units if such levels require modification for the project to continue to qualify
8 for the same amount of density bonus previously approved, and findings required by Section 206.6(e)
9 related to eligibility for a density bonus, concessions, and incentives and/or waivers of development
10 standards. Notwithstanding the previous sentence, modifications to a density bonus project that are
11 significant as set forth in subsection 406(j)(5)(A), shall be reviewed by the Planning Commission.

12 (6) Relationship to Other Planning Code Sections. The waiver in this subsection
13 406(j) may be combined with any other reduction or waiver of fees or development impact
14 requirements applicable to the project, as provided in this Article 4.

15
16 Section 4. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor’s veto of the ordinance.

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1 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7 APPROVED AS TO FORM:
8 DAVID CHIU, City Attorney

9 By: /s/
10 AUSTIN M. YANG
 Deputy City Attorney

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