

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

3 **Ordinance amending the Planning Code to 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,**  
6 **and remove the application deadline from the Commercial to Residential Adaptive**  
7 **Reuse Program; affirming the Planning Department’s determination under the**  
8 **California Environmental Quality Act; making findings of consistency with the General**  
9 **Plan, and the eight priority policies of Planning Code, Section 101.1; and making**  
10 **findings of public necessity, convenience, and welfare pursuant to Planning Code,**  
11 **Section 302.**

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

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

20 Section 1. Land Use and Environmental Findings.

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

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

6  
7 Section 2. Legislative Findings.

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

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

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

23 (d) To address the twin problems of under-utilized office space and lack of affordable  
24 and available housing in San Francisco, a recent report from the Board of Supervisors'  
25 Budget and Legislative Analyst, dated January 6, 2023, urges City policymakers to consider

1 programs to incentivize the conversion of office space into residential units (“BLA Report”).  
2 The BLA Report identifies various policy options to incentivize the conversion of office  
3 buildings, including reducing regulatory hurdles, such as protracted approval timeframes;  
4 exempting projects from or relaxing various standards in the Planning Code; and offering  
5 financial incentives to offset the costly architectural and engineering challenges of these  
6 conversions.

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

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

20 (g) On February 9, 2023, Mayor Breed issued a Roadmap to San Francisco’s Future.  
21 Several of the plan’s key policies include: (1) the economic diversification of Downtown and  
22 repurposing underutilized office space there; (2) expanding Downtown housing; (3) activating  
23 Downtown and enacting zoning controls that draw people Downtown; and (4) maximizing  
24 flexibility for uses and economic activity in the Union Square area, which has historically  
25

1 played a unique role citywide, regionally, and internationally as a center for shopping,  
2 entertainment, and services.

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

9 (i) On December 14, 2023, consistent with Housing Element Implementing Action  
10 8.5.2, and following the Board of Supervisors' approval of the Housing Production Ordinance,  
11 enacted as Ordinance No. 248-23, the Planning Commission passed Resolution No. 21473,  
12 which delegated authority to the Planning Director to make findings necessary for waivers and  
13 concessions under the State Density Bonus law, pursuant to Planning Code Section 206.6.

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

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

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

1  
2 Section 3. Articles 2 and 4 of the Planning Code are hereby amended by revising  
3 Sections 210.5 and 406, to read as follows:

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

5 \* \* \* \*

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

8 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT**  
9 **PROJECT REQUIREMENTS.**

10 \* \* \* \*

11 (j) **Waiver for Certain Non-Residential to Residential Conversion Projects.** This subsection  
12 406(j) provides eligible Non-Residential to Residential conversion projects with a waiver of any  
13 Development fee or Development impact requirement imposed by this Article 4, as specified in this  
14 subsection.

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

22 (2) **Waiver Amount.** Eligible projects shall be entitled to a waiver from any applicable  
23 Development fee or Development impact requirement imposed by this Article 4 on any net new Gross  
24 Floor Area of Residential use in an amount up to 110% of the Gross Floor Area of Non-Residential use

1 converted to Residential use. Converted Non-Residential Gross Floor Area shall be calculated as the  
2 net reduction of Non-Residential Gross Floor Area resulting from the project.

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

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

17 (5) Modification of Previously Approved Projects. Notwithstanding the definitions in  
18 Section 401 and 415A.2, a project shall be considered Finally Approved for purposes of this subsection  
19 406(j), if prior to January 1, 2025, it received: (1) approval of its first Development Application; or (2)  
20 planning approval of its first site or building permit, if a project only requires a building permit; or (3)  
21 if either of the Development Application or building permit were appealed, the final decision upholding  
22 the Development Application, or first site or building permit, on the appeal by the relevant City Board  
23 or Commission. Projects that have been Finally Approved, and have not been issued a First  
24 Construction Document shall be entitled to request a modification under this subsection 406(j) to that  
25 project's conditions of approval, conditions on a project permit, notice of special restrictions, or other

1 requirements necessary to: (1) waive any Development fee, and/or Development impact requirement of  
2 this Article 4, as specified in this subsection 406(j); and (2) modify conditions that require a project  
3 sponsor to obtain a site permit or building permit within a certain timeframe after project approval.  
4 The project shall comply with all other conditions of approval, conditions on a project permit, or notice  
5 of special restrictions and any applicable requirements of the Planning Code.

6 (A) **Planning Commission Review.** Any modification of the conditions of  
7 approval, conditions on a project permit, or notice of special restrictions consistent with this subsection  
8 406(j) that would result in the significant modification of approved plans shall require review and  
9 approval by the Planning Commission under the modification process otherwise applicable to the  
10 project, including but not limited to Planning Code Sections 303(e), 309(j), or 329(f)(7). A significant  
11 modification shall include:

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

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

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

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

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

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

9 (6) Relationship to Other Planning Code Sections. The waiver in this subsection  
10 406(j) may be combined with any other reduction or waiver of fees or development impact  
11 requirements applicable to the project, as provided in this Article 4.

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13 Section 4. Effective Date. This ordinance shall become effective 30 days after  
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
16 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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