

1 [Imposing development impact fees in the Rincon Hill Downtown Residential Mixed Use  
2 District to fund community stabilization programs]

3 **Ordinance amending the Planning Code by adding Section 319 to impose a community**  
4 **stabilization impact fee on residential development in the Rincon Hill Area Plan to**  
5 **provide community stabilization benefits including affordable housing, economic**  
6 **development and community cohesion, and to provide for requirements related to the**  
7 **inclusionary housing obligation on new development in the Rincon Hill Downtown**  
8 **Residential Mixed Use District, and making findings.**

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

10 Section 1. The San Francisco Planning Code is hereby amended by adding Section  
11 319, to read as follows:

12 **SEC. 319 COMMUNITY STABILIZATION FUND IN THE RINCON HILL AREA PLAN.**

13 Section 319 sets forth the requirements and procedures for the Rincon Hill Area Plan  
14 Community Stabilization Fund.

15 **SEC. 319.1. FINDINGS.**

16 A. The population of California has grown by more than 11 percent since 1990 and  
17 is expected to continue increasing. The San Francisco Bay Area is growing at a rate similar  
18 to the rest of the State. New residential construction in San Francisco is necessary to  
19 accommodate the additional population. At the same time, new residential construction  
20 should not diminish the City's open space or increase dependence on the private automobile  
21 for commuting.

22 San Francisco already is experiencing a severe shortage of housing available to  
23 people at all income levels, resulting in a sharp increase in home prices. The Association of  
24 Bay Area Governments' Regional Housing Needs Determination (RHND) forecasts that  
25

1 20,372 new residential units need to be built in San Francisco by 2006, and at least 5,639 of  
2 these units should be available to moderate income households.

3 The City should encourage new housing production in a manner that enhances existing  
4 neighborhoods and creates new residential and mixed-use neighborhoods. One solution to  
5 the housing crisis is to encourage the construction of higher density housing in areas of the  
6 City best able to accommodate such housing because of easy access to public transit and the  
7 availability of larger development sites.

8 Many elements constrain housing production in the City, making it a challenge to build  
9 housing that is affordable to those at moderate income levels. San Francisco is largely built  
10 out, and its geographical location at the northern end of a peninsula inherently prevents  
11 substantial new development. There is no available adjacent land to be annexed, as the cities  
12 located on San Francisco's southern border are also dense urban areas. Thus, new  
13 construction of housing is limited to areas of the City not previously designated as residential  
14 areas, infill sites, or areas with increased density. New market-rate housing absorbs a  
15 significant amount of the remaining supply of land and other resources available for  
16 development and thus limits the supply of affordable housing.

17 Emerging downtown residential areas of the City contain many older commercial,  
18 institutional and industrial uses. Due to the underutilization of land in these areas and their  
19 proximity to downtown employment and city and regional transport, they present an  
20 opportunity to build a quantity of new housing at increased densities within easy walking  
21 distance of the downtown and city and regional transit centers in a way that can contribute to  
22 a vibrant downtown community over the next several years. The Planning Department is  
23 currently rezoning these areas to a "Downtown Residential" (DTR) zoning that will enable  
24 significant new high-density residential development. These areas are lacking, however, in  
25 even basic infrastructure and amenities necessary to serve a residential population, and the

1 need for these improvements will increase as the downtown's residential population,  
2 especially families and children, grow with the transformation of these areas into dense  
3 mixed-use residential districts.

4 In order to enable the City and County of San Francisco to create a coherent,  
5 attractive, and safe residential neighborhood in these emerging downtown residential areas,  
6 and to increase investment in the district, it is necessary to make sure that the existing  
7 communities in the Rincon Hill Area and South of Market Area are not destabilized as a result  
8 of the new development. The surrounding communities are particularly vulnerable in the  
9 areas of affordable housing, economic development and community cohesion. To fund such  
10 community stabilization, new residential development in the district shall be assessed  
11 development impact fees proportionate to the impact on the surrounding communities created  
12 by the new housing. The City will use the proceeds of the fee to address the impacts of  
13 destabilization on low income households residing in SOMA including assistance for:  
14 affordable housing and community asset building, small business rental assistance,  
15 development of new affordable homes for rental units for low income households, rental  
16 subsidies for low income households, down payment assistance for home ownership for low  
17 income households, eviction prevention, employment development and capacity building for  
18 SOMA residents, job growth and job placement, small business assistance, leadership  
19 development, community cohesion, civic participation, and community based programs and  
20 economic development. A Community Stabilization Impact Fee shall be established for the  
21 Rincon Hill Program Area as set forth herein.

22 B. To respond to this identified need for housing, Rincon Hill and other downtown  
23 neighborhoods are proposed to be rezoned as part of comprehensive neighborhood plans to  
24 encourage high-density residential uses. These areas are currently occupied primarily by  
25 older commercial and industrial uses with minimal public infrastructure and amenities to

1 support a significant residential population. In addition, very few residents currently reside in  
2 these areas. New residential development in these areas will impact the local infrastructure  
3 and generate a substantial need for community improvements as the district's population  
4 grows as a result of new residential development. Substantial new investments in community  
5 infrastructure, including parks, pedestrian and streetscape improvements, and other  
6 community facilities are necessary to mitigate the impacts of new development in these  
7 districts.

8 The amendments to the General Plan, Planning Code and Zoning Map that correspond  
9 to this Ordinance will permit an extraordinary amount of new residential development. More  
10 than 2,220 new units representing approximately 5,100 new residents would be anticipated in  
11 the neighborhood, and along with other approved projects, will result in a 400% increase in  
12 the area's residential population. This new development will have an extraordinary impact on  
13 the district's dated infrastructure and an extraordinary impact on the existing Rincon Hill area  
14 community and the South of Market Community.

15 As a result of this new development, property tax revenue is expected to increase by  
16 as much as \$29 million annually in Rincon Hill. These revenues will fund improvements and  
17 expansions to general city services, including police, fire, emergency, and other services  
18 needed to partially meet increased demand associated with new development. Local impacts  
19 on the need for community stabilization such as affordable housing, economic development,  
20 and community cohesion will be extraordinary in Rincon Hill, compared to those typically  
21 funded by city government through property tax revenues. The relative cost of improvements  
22 such as new housing , along with the reduced role of state and federal funding sources,  
23 increases the necessity for development impact fees to cover these costs. General property  
24 tax revenues will not be adequate to fully fund the costs of the community stabilization  
25 necessary to mitigate the impacts of new development in the Rincon Hill area.

1 Development impact fees are a more cost-effective, realistic way to implement  
2 mitigations to a local area associated with a particular development proposal's impact.

3 C. The proposed new development in the Rincon Hill area will lead to  
4 increased home prices and increased rental rates in the immediate Rincon Hill area and the  
5 surrounding South of Market area. This new development and corresponding increase in  
6 prices in the Rincon Hill area will cause displacement of existing residents.

7 New development in the Rincon Hill area will be marketed to higher income groups  
8 than other new development in San Francisco. Higher income groups have a higher demand  
9 for services than other income groups, so a higher number of workers will need to be housed  
10 in the area. Workers in the service industry generally make less than median income. The  
11 development in Rincon Hill represents the development of a disproportionate share of the  
12 available land for remaining housing development in the City.

13 The new development creates the need for additional affordable housing in the South  
14 of Market neighborhood and the need to provide subsidies for existing residents so that they  
15 will not be displaced and can continue living in their current neighborhood. In order to avoid  
16 displacement from the new development, residents will also need financial support to avoid  
17 eviction.

18 D. The new development in Rincon Hill will also change the economic landscape of  
19 the Rincon Hill area and the South of Market area. The new development in Rincon Hill will  
20 displace small businesses directly by focusing development in the neighborhood on  
21 residential development and indirectly due to higher rents and higher prices for real estate.  
22 Thus existing small businesses need financial assistance to avoid being displaced.

23 The new development in the Rincon Hill area will also affect the type of jobs available  
24 in the Rincon Hill and South of Market area. Current residents of SOMA are employed in the  
25 Rincon Hill area. New development in the Rincon Hill area will concentrate on residential

1 development, thus pushing out other uses including light industrial uses and small business.  
2 Local workers will need to be retrained to avoid job displacement from the development in the  
3 Rincon Hill area. Financial assistance will support employment development, job placement,  
4 job development, and other forms of economic capacity building for SOMA residents to  
5 ameliorate the effects of the economic displacement. The City benefits from having workers  
6 live near to their work places in reduced commute times for residents, and reduced traffic  
7 congestion and associated pollution.

8 New development in the Rincon Hill area in such a vast quantity and of such a different  
9 character as currently exists will radically change the social fabric of the neighborhood.  
10 Programs to promote leadership development, community cohesion, and civic participation  
11 will also ameliorate the negative economic and social consequences of the new development  
12 in Rincon Hill on the residents and small businesses in Rincon Hill and the broader South of  
13 Market community.

14 **SEC. 319.2. DEFINITIONS.**

15 The following definitions shall govern this ordinance:

- 16 (a) "DBI" shall mean the Department of Building Inspection.  
17 (b) "DPW" shall mean the Department of Public Works.  
18 (c) "First certificate of occupancy" shall mean either a temporary certificate of  
19 occupancy or a Certificate of Final Completion and Occupancy, as defined in  
20 San Francisco Building Code Section 109, whichever is issued first  
21 (d) "Household of low income" shall mean a household whose combined annual  
22 gross income for all members does not exceed sixty (60) percent of median  
23 income for the San Francisco Metropolitan Statistical Area, as calculated by the  
24 United States Department of Housing and Urban Development (HUD) and  
25 adjusted for household size, and is not less than thirty (30) percent of median

1 income for the San Francisco Metropolitan Statistical Area, as calculated by the  
2 United States Department of Housing and Urban Development (HUD) and  
3 adjusted for household size.

4 (e) "MOCD" shall mean the Mayor's Office of Community Development.

5 (f) "MOH" shall mean the Mayor's Office of Housing.

6 (g) "Net addition of occupiable square feet of residential use" shall mean occupied  
7 floor area, as defined in Section 102.10 of this Code, including bathrooms  
8 provided as part of dwelling units, to be occupied by or primarily serving,  
9 residential use, less the occupied floor area in any structure demolished or  
10 rehabilitated as part of the proposed residential development project which  
11 occupied floor area was used primarily and continuously for residential use and  
12 was not accessory to any use other than residential use for at least five years  
13 prior to Planning Department approval of the residential development project  
14 subject to this Section, or for the life of the structure demolished or rehabilitated,  
15 whichever is shorter.

16 (h) "Program Area" shall mean Rincon Hill Area Plan of the San Francisco General  
17 Plan.

18 (i) "Residential development project" shall mean any new construction, addition,  
19 extension, conversion or enlargement, or combination thereof, of an existing  
20 structure which includes any occupied floor area of residential use; provided,  
21 however, that for projects that solely comprise an addition to an existing  
22 structure which would add occupied floor area in an amount less than 20  
23 percent of the occupied floor area of the existing structure, the provisions of this  
24 Section shall only apply to the new occupied square footage.  
25

- 1 (j) "Residential use" shall mean any structure or portion thereof intended for  
2 occupancy by uses as defined in Section 890.88 of this Code and shall not  
3 include any use which qualifies as an accessory use, as defined and regulated  
4 in Sections 204 through 204.5.
- 5 (k) "SOMA" shall mean the area bounded by Market Street to the north,  
6 Embarcadero to the east, King Street to the south and South Van Ness and  
7 Division to the west.
- 8 (l) "Sponsor" shall mean an applicant seeking approval for construction of a  
9 residential development project subject to this Section and such applicant's  
10 successors and assigns.

11 **SEC. 319.3. APPLICATION.**

12 (a) This Section applies to properties identified as "Residential Mixed-Use" in Map 3  
13 (Land Use Plan) of the Rincon Hill Area Plan of the San Francisco General Plan. This area is  
14 designated as the Rincon Hill Downtown Residential Mixed Use District (RH DTR).

15 (b) Prior to the issuance by DBI of the first site or building permit for a residential  
16 development project within the RH DTR, the sponsor shall pay to the Treasurer a Community  
17 Stabilization Impact Fee of \$17 for each net addition of gross square feet of residential use.

18 (c) Upon payment of the Community Stabilization Impact fee in full to the Treasurer  
19 and upon request of the sponsor, the Treasurer shall issue a certification that the fee has  
20 been paid. The sponsor shall present such certification to the Planning Department, DBI and  
21 MOH prior to the issuance by DBI of the first site or building permit for the residential  
22 development project. DBI shall not issue the site or building permit without proof of payment  
23 of the fee from the Treasurer. Any failure of the Treasurer, DBI, or the Planning Department  
24 to give any notice under this Section shall not relieve a sponsor from compliance with this  
25 Section. Where DBI inadvertently issues a site or building permit without payment of the fee,



1 DBI shall not issue any certificate of occupancy for the project without notification from the  
2 Treasurer that the fee required by this Section has been paid. The procedure set forth in this  
3 Subsection is not intended to preclude enforcement of the provisions of this Section under any  
4 other section of this Code, or other authority under the laws of the State of California.

5 **SEC. 319.4. LIEN PROCEEDINGS.**

6 (a) A sponsor's failure to comply with the requirements of Sections 319.3, shall  
7 constitute cause for the City to record a lien against the housing development project in the  
8 sum of the fees required under this ordinance. The fees required by this ordinance are due  
9 and payable to the Treasurer prior to issuance of the first building or site permit for the  
10 development project. If, for any reason, the fees remain unpaid following issuance of the  
11 permit, any amount due shall accrue interest at the rate of one and one-half percent per  
12 month, or fraction thereof, from the date of issuance of the permit until the date of final  
13 payment.

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

1 owner of record of the parcels of real property subject to lien. Except for the release of lien  
2 recording fee authorize by Administrative Code Section 10.237, all sums collected by the Tax  
3 Collector pursuant to this ordinance shall be held in trust by the Treasurer and deposited in  
4 the Rincon Hill Community Stabilization Fund established in Section 319.6.

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

12 **SEC. 319.5. COMMUNITY STABILIZATION IMPACT FEE REFUND WHEN**  
13 **BUILDING PERMIT EXPIRES PRIOR TO COMPLETION OF WORK AND**  
14 **COMMENCEMENT OF OCCUPANCY.**

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

22 **SEC. 319.6. RINCON HILL COMMUNITY STABILIZATION FUND.**

23 (a) There is hereby established a separate fund set aside for a special purpose  
24 entitled the Rincon Hill Community Stabilization Fund ("Fund"). All monies collected by the  
25 Treasurer pursuant to Section 319.3(b) shall be deposited in a special fund maintained by the

1 Controller. The receipts in the Fund are hereby appropriated in accordance with law to be  
2 used solely to address the effects of destabilization on low income residents of SOMA subject  
3 to the conditions of this Section.

4 (b) All monies deposited in the Fund shall be used solely to address the impacts of  
5 destabilization on low income households residing in SOMA including assistance for:  
6 affordable housing and community asset building, small business rental assistance,  
7 development of new affordable homes for rental units for low income households, rental  
8 subsidies for low income households, down payment assistance for home ownership for low  
9 income households, eviction prevention, employment development and capacity building for  
10 SOMA residents, job growth and job placement, small business assistance, leadership  
11 development, community cohesion, civic participation, and community based programs and  
12 economic development. Monies from the Fund may be appropriated by MOCD to the  
13 Planning Commission to commission economic analyses for the purpose of revising the fee,  
14 to complete a nexus study to demonstrate the relationship between residential development  
15 and the need for stabilization assistance if this is deemed necessary, provided these  
16 expenses do not exceed a total of \$100,000. No portion of the Fund may be used, by way of  
17 loan or otherwise, to pay any administrative, general overhead, or similar expense of any  
18 public entity.

19 (c) The Controller's Office shall file an annual report with the Board of Supervisors  
20 beginning one year after the effective date of this ordinance, which report shall set forth the  
21 amount of money collected in the Fund. The Fund shall be administered by MOCD.

22 (d) There shall be a Community Stabilization Fund Community Advisory Committee  
23 to advise MOCD on the administration of the Fund.

24 (1) The Community Advisory Committee shall be composed of seven  
25 members appointed as follows:

1 (A) One member representing low-income families who lives with his or her  
2 family in SOMA, appointed by the Board of Supervisors.

3 (B) One member who has expertise in employment development and/ or  
4 represents labor, appointed by the Board of Supervisors.

5 (C) One member who is a senior or disabled resident of SOMA, appointed by  
6 the Board of Supervisors.

7 (D). One member with affordable housing expertise and familiarity with the  
8 SOMA neighborhood, appointed by the Board of Supervisors.

9 (E) One member who represents a community-based organization in SOMA,  
10 appointed by the Board of Supervisors.

11 (F) One member who provides direct services to SOMA families, appointed  
12 by the Board of Supervisors.

13 (G) One member who has small business expertise and a familiarity with the  
14 SOMA neighborhood, appointed by the Board of Supervisors.

15 (2) The Community Advisory Committee shall comply with all applicable public  
16 records and meetings laws and shall be subject to the Conflict of Interest provisions of the  
17 City's Charter and Administrative Code. The initial meeting of the Advisory Committee shall  
18 be called within 30 days from the day the Board of Supervisors completes its initial  
19 appointments. MOCD shall provide administrative support to the Committee. The Committee  
20 shall develop annual recommendations to MOCD for a strategic plan for expenditure of the  
21 Fund.

22 (3) The members of the Community Advisory Committee shall be appointed for a  
23 term of two years; provided, however, that the members first appointed shall, by lot at the first  
24 meeting, classify their terms so that three shall serve for a term of one year and four shall  
25 serve for a term of two years. At the initial meeting of the Committee and yearly thereafter,

1 the Committee members shall select such officer or officers as deemed necessary by the  
2 Committee. The Committee shall promulgate such rules or regulations as are necessary for  
3 the conduct of its business under this Section. In the event a vacancy occurs, a successor  
4 shall be appointed to fill the vacancy consistent with the process and requirements to appoint  
5 the previous appointee. When a vacancy occurs for any reason other than the expiration of a  
6 term of office, the appointee to fill such vacancy shall hold office for the unexpired term of his  
7 or her predecessor. Any appointee who misses four meetings within a twelve month period,  
8 without the approval of the Committee, shall be deemed to have resigned from the  
9 Committee.

10 (e) The Director of MOCD shall have the authority to prescribe rules and regulations  
11 governing the Fund, which are consistent with this ordinance.

12 **SEC. 318.7. DIRECTOR OF PLANNING'S EVALUATION.**

13 Within 18 months following the effective date of this ordinance, the Director of MOCD  
14 shall report to the Planning Commission, the Board of Supervisors, the Mayor, and the  
15 Community Advisory Committee on the status of compliance with this ordinance, the efficacy  
16 of this ordinance in funding stabilization programs in SOMA, and the impact of the Program on  
17 property values in the vicinity of the Project Area.

18 **SEC. 319.8. INCLUSIONARY AFFORDABLE HOUSING PROGRAM OBLIGATIONS**  
19 **IN THE RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE DISTRICT.**

20 The requirements of Planning Code Section 315 through 315.9 shall apply in the  
21 Rincon Hill Downtown Residential Mixed Use District subject to the following exceptions:

22 (a) If constructed on-site, a minimum of 12 percent of the total units constructed, and if  
23 constructed off-site, a minimum of 17 percent of the total units constructed , shall be  
24 affordable to and occupied by qualifying households as defined by the Inclusionary Affordable  
25 Housing Program.

1 (b) Below-market rate units as required by Sections 315 et seq. that are built off-site  
2 must be built within the SOMA area.

3 (c) Fees that are paid under Section 315.4(e)(2) and 315.6 shall be paid into the  
4 Citywide Affordable Housing Fund, but the funds shall be separately accounted for and  
5 designated exclusively to increase the supply of affordable housing in the SOMA area.

6 **SEC. 319.9 PARTIAL INVALIDITY AND SEVERABILITY.**

7 If any provision of this ordinance, or its application to any residential development  
8 project is held invalid, the remainder of the ordinance, or the application of such provision to  
9 other residential development projects shall not be affected thereby.

10 **SEC. 319.10. STUDY**

11 No later than July 1, 2010, and every five years thereafter, the Director of MOCD or his  
12 or designee shall complete a study to determine the demand for stabilization programs in the  
13 SOMA area and, based on the study, recommend to the Board of Supervisors changes in the  
14 requirements for Rincon Hill community stabilization impact fees imposed on residential  
15 development in this ordinance if necessary to help meet that demand.

16  
17 APPROVED AS TO FORM:

18 DENNIS J. HERRERA, City Attorney

19  
20 By: \_\_\_\_\_  
21 SUSAN CLEVELAND-KNOWLES  
22 Deputy City Attorney  
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