

1 [Environmental review fees, Community Streamlined intake fee, and related fees.]

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3 **Ordinance amending the San Francisco Administrative Code by amending Sections**
4 **31.22 and 31.23 to increase environmental review fees 1.63 percent, to adopt a new fee**
5 **for Determination of Historical Resources, and to increase fees to recover the cost of**
6 **producing area plans from projects in Plan Areas; adding Section 31.24 to adopt new**
7 **fees for Community Streamlined Intake; and making environmental findings.**

8 Note: Additions are *single-underline italics Times New Roman*;
9 deletions are ~~*strikethrough italics Times New Roman*~~.
10 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

12 Section 1. Findings. (a) The Planning Department is able to recover the cost of long
13 range planning through its building permit review, CEQA (California Environmental Quality
14 Act, California Public Resources Code Sections 21000 et seq.) review, and land use
15 entitlement fees.

16 (b) The current fee structure is set to recover 25% (twenty-five percent) of the
17 proportional share of long range planning costs through said fees, and proposed projects in
18 Neighborhood Plan Areas benefit from long range plans more than proposed projects outside
19 of Plan Areas because of: 1) the City's certified programmatic environment impact report
20 (Programmatic EIR) for Plan Areas, including the cumulative analysis therein; 2) new zoning
21 and land use controls, and 3) other aspects of Plan Areas, such as public benefit
22 improvements.

23 (c) State law and the CEQA Guidelines (California Code of Regulations Title 14,
24 Sections 15300 et seq.) allow for limited use of exemptions and exclusions in specific cases
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1 for projects in adopted Plan Areas (Public Resources Code Sections 21083.3, 21159.21,
2 21159.23, 21159.24 and CEQA Guidelines Section 15182 and 15183).

3 (d) An adopted Plan Area and Programmatic EIR can reduce application review
4 time, the level of CEQA document needed, including external consultant study needs, and
5 reduce costs overall for the project sponsor.

6 (e) It is in the public interest for the private project sponsor to reimburse the City for
7 the benefit he or she derives as a consequence of public supported planning.

8 (f) Environmental Finding. The Planning Department has determined that the
9 proposed fee adjustments are statutorily excluded from CEQA under the CEQA Guidelines
10 Section 15273(a), which exempts rates, tolls, fares and charges such as those proposed here.
11 Said determination is on file with the Clerk of the Board of Supervisors in File No.
12 _____ and is incorporated herein by reference.

13 Section 2. The San Francisco Administrative Code is hereby amended by amending
14 Sections 31.22 and 31.23 and adding 31.24, to read as follows:

15 SEC. 31.22 BASIC FEES.

16 (a) The Planning Department shall charge ~~The~~ the following basic fees ~~shall be charged by~~
17 ~~the Planning Department to project sponsors for projects located outside of recently adopted Plan~~
18 ~~Areas (adopted after July 1, 2005) that do not require one or more of the following: Code amendments~~
19 ~~for the height or bulk district and General Plan amendments,~~ as specified in Section 31.21 above:

20 (1) For an initial study of a project excluding use of special expertise or technical
21 assistance, as described in Section 31.24 below, the initial fee shall be:

22 — Where the total estimated construction cost as defined by the San Francisco
23 Building Code is between \$0 and \$9,999: ~~\$895~~1,003;

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1 — Where said total estimated construction cost is \$10,000 or more, but less than
2 \$200,000: ~~\$3,720~~ 3,903 PLUS ~~1.725~~ 1.934% of the cost over \$10,000;

3 — Where said total estimated construction cost is \$200,000 or more, but less than
4 \$1,000,000 ~~\$6,997~~ 7,579 PLUS ~~1.304~~ 1.462 % of the cost over \$200,000;

5 — Where said total estimated construction cost is \$1,000,000 or more, but less
6 than \$10,000,000: ~~\$17,429~~ 19,275 PLUS ~~1.094~~ 1.227% of the cost over \$1,000,000;

7 — Where said total estimated construction cost is \$10,000,000 or more, but less
8 than \$30,000,000: ~~\$115,889~~ 129,705 PLUS ~~.337~~ 0.378% of the cost over \$10,000,000;

9 — Where said total estimated construction cost is \$30,000,000 or more, but less
10 than \$50,000,000: ~~\$183,289~~ 205,305 PLUS ~~.127~~ 0.142% of the cost over \$30,000,000;

11 — Where said total estimated construction cost is \$50,000,000 or more, but less
12 than \$100,000,000: ~~\$208,689~~ 233,705 PLUS ~~.030~~ 0.034% of the cost over \$50,000,000;

13 — Where said total estimated construction cost is \$100,000,000 or more: ~~\$223,689~~
14 250,705 PLUS ~~.013~~ 0.015% of the cost over \$100,000,000.

15 An applicant proposing major revisions to a project application that has been inactive for more
16 than six months, An applicant proposing significant revisions to a project for which an application is
17 on file with the Planning Department shall be charged time and materials to cover the full costs in
18 excess of the initial fee paid shall submit a new application.

19 (2) For preparation of an environmental impact report excluding use of special
20 expertise or technical assistance, as described in Section 31.22 below, the initial fee shall be:

21 — Where the total estimated construction cost as defined in the San Francisco
22 Building Code is between \$0 to \$199,999: ~~\$19,870~~ 22,277;

23 — Where said total estimated construction cost is \$200,000 or more, but less than
24 \$1,000,000: ~~\$19,870~~ 22,277 PLUS ~~.498~~ 0.558% of the cost over \$200,000;

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1 — Where said total estimated construction cost is \$1,000,000 or more, but less
2 than \$10,000,000: ~~\$23,961~~ 26,864 PLUS ~~.337~~ 0.378% of the cost over \$1,000,000;

3 — Where said total estimated construction cost is \$10,000,000 or more, but less
4 than \$30,000,000: ~~\$54,291~~ 60,884 PLUS ~~.138~~ 0.155% of the cost over \$10,000,000;

5 — Where said total estimated construction cost is \$30,000,000 or more, but less
6 than \$50,000,000: ~~\$81,891~~ 91,884 PLUS ~~.038~~ 0.042% of the cost over \$30,000,000;

7 — Where said total construction cost is \$50,000,000 or more, but less than
8 \$100,000,000: ~~\$89,491~~ 100,333 PLUS ~~.038~~ 0.042% of the cost over \$50,000,000;

9 — Where said total estimated construction cost is \$100,000,000 or more: ~~\$108,491~~
10 121,634 PLUS ~~.013~~ 0.015% of the cost over \$100,000,000.

11 *An applicant proposing major revisions to a project application that has been inactive for more*
12 *than six months, An applicant proposing significant revisions to a project for which an application is*
13 *on file with the Planning Department shall be charged time and materials to cover the full costs in*
14 *excess of the fee paid shall submit a new application.*

15 (3) For an appeal to the Planning Commission: The fee shall be \$4500 to the
16 appellant; provided, however, that the fee shall be waived if the appeal is filed by a
17 neighborhood organization that: (a) has been in existence for 24 months prior to the appeal
18 filing date, (b) is on the Planning Department's neighborhood organization notification list, and
19 (c) can demonstrate to the Planning Director or his/her designee that the organization is
20 affected by the proposed project. An exemption from paying this appeal fee may be granted
21 when the requestor's income is not enough to pay for the fee without affecting their ability ~~to~~
22 pay for the necessities of life, provided that the person seeking the exemption demonstrates
23 to the Planning Director or his/her designee that they are substantially affected by the
24 proposed project.

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1 (4) For an appeal to the Board of Supervisors of environmental determinations,
2 including the certification of an EIR, a negative declaration, or determination of a categorical
3 exemption, the fee shall be \$4500 to the appellant; provided, however, that the fee shall be
4 waived if the appeal is filed by a neighborhood organization that: (a) has been in existence for
5 24 months prior to the appeal filing date, (b) is on the Planning Department's neighborhood
6 organization notification list, and (c) can demonstrate to the Planning Director or his/her
7 designee that the organization is affected by the proposed project. Fees shall be used to
8 defray the cost of appeal for the ~~Board of Supervisors and~~ the Planning Department. Such fee
9 shall be refunded to the appellant in the event the Planning Department rescinds its
10 determination or the Board of Supervisors remands or rejects the environmental impact
11 report, negative declaration, or determination of a categorical exemption to the Planning
12 Commission for revisions based on issues related to the adequacy and accuracy of the
13 environmental determination. An exemption from paying this appeal fee may be granted when
14 the requestor's income is not enough to pay for the fee without affecting their ability~~ies~~ to pay
15 for the necessities of life, provided that the person seeking the exemption demonstrates to the
16 Clerk of the Board of Supervisors or his/her designee that they are substantially affected by
17 the proposed project.

18 (5) For preparation of an addendum to an environmental impact report that has
19 previously been certified, pursuant to Section 15164 of the State CEQA Guidelines: ~~\$7,780~~
20 \$8,941 plus time and materials as set forth in Subsection (b)(2).

21 (6) For preparation of a supplement to a draft or certified final environmental impact
22 report: One-half of the fee that would be required for a full environmental impact report on the
23 same project, as set forth in Paragraph (2) above, plus time and materials as set forth in
24 Subsection (b)(2).

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1 (7) For reevaluation of a modified project for which a negative declaration has been
2 prepared: ~~\$7,780~~ \$8,941 plus time and materials as set forth in Subsection (b)(2).

3 (8) For preparation of a Certificate of Exemption from Environmental Review
4 determining that a project is categorically exempt, statutorily exempt, ministerial/nonphysical,
5 an emergency, or a planning and feasibility study: ~~\$170~~ \$267 for applications that require only
6 a stamp, ~~\$4,785~~ \$5,232 as an initial fee for applications that include preservation HRER review
7 or require an Exemption Certificate, plus time and materials as set forth in Subsection (b)(2).

8 (9) For a determination of whether a property is an historical resource under CEQA, the fee
9 is \$2,193. For a determination of whether a project would result in a substantial adverse change in the
10 significance of an historical resource, the fee is \$3,040.

11 (10) For preparation of a letter of exemption from environmental review: ~~\$170~~ \$267
12 plus time and materials as set forth in Subsection (b)(2).

13 ~~(10)~~(11) For reactivating an application that the Environmental Review Officer has
14 deemed withdrawn due to inactivity and the passage of time, subject to the approval of the
15 Environmental Review Officer and within six months of the date the application was deemed
16 withdrawn: ~~\$190~~ \$218 plus time and materials to cover any additional staff costs.

17 (b) Payment.

18 (1) The fee specified in Subsection (a)(1) shall be paid to the Planning Department
19 at the time of the filing of the environmental evaluation application, and where an
20 environmental impact report is determined to be required, the fee specified in Subsection
21 (a)(2) shall be paid at the time the preliminary draft environmental impact report 1 (PDEIR 1)
22 is prepared, except as specified below. However, the Director of Planning or his/her designee
23 may authorize phased collection of the fee for a project whose work is projected to span more
24 than one fiscal year.

1 (2) The Planning Department shall charge the applicant for any time and material
2 costs incurred in excess of the initial fee charged if required to recover the Department's costs
3 for providing services. Provided, however, that where a different limitation on time and
4 materials is set forth elsewhere in this section, then that limitation shall prevail.

5 (3) The Controller will annually adjust the fee amounts specified in Section
6 31.22(a)(~~1~~, ~~2~~, ~~5~~), ~~(6)~~, (7), (8), (9), (10) , and (11), Section 31.22 (c) and Section 31.23(d) by
7 the two-year average consumer price index (CPI) change for the San Francisco/San Jose
8 Primary Metropolitan Statistical Area (PMSA). *Effective September 30, 2007, the fee amounts*
9 *specified in Section 31.22(a)(~~1~~), (~~2~~), (~~5~~), (~~6~~), (~~7~~), (~~8~~), (~~9~~), (~~10~~) and Section 31.23(d) will increase 6.3% to*
10 *support an increase in departmental overhead from rent costs at 1650 Mission Street.*

11 (4) Any fraternal, charitable, benevolent or any other nonprofit organization, that is
12 exempt from taxation under the Internal Revenue laws of the United States and the Revenue
13 and Taxation Code of the State of California as a bona fide fraternal, charitable, benevolent or
14 other nonprofit organization, or public entity that submits an application for the development of
15 residential units or dwellings all of which are affordable to low and moderate income
16 households, as defined by the United State Housing and Urban Development Department, for
17 a time period that is consistent with the policy of the Mayor's Office of Housing and the San
18 Francisco Redevelopment Agency may defer payment of the fees specified herein, with the
19 exception of the fees payable pursuant to Section 31.22(a)(3) and (4) and Section 31.22(a)(~~10~~)
20 (11) herein, until the time of issuance of the building permit, before the building permit is
21 released to the applicant; or (2) within one year of the date of completion of the environmental
22 review document, whichever is sooner. This exemption shall apply notwithstanding the
23 inclusion in the development of other nonprofit ancillary or accessory uses.

1 (5) An exemption from paying the full fees set forth in Section 31.22(a) (3) and (4)
2 ~~and Section 31.22(a)(10)~~ herein may be granted when the requestor's income is not enough to
3 pay the fee without affecting his or her ability~~ies~~ to pay for the necessities of life, provided that
4 the person seeking the exemption demonstrates to the Director of Planning or his/her
5 designee that he or she is substantially affected by the proposed project.

6 (6) Exceptions to the payment provisions noted above may be made when the
7 Director of Planning or his/her designee has authorized phased collection of the fee for a
8 project whose work is projected to span more than one fiscal year.

9 (c) Refunds. When a request for an initial evaluation or for preparation of an
10 environmental impact report is (1) either withdrawn by the applicant prior to publication of an
11 environmental document or (2) deemed canceled by the Planning Department due to inactivity
12 on the part of the applicant, then the applicant shall be entitled to a refund of the fees paid to
13 the Department less the time and materials expended minus a ~~\$211~~400 processing fee.

14 (d) Late Charges and Collection of Overdue Accounts. The Director or his/her
15 designee shall call upon the Bureau of Delinquent Revenues or duly licensed collection
16 agencies for assistance in collecting delinquent accounts more than 60 days in arrears, in
17 which case any additional costs of collection may be added to the fee amount outstanding. If
18 the Department seeks the assistance of a duly licensed collection agency, the approval
19 procedures of Administrative Code Article 5, Section 10.39-1 et seq. will be applicable.

20 (e) These amendments to fees related to the Planning Department are intended to
21 provide revenues for the staffing and other support necessary to provide more timely
22 processing of applications within that Department.

23 SEC. 31.23 OTHER FEES.
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1 (a) Where an initial evaluation or preparation of an environmental impact report and
2 related environmental studies require the use of special expertise or technical assistance not
3 provided by the board, commission, department or other person who is to carry out the
4 project, such expertise or assistance shall be paid for by such board, commission, department
5 or other person. This payment shall be made either to the Planning Department or, if the
6 Planning Department so requests, directly to the party that will provide such expertise or
7 technical assistance.

8 (b) Where outside consultants are used for such purposes, and the project is to be
9 directly carried out by a person other than a board, commission or department of the City,
10 such consultants shall report their findings directly to the Planning Department.

11 (c) Where employees of the City are used for such purposes, the costs of such
12 employees shall be paid to the board, commission or department providing such employees.

13 (d) In addition to any filing fees required by statute, the County Clerk shall collect a
14 documentary handling fee in the amount of \$2530 for each filing made pursuant to California
15 Fish and Game Code Section 711.4, Subdivision (d).

16 SEC. 31.24 Community Streamlined Plan Area Fees.

17 (a) The Planning Department shall charge the following Community Streamlined Plan Area
18 Fees for environmental applications filed in Plan Areas adopted after July 1, 2005:

19 (1) For Class 1 and 3 Exemptions: same as basic fees outlined in Section 31.22(a)(8) and
20 (10).

21 (2) For determination of the appropriate environmental document: \$11,683.

22 (3) Community Streamlined exemption or exclusion: \$6,383.

23 (b) The Planning Department shall charge the following Community Streamlined Plan Area
24 Fees for environmental applications filed in Plan Areas adopted after July 1, 2005 at intake and for
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1 project applications filed in Plan Areas under development that will rely on the Area Plan
2 Programmatic Environmental Impact Report by the time of final billing and require one or more of the
3 following: Code amendments for the height or bulk district and General Plan amendments. The fees are
4 as follows:

5 (1) For an initial study excluding use of special expertise or technical assistance, as
6 described in Section 31.22 above, the initial fee shall be:

7 — Where the total estimated construction cost as defined by the San Francisco Building
8 Code is between \$0 and \$9,999: \$1,249 for 100% long range planning recovery;

9 — Where said total estimated construction cost is \$10,000 or more, but less than \$200,000:
10 \$5,190 PLUS 2.407% of the cost over \$10,000;

11 — Where said total estimated construction cost is \$200,000 or more, but less than
12 \$1,000,000: \$9,764 PLUS 1.819% of the cost over \$200,000;

13 — Where said total estimated construction cost is \$1,000,000 or more, but less than
14 \$10,000,000: \$24,319 PLUS 1.526% of the cost over \$1,000,000;

15 — Where said total estimated construction cost is \$10,000,000 or more, but less than
16 \$30,000,000: \$161,706 PLUS 0.470% of the cost over \$10,000,000;

17 — Where said total estimated construction cost is \$30,000,000 or more, but less than
18 \$50,000,000: \$255,785 PLUS 0.177% of the cost over \$30,000,000;

19 — Where said total estimated construction cost is \$50,000,000 or more, but less than
20 \$100,000,000: \$291,223 PLUS 0.042% of the cost over \$50,000,000;

21 — Where said total estimated construction cost is \$100,000,000 or more: \$312,317 PLUS
22 0.018% of the cost over \$100,000,000.

23 An applicant proposing major revisions to a project application that has been inactive for more
24 than six months shall submit a new application.

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1 (2) For preparation of an environmental impact report excluding use of special expertise or
2 technical assistance, as described in Section 31.22 above, the initial fee shall be:

3 — Where the total estimated construction cost as defined in the San Francisco Building
4 Code is between \$0 to \$199,999: \$27,724;

5 — Where said total estimated construction cost is \$200,000 or more, but less than
6 \$1,000,000: \$27,724 PLUS 0.694% of the cost over \$200,000;

7 — Where said total estimated construction cost is \$1,000,000 or more, but less than
8 \$10,000,000: \$33,433 PLUS 0.470% of the cost over \$1,000,000;

9 — Where said total estimated construction cost is \$10,000,000 or more, but less than
10 \$30,000,000: \$75,769 PLUS 0.193% of the cost over \$10,000,000;

11 — Where said total estimated construction cost is \$30,000,000 or more, but less than
12 \$50,000,000: \$114,371 PLUS 0.053% of the cost over \$30,000,000;

13 — Where said total construction cost is \$50,000,000 or more, but less than \$100,000,000:
14 \$124,971 PLUS 0.053% of the cost over \$50,000,000;

15 — Where said total estimated construction cost is \$100,000,000 or more: \$151,471 PLUS
16 0.018% of the cost over \$100,000,000.

17 An applicant proposing major revisions to a project application that has been inactive for more
18 than six months shall submit a new application.

19 (3) For the preparation of a focused Environmental Impact Report: one-half the fee that
20 would be required for a full environmental impact report, as set forth in Paragraph (b)(2) above, plus
21 time and materials.

22 (4) The fees above listed in Section 31.24(b) will sunset 20 years after the effective date of
23 Plan Adoption.

1 (c) The Planning Department shall recover the cost of preparing and defending
2 programmatically EIRs, including consultant and City Attorney costs, from project sponsors that file or
3 have filed projects in recently adopted Plan Areas (after July 1, 2005) and filed projects within 10
4 years of the Programmatic EIR certification, and from project sponsors that file or have filed projects
5 in Plan Areas under development that will rely on an Area Plan Programmatic EIR by the time of final
6 billing require one or more of the following: Code amendments for the height or bulk district and
7 General Plan amendments. The fee is as follows:

8 (1) Community exemption or exclusion – same as fees under 31.24(b)(1), plus a
9 proportional share of the cost of the Programmatic EIR which is equal to the Department’s average
10 time and material costs to prepare and defend a Programmatic EIR divided by the buildable envelope
11 times the square footage of the proposed project.

12 (2) Negative declaration, same as the fees under 31.22(a)(7) (developed for full long range
13 planning recovery) plus a proportional share of the cost of the Programmatic EIR which is equal to the
14 Department time and material costs divided by the buildable envelope as identified in the
15 Programmatic EIR times the square footage of the proposed project.

16 (3) Environmental Impact Report and limited environmental impact reports, same as the
17 fees under Section 31.24(a)(2) and (3), plus a proportional share of the cost of the Programmatic EIR
18 which is equal to the Department time and material costs divided by the buildable envelope as
19 identified in the Programmatic EIR times the square footage of the proposed project.

20 (4) The Basic Fee rules relating to appeals as specified in Section 31.22(a)(3) and (4),
21 reactivations (a)(11) and payment Section 31.22(b)(1-6) shall apply to this Section 31.24.

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

By: _____
John D. Malamut
Deputy City Attorney