

1 [Eastern Neighborhoods community stabilization fee and PDR replacement program.]

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3 **Ordinance amending the Planning Code to add Sections 319A et seq. to create a**
4 **community stabilization fund and PDR replacement fund and imposing fees on**
5 **specified new developments in the Eastern Neighborhoods, as defined herein; making**
6 **a declaration of policy concerning pending residential development projects in the**
7 **Eastern Neighborhoods that are compliant with the current Planning Code; and making**
8 **environmental findings and findings of consistency with the General Plan and priority**
9 **policies of Planning Code Section 101.1.**

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

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

14 Section 1. Environmental Findings, General Plan Findings, and Other Required
15 Findings.

16 (a) The Planning Department has determined that the actions contemplated in this
17 Ordinance are in compliance with the California Environmental Quality Act (California Public
18 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
19 Board of Supervisors in File No. _____ and is incorporated herein by reference.

20 (b) On _____, 2008, the Planning Commission approved Resolution
21 No. _____ recommending adoption of this Ordinance to the Board of Supervisors, and
22 adopted findings that the legislation is consistent, on balance, with the City's General Plan
23 and eight priority policies of Planning Code Section 101.1 The Board adopts these findings as
24 its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File
25 No. _____, and is incorporated by reference herein.

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

5 Section 2. Declaration of policy concerning pending Planning Code compliant
6 residential projects in the Eastern Neighborhood Area Plans.

7 (a) The Eastern Neighborhood Area Plans comprise the four (4) areas referred to as
8 East SOMA (the eastern portion of the South of Market District), the Mission, Showplace
9 Square/Potrero Hill, and the Central Waterfront. The East SOMA Plan is bounded generally
10 by Folsom Street on the northwest, the Rincon Hill Plan area (essentially Second Street) on
11 the east, Townsend Street on the south, and Fourth Street on the west, with an extension to
12 the northwest bounded by Harrison, Seventh, Mission, Sixth (both sides), Natoma, Fifth, and
13 Folsom Streets. The Mission Plan is bounded by 13th and Division Streets on the north,
14 Potrero Avenue on the east, Cesar Chavez on the south, and Guerrero Street on the west.
15 The Showplace Square/Potrero Hill Plan is generally bonded by Bryant Street and 10th Street
16 on the northwest, Seventh Street on the northeast, Interstate Highway 280 (I-280) on the east,
17 25th and 26th Streets on the south, and Potrero Avenue on the west. The Central Waterfront
18 Plan is bounded by Mariposa Street on the north, San Francisco Bay on the east, Islais Creek
19 on the south, and I-280 on the west.

20 (b) On February 14, 2006, the Board of Supervisors adopted Motion No. 06-0020
21 concerning findings related to its remand of the mitigated negative declaration for 2660
22 Harrison Street. A copy of said Motion is on file with the Clerk of the Board of Supervisors in
23 File No. 060139 and is incorporated herein by reference.

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1 (c) The Planning Department has interpreted this Board of Supervisors' decision to
2 require preparation of environmental impact reports for all pending residential development
3 projects in the Eastern Neighborhoods Area Plans. The Eastern Neighborhoods Area Plans
4 are further defined in the Eastern Neighborhoods Rezoning and Area Plans Draft
5 Environmental Impact Report, which is on file with the Clerk of the Board of Supervisors in
6 File No. _____ and is incorporated herein by reference. This has resulted in delays
7 to these projects in excess of 12 months. The 2660 Harrison Street decision was meant to
8 account for physical environmental impacts from development where the proposal might
9 contribute to a cumulative loss of Production, Distribution, and Repair ("PDR") uses. The
10 Board of Supervisors did not intend to affect projects in the Eastern Neighborhoods Area
11 Plans that: 1) did not contribute to cumulative loss of PDR resources, 2) have a residential
12 component and comply with the current Planning Code, and 3) currently have pending
13 applications for conditional use, planned unit development, environmental evaluation, or a
14 building permit or site permit.

15 (d) To address the shortfall of new housing inventory in the City, this Board urges the
16 Planning Department to release all projects in the Eastern Neighborhoods Area Plans that
17 satisfy one or more of the aforementioned criteria as soon as all applicable Planning Code
18 and California Environment Quality Act (California Public Resources Code Sections 21000 et
19 seq.) requirements have been satisfied. This will allow projects containing dwelling units to
20 be added to the City's housing stock in the immediate future.

21 (e) This legislation is intended to offset some of these impacts related to project delays
22 as well as address other impacts in the Eastern Neighborhoods Area Plans that are related to
23 and stem from new residential development.

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1 Section 3. The San Francisco Planning Code is hereby amended by adding Sections
2 319A et seq., to read as follows:

3 SEC. 319A. EASTERN NEIGHBORHOODS COMMUNITY STABILIZATION AND
4 PDR REPLACEMENT PROGRAM.

5 This Ordinance shall be known as the Eastern Neighborhoods Community Stabilization
6 Fee and PDR Replacement Act.

7 SEC. 319A.1. FINDINGS AND POLICY.

8 (a) The population of California has grown by more than 11 percent since 1990 and is
9 expected to continue increasing. The San Francisco Bay Area is growing at a similar rate.
10 New residential construction in San Francisco is necessary to accommodate the additional
11 population. In recent years, new residential development has increased in the Rincon Hill
12 Plan area, the Van Ness Corridor, the C-3 District South of Market Street and in all of the
13 Eastern Neighborhoods. The Eastern Neighborhoods Area Plans are composed of portions
14 of the eastern portion of South of Market Area (SoMa), Show Place Square/Potrero, the
15 Mission, and the Central Waterfront.

16 (b) San Francisco's growing population and severe housing crisis require the
17 development of new housing. For the past thirteen (13) years, the Eastern Neighborhoods
18 have been the subject of numerous planning efforts by the Planning Department and
19 Commission. The first Planning Commission effort was the adoption of a series of
20 Resolutions between 1994 and 2004 directed at protecting Production, Distribution and Repair
21 (PDR) uses and other actions regarding the Eastern Neighborhoods. Some of these actions
22 are as follows:

23 (1) Resolution No. 13794 designated the Northwest Mission Industrial Zone (NEMIZ)
24 protecting industrial opportunities in the NEMIZ from residential uses and live/work projects.
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1 (2) After introduction of zoning options for industrial land by the Planning Department
2 in April 1999, the Planning Commission adopted Resolution No. 14861 in August 1999
3 establishing interim controls that delineated areas in the Eastern Neighborhood designed to
4 protect PDR activities and identified areas that would be suitable for housing production.

5 (3) The Commission, in August 2001, then adopted Resolution No. 16202, which was
6 patterned after Resolution No. 14861, to discourage the new development or conversion of
7 existing uses to office, housing and/or live/work in industry protection zones (IPZs). Both of
8 these Resolutions identified the allowable uses by lot and block. The Planning Department
9 also initiated the on-going rezoning of the Eastern Neighborhoods in 2001.

10 (4) The Planning Department released a draft report for Community Planning in the
11 Eastern Neighborhoods in February 2003.

12 (5) The Commission adopted Resolution No. 16727 in February 2004 establishing
13 interim policies patterned after Option B for Eastern SoMa, Mission, and Show Place
14 Square/Potrero neighborhoods. Hunters Point and West SoMa were removed from this
15 resolution because these areas were made subject to separate resolutions and interim
16 controls. Production, Distribution, and Repair ("PDR") uses are defined in this Commission
17 Resolution. The abovementioned Resolutions are on file with the Clerk of the Board of
18 Supervisors in File No. _____ and are incorporated herein by reference.

19 (c) To respond to the need for housing, the Planning Department and the Planning
20 Commission approved approximately 100 residential projects with over 2,900 dwelling units in
21 the Eastern Neighborhood between February 2004 and January 2007. Currently there are
22 106 applications pending at the City's Planning Department to develop housing. Forty-four
23 (44) of these pending applications were filed between October 16, 2003 and March 28, 2007.
24 Together, the 106 applications would represent 3,941 new dwelling units in areas previously
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1 contemplated for office, industrial, and housing uses. Some of these applications will require
2 rezoning while other applications comply with the current Planning Code provisions and the
3 policies set forth in Planning Commission Resolution No. 16727.

4 (d) In March 2007, the Planning Department released the Draft San Francisco's
5 Eastern Neighborhoods Rezoning Socioeconomic Impact Report prepared by Hausrath
6 Economics Group (Hausrath Report). A copy of said report is on file with the Planning
7 Department and is incorporated herein by reference. This draft report states that the
8 proposed Eastern Neighborhood rezoning would double the housing development potential in
9 San Francisco.

10 (e) The Eastern Neighborhoods are currently occupied by office, industrial or
11 residential uses. The proposed rezoning would provide a stable land supply with restrictions
12 limiting development of incompatible uses and would result in better long-term benefits for
13 many PDR businesses. The Hausrath report concluded that prior to the addition of new land
14 use regulations, it is important to address a wide range of community needs. This report
15 further found that planning goals, financial resources for improved or new infrastructure, and
16 interagency coordination to better target existing programs and resources will be required to
17 provide a cohesive land use regulation proposal.

18 (f) For decades, most of the Eastern Neighborhoods have been devoted to industrial
19 uses with minimal community infrastructure to support a significant residential population.
20 New residential development in these areas will impact the limited existing community
21 infrastructure and will generate a substantial need for additional community improvements as
22 the neighborhood's residential population grows. Substantial new investment in community
23 infrastructure, including recreational space, community facilities, and other public services will
24 become necessary to mitigate the impacts of new development.

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1 (g) Additional community facilities, open space, and infrastructure to serve the current
2 and future population are discussed in the February 6, 2007 draft Eastern Neighborhood Area
3 Plans, which are proposed as new additions to the City's General Plan.

4 (h) As a result of the new residential or mixed-use developments, property tax revenue
5 is projected to increase. These revenues will become part of the City's general fund and likely
6 will not be ear marked for spending in the areas from which the revenues would be collected.
7 However, the need for additional community facilities and infrastructure in these
8 neighborhoods, especially in some of the subareas, such as South of Market, parts of the
9 Mission, Show Place Square/Potrero will be comparatively greater than to those typically
10 funded by City government through property tax revenues because of the lack of or deficiency
11 in community facilities and infrastructure. The relative cost of capital improvements and the
12 reduced availability of State and federal funding sources to cover the costs of necessary open
13 space, libraries, and recreational centers, among other community resources will necessitate
14 additional funding source to address the impacts of the new development. The influx of new
15 residents into the these neighborhoods have placed additional demands on the limited
16 existing community facilities that are currently available, such as open space, recreational
17 facilities, libraries, streets and public transportation. As more residents move into the area,
18 there is a need to immediately augment the existing infrastructure to prevent them from being
19 further overburdened.

20 (i) To provide for needed community infrastructure to serve the residents of new
21 residential development in the City, the City has assessed a number of City-wide fees to
22 address the impacts that new development creates for affordable housing, school facilities,
23 transit impacts, childcare, job training, wastewater capacity and downtown parks. In addition,
24 the City has adopted ordinances imposing area-specific impact fees in developing residential
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1 areas, such as Rincon Hill, South of Market, Visitacion Valley. The Board of Supervisors also
2 recently adopted impact fees for the Market and Octavia Neighborhood Plan Area in
3 Ordinance No. 72-08. The Market and Octavia Draft Community Improvement Program
4 Document dated March 20, 2007 demonstrates that there is a reasonable relationship
5 between development of new residential and commercial space created by those
6 development and the need for new open space, recreational facilities, community facilities and
7 services in the Market and Octavia Plan Area. A copy of Ordinance No. 72-08 and this report
8 are on file with the Clerk of the Board of Supervisors in File No. 071157 and are incorporated
9 herein by reference.

10 (j) The amendments to the General Plan, Planning Code and/or Zoning Maps that are
11 necessary to facilitate residential developments proposed in the Eastern Neighborhood Area
12 Plans will substantially increase the number of new residents. Implementation of the rezoning
13 proposal for the Eastern Neighborhoods would result in a 21% increase in population or a
14 28% increase in household numbers in the Eastern Neighborhoods and would have a
15 profound impact on the neighborhood's dated infrastructure, especially those in areas that
16 were almost entirely devoted to industrial uses.

17 (k) Development impact fees are a cost-effective, realistic way to mitigate impacts to a
18 local neighborhood from new development. The Planning Department prepared reports on
19 such fees entitled *Eastern Neighborhoods Financial Analysis* and *Eastern Neighborhoods*
20 *Nexus Studies*. Copies of these reports are on file with the Clerk of the Board of Supervisors
21 in File No. _____. These reports and their findings are incorporated herein by
22 reference. Based on the findings in these reports and as set forth herein, a Community
23 Stabilization Fund should be established to collect funds that will be dedicated to the
24 neighborhoods that are impacted by the new developments. The proposed new fees will
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1 provide funds to remedy those impacts and are not intended to remedy already existing
2 deficiencies. These deficiencies will be addressed through other funding sources.

3 (l) Additional financial resources for community infrastructure in the Eastern
4 Neighborhoods also will increase property values due to the enhanced neighborhood
5 amenities financed with the proceeds from the fee.

6 (m) The Board of Supervisors finds that the fees imposed in this Ordinance will provide
7 needed improvement, including, but not limited to, education, recreation, pedestrian,
8 infrastructure, and streetscape improvement, proportionate to the need generated by
9 residential development projects in the Eastern Neighborhoods.

10 (n) The current excessive delays in processing building permits increase the carrying
11 costs of residential development in the City, which ultimately increases the costs of housing.
12 Imposition of the proposed fees in this Ordinance on projects that comply with current
13 Planning Code provisions only would add further to the pre-construction costs of such
14 Planning Code complying projects. Consequently, certain pending projects and others that
15 provide affordable housing opportunities, such as small scale single room occupancy hotels,
16 should be exempt from paying the fees specified in this Ordinance.

17 (o) For the last ten years, residential development in the Eastern Neighborhood has
18 often displaced vacant industrial sites or sites with vacant buildings that were previously used
19 for industrial uses. Many of these industrial uses in the Eastern Neighborhoods area are one
20 form of industrial use referred to as PDR, a critical use that comprises an important but
21 shrinking component of San Francisco's business and employment sector. These PDR uses
22 are threatened directly when development replaces the use with residential and/or commercial
23 use and indirectly when adjacent uses are converted into residential and/or commercial use,
24 which places pressure on the PDR site to remain as a viable use in the neighborhood. The
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1 Planning Department prepared a report on the demand for and supply of PDR in the City.
2 Said report, known as the EPS PDR Study, is on file with the Clerk of the Board of
3 Supervisors in File No. _____ and is incorporated herein by reference.

4 (p) To alleviate the impact of loss of PDR uses and to revitalize PDR uses and to
5 attract technology and biotech businesses to the City, it is necessary for the City to
6 aggressively pursue retention of PDR and its associated job sectors. Development that
7 removes PDR use should have the option of replacing the lost space at a one-to-one ratio or
8 paying an in lieu replacement fee. To accomplish this, a PDR replacement program should
9 be established.

10 SEC. 319A.2. DEFINITIONS.

11 The following definitions shall govern this Ordinance:

12 (a) "Community facilities" shall include affordable housing, community centers, library
13 facilities, open space, playgrounds, parks, and recreational facilities.

14 (b) "Community services" shall include assistance for affordable housing and
15 community asset building, rental subsidies for low-income households, down payment
16 assistance for home ownership for low-income households, eviction prevention, employment
17 development and neighborhood capacity building, job development and job placement, small
18 business assistance, arts programs, leadership development, community cohesion, civic
19 participation, community-based programs and economic development.

20 (c) "Eastern Neighborhoods" shall mean the Eastern Neighborhoods Area Plans
21 comprising the four (4) areas referred to as East SOMA (the eastern portion of the South of
22 Market District), the Mission, Showplace Square/Potrero Hill, and the Central Waterfront. The
23 East SOMA Plan is bounded generally by Folsom Street on the northwest, the Rincon Hill
24 Plan area (essentially Second Street) on the east, Townsend Street on the south, and Fourth
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1 Street on the west, with an extension to the northwest bounded by Harrison, Seventh,
2 Mission, Sixth (both sides), Natoma, Fifth, and Folsom Streets. The Mission Plan is bounded
3 by 13th and Division Streets on the north, Potrero Avenue on the east, Cesar Chavez on the
4 south, and Guerrero Street on the west. The Showplace Square/Potrero Hill Plan is generally
5 bonded by Bryant Street and 10th Street on the northwest, Seventh Street on the northeast,
6 Interstate Highway 280 (I-280) on the east, 25th and 26th Streets on the south, and Potrero
7 Avenue on the west. The Central Waterfront Plan is bounded by Mariposa Street on the
8 north, San Francisco Bay on the east, Islais Creek on the south, and I-280 on the west. A
9 copy of the boundaries of the Area Plans are identified in the Eastern Neighborhoods
10 Rezoning and Area Plans Draft Environmental Impact Report (Planning Department Case No.
11 2004.0160E, State Clearinghouse Number 2005032048, dated June 30, 2007) and the
12 relevant pages showing these boundaries are on file with the Clerk of the Board of
13 Supervisors in File No. _____ and are incorporated herein by reference.

14 (d) "Infrastructure" shall include street improvements and other amenities in the public
15 right-of-way.

16 (e) "Production, Distribution, and Repair" or "PDR" is defined as set forth in Planning
17 Commission Resolution Number 16727 (2004), a copy of which is on file with the Clerk of the
18 Board of Supervisors in File No. _____ and incorporated herein by reference.

19 (f) "Residential development project" shall mean any new construction, addition,
20 extension, conversion or enlargement, or combination thereof, that includes any occupied
21 floor area of residential use and has five (5) or more residential units; provided, however, that
22 for projects that solely comprise an addition to an existing structure that would add occupied
23 floor area in an amount less than 10 percent of the current occupied floor area of the existing
24 structure, the provisions of this Section shall only apply to the new occupied square footage.

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1 (g) "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 include circulation
3 space, building services, or any use which qualifies as an accessory use, as defined and
4 regulated in Sections 204 through 204.5.

5 (h) "Sponsor" shall mean an applicant seeking approval for construction of a
6 residential development project subject to this Section.

7 SEC. 319A.3. COMMUNITY STABILIZATION FEE.

8 (a) The community stabilization fee shall apply to all residential development projects
9 in the Eastern Neighborhoods that have filed an application for, but have not received a
10 building permit, site permit, conditional use, planned unit development, or environmental
11 evaluation on or after April 1, 2006. The community stabilization fee also shall apply to any
12 development that requires rezoning, amendments to the Planning Code, including but not
13 limited to, an increase to the current maximum allowable height limit or increase in the
14 residential density, or amendments to the current General Plan based on the Planning Code
15 and General Plan on the effective date of this Ordinance.

16 (b) Fee exemption for small SROs. Projects that qualify as single room occupancy
17 hotels or group housing as defined in Sections 209.2(a), 216(a), 790.88(b), or 890.88(b) on
18 lots 4,500 square feet or less are exempt from this fee.

19 (c) Payment of Fees. Prior to the Department of Building Inspection's issuance of the
20 first temporary certificate of occupancy or certificate of occupancy, whichever first occurs, for
21 any building subject to this Ordinance, the Sponsor shall submit payment to the Treasurer the
22 entire fee of \$21.00 per gross square foot of residential use within the building for which the
23 site or building permit is sought. The Sponsor shall obtain from the Treasurer a certificate of
24 payment and, in turn, present this certificate to the Department of Building Inspection as a
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1 prerequisite to obtaining a temporary certificate of occupancy or a certificate of occupancy,
2 whichever first occurs. If the Sponsor intends to seek a waiver or reduction as set forth in
3 Section 319A.5, payment of the fee to the Treasurer shall be accompanied by a letter
4 protesting the fee and stating the intent to file for a waiver, reduction, or other such adjustment
5 with the Board of Supervisors. Failure to submit such a letter of protest shall constitute a
6 waiver of the right to an appeal the fee to the Board of Supervisors.

7 SEC. 319A.4. PDR REPLACEMENT PROGRAM.

8 (a) Prior to the issuance of a building permit or site permit, whichever first occurs, for a
9 building located in the core PDR areas as identified in Planning Commission Resolution
10 Number 16727 (2004) that will demolish, replace, or convert PDR space with a use that does
11 not qualify as PDR, the Sponsor shall provide one-for-one replacement of the PDR space to
12 be demolished, replaced, or converted.

13 (b) Prior to the issuance of a building permit or site permit, whichever first occurs, for a
14 building located in the Housing/PDR areas as identified in Planning Commission Resolution
15 Number 16727 (2004), the Sponsor shall be required to provide up to one-for-one
16 replacement of only the ground floor PDR space exclusive of surface parking area, and
17 excluding the ground floor area of the new building used for building service, required off-
18 street parking, and building circulation, including but not limited to lobby area, stairs, elevator,
19 that the Sponsor will demolish, replace, or convert PDR space with a use that does not qualify
20 as PDR.

21 (c) The one-for-one replacement of the required PDR space to be demolished,
22 replaced, or converted, by one of the following methods:

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1 (1) Construct or cause to be constructed a comparable PDR space to be made
2 available at comparable rent to offset each square foot of PDR to be demolished, replaced, or
3 converted; or

4 (2) Cause to be brought back into the PDR market comparable PDR space from any
5 building which was not subject to the provisions of this Section; or

6 (3) Pay to the City and County of San Francisco \$125.00 per square foot for projects
7 which would require demolition, replacement, or conversion of PDR space; or

8 (4) Pay to the City and County of San Francisco an amount equal to 80 percent of the
9 cost of construction of equivalent PDR space to that being demolished, replaced, or converted
10 plus site acquisition cost. All such payments shall go into the PDR Replacement Fee Fund.
11 The Department of Real Estate shall determine this amount based upon two independent
12 appraisals that the Sponsor must obtain.

13 (d) For purposes of this Section, the PDR space proposed for demolition, replacement,
14 or conversion applies to both vacant and occupied PDR space.

15 (e) Any replacement of PDR within the Eastern Neighborhood Area Plans to offset the
16 demolition, replacement, or conversion of PDR under Subsection (a)(1) or (2) shall continue to
17 be subject to the provisions of this Section.

18 (f) Payment of Fees under Subsection (a)(3) or (4). Prior to the Department of
19 Building Inspection's issuance the first temporary certificate of occupancy or certificate of
20 occupancy, whichever first occurs, the Sponsor shall submit payment to the Treasurer for the
21 full amount specified in Subsections (a)(3) or (4) for the building for which the site or building
22 permit was sought. The Sponsor shall obtain from the Treasurer a certificate of payment and,
23 in turn, present this certificate to the Department of Building Inspection as a prerequisite to
24 obtaining a temporary certificate of occupancy or a certificate of occupancy, whichever first
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1 occurs. If the Sponsor intends to seek a waiver or reduction as set forth in Section 319A.5,
2 payment of the fee to the Treasurer shall be accompanied by a letter protesting the fee and
3 stating the intent to file for a waiver, reduction, or other such adjustment with the Board of
4 Supervisors. Failure to submit such a letter of protest shall constitute a waiver of the right to
5 an appeal the fee to the Board of Supervisors.

6 SEC. 319A.5. FEE WAIVER OR REDUCTION.

7 (a) Any Sponsor who has paid the fees pursuant to Section 319A.3 or Section
8 319.A4(a)(3) or (4) may appeal to the Board of Supervisors for a waiver, reduction, or other
9 such adjustment of the fee requirements based upon the absence of any reasonable
10 relationship or nexus between the impact of development and the amount of the fee charged.

11 (b) Any such appeal shall be made in writing and filed with the Clerk of the Board of
12 Supervisors no later than 15 days after the date the Sponsor paid the Treasurer the fee as
13 required in this Section. The appeal shall set forth in detail the factual and legal basis for the
14 claim of waiver, reduction, or adjustment and shall be accompanied with a copy of the letter of
15 fee protest submitted to the Treasurer. The Board of Supervisors shall consider the appeal at
16 the hearing within 60 days after the filing of the appeal. If the Board is unable to or otherwise
17 fails to render a decision within 120 days of the filing of an appeal, the Sponsor's request shall
18 be deemed approved. The appellant shall bear the burden of presenting substantial evidence
19 to support the appeal, including comparable technical information to support appellant's
20 position. The Board shall adopt findings specifying the basis of its decision. Such decision
21 shall be final. If the Board grants a waiver, reduction, or other adjustment, any subsequent
22 change in use within the project shall invalidate the waiver, reduction, or other such
23 adjustment of the fee. After the Board grants a waiver, reduction, or other such adjustment
24 and adopts its findings, the Clerk of the Board shall promptly transmit the Board's decision to
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1 the Treasurer, and the Treasurer shall take the appropriate steps to refund the fees or take
2 other such action as the Board has specified.

3 SEC. 319A.6. COMMUNITY STABILIZATION AND PDR REPLACEMENT FUNDS.

4 (a) The Controller shall establish and maintain two funds entitled the "Community
5 Stabilization Fund" and "PDR Replacement Fund", respectively. All monies collected by the
6 Treasurer pursuant to Section 319A shall be deposited in the appropriate Fund.

7 (b) The funds in the Community Stabilization Fund are subject to the budgetary and
8 fiscal provisions of the Charter. These funds shall be used solely to: (i) fund community
9 facilities, infrastructure, and community services, as defined in Section 319A.2, in impacted
10 neighborhoods in the Eastern Neighborhood; (ii) to reimburse costs incurred by City agencies,
11 departments, and commissions in processing and allocating the fees; and (iii) to defend the
12 Community Stabilization fee against legal challenge, including the legal costs and attorney's
13 fees incurred in the defense. The funds in the PDR Replacement Fund are subject to the
14 budgetary and fiscal provisions of the Charter. These funds shall be solely to (i) create new
15 PDR space anywhere in the City to replace the PDR lost as a result of the demolition,
16 replacement, or conversion of PDR subject to this Ordinance; (ii) to reimburse costs incurred
17 by City agencies, departments, and commissions in processing and allocating the fees; and
18 (iii) to defend the PDR Replacement Program against legal challenge, including the legal
19 costs and attorney's fees incurred in the defense.

20 (c) The Controller shall allocate monies from the Funds based on appropriation
21 through the legislative process delineated in the San Francisco Charter. During the
22 appropriation process, the Board of Supervisors shall determine the relative impact from the
23 residential development on community facilities, infrastructure, and community services in
24 impacted neighborhoods and shall make findings that the expenditures are consistent with
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1 mitigating the impacts from the development. The same procedures shall apply to the PDR
2 Replacement Fund except that the Board's determinations and findings shall relate to the
3 impacts on PDR loss from development.

4 (d) The Controller's Office shall file an annual report with the Board of Supervisors
5 beginning one year after the effective date of this ordinance, such report shall
6 comprehensively account for the amount of money collected and expended from the Funds.

7 Section 4. Severability. If any section, subsection, clause, phrase, or portion of this
8 Ordinance is for any reason held invalid or unconstitutional by any court or federal or State
9 agency of competent jurisdiction, such portion shall be deemed a separate, distinct and
10 independent provision and such holding shall not affect the validity of the remaining portions
11 thereof.

12 Section 5. Sunset Clause. This ordinance shall expire automatically upon the
13 effective date of the Planning Code amendments, Zoning Map amendments, and General
14 Plan amendments for the Eastern Neighborhood Area Plans.

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

18 By: _____
19 John D. Malamut
20 Deputy City Attorney

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