

File No. 101075

Committee Item No. 1

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date November 15, 2010

Board of Supervisors Meeting Date \_\_\_\_\_

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget Analyst Report                        |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form (for hearings)             |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
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#### OTHER

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|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Building Inspection Commission Recommendation, dtd 10/8/10</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Code Advisory Committee Recommendation, dtd 9/8/10</u>         |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Environmental Review Determination, dtd 8/10/10</u>            |
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Completed by: Alisa Somera Date November 12, 2010

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document can be found in the file.

1 [Building Code - Development Fee Collection Procedure and Administrative Fee]

2  
3 **Ordinance amending the San Francisco Building Code by amending Section 107A.13 to**  
4 **modify the method of calculating the development fee deferral surcharge rate and to**  
5 **clarify when a project sponsor may elect to defer the payment of development impact**  
6 **and in-lieu fees, adopting environmental finding.**

7 NOTE: Additions are single-underline italics Times New Roman;  
8 deletions are ~~strike-through italics Times New Roman~~.  
9 Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough-normal~~.

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

11 Section 1. Environmental Finding. The Planning Department has determined that the  
12 actions contemplated in this ordinance comply with the California Environmental Quality Act  
13 (California Public Resources Code Section 21000 et seq.). Said determination is on file with  
14 the Clerk of the Board of Supervisors in File No. 101075, and is incorporated  
15 herein by reference.

16 Section 2. The San Francisco Building Code is hereby amended by amending Section  
17 107A.13, to read as follows:

18 107A.13 Development Impact and In-Lieu Fees.

19 107A.13.1 Definitions. (a) The following definitions shall govern interpretation of this  
20 Section:

21 (1) "City" shall mean the City and County of San Francisco.

22 (2) "Department" shall mean the Department of Building Inspection.

23 (3) "Development fee" shall mean either a development impact fee or an in-lieu fee.

24 It shall not include a fee for service or any time and material charges charged for reviewing or  
25 processing permit applications.

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1 (4) "Development impact fee" shall mean a fee imposed on a development project  
2 as a condition of approval by the various departments and agencies of the City and levies  
3 against development projects by the San Francisco Unified School District under Section  
4 17620 of the California Education Code and other provisions of State law to mitigate the  
5 impacts of increased demand for public services, facilities or housing caused by the  
6 development project that may or may not be an impact fee governed by the California  
7 Mitigation Fee Act (California Government Code Section 66000 et seq.)

8 (5) "Development impact requirement" shall mean a requirement to provide physical  
9 improvements, facilities or below market rate housing units imposed on a development project  
10 as a condition of approval to mitigate the impacts of increased demand for public services,  
11 facilities or housing caused by the development project that may or may not be governed by  
12 the California Mitigation Fee Act (California Government Code Section 66000 et seq.).

13 (6) "Development project" shall mean a project that is subject to a development  
14 impact or in-lieu fee or development impact requirement.

15 (7) "First certificate of occupancy" shall mean either a temporary certificate of  
16 occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco  
17 Building Code Section 109A, whichever is issued first.

18 (8) "First construction document" shall mean the first building permit issued for a  
19 development project or, in the case of a site permit, the first building permit addendum issued  
20 or other document that authorizes construction of the development project. Construction  
21 document shall not include permits or addenda for demolition, grading, shoring, pile driving, or  
22 site preparation work.

23 (9) "In-lieu fee" is a fee paid by the project sponsor in lieu of complying with a City  
24 requirement that is not a development impact fee within the meaning of the Mitigation Fee Act.  
25

1 (10) "Neighborhood Infrastructure Seed Fund" shall mean the fund or funds  
2 established by the Controller's Office for the purpose of collecting the 20 percent pre-paid  
3 portion of the development fees intended to fund pre-development work on any neighborhood  
4 infrastructure project funded by any of the six neighborhood infrastructure impact  
5 development fees listed in Subsection 107A.13.13.1. In addition, third-party grant monies or  
6 loans may also be deposited into this fund for the purpose of funding pre-development or  
7 capital expenses to accelerate the construction start times of any neighborhood infrastructure  
8 project funded by any of the six neighborhood infrastructure impact development fees listed in  
9 Subsection 107A.13.13.1.

10 (11) "Project sponsor" or "sponsor" shall mean an applicant seeking approval for  
11 construction of a development project subject to this Section, such applicant's successor and  
12 assigns, and/or any entity which controls or is under common control with such applicant.

13 (12) "Unit" shall mean the Department's Development Fee Collection Unit.

14 107A.13.2 Collection by Department. The Department shall be responsible for  
15 collecting all development impact and in-lieu fees, including (a) fees levied by the San  
16 Francisco Unified School District if the District authorizes collection by the Department, and  
17 (b) fees levied by the San Francisco Public Utilities Commission, if the Commission's General  
18 Manager authorizes collection by the Department, deferral of payment of any development  
19 fee, and/or resolution of any development fee dispute or appeal in accordance with this  
20 Section 107A.13.

21 107A.13.3 Timing of development fee payments and satisfaction of development  
22 impact requirements.

23 (a) All development impact or in-lieu fees owed for a development project shall be  
24 paid by the project sponsor prior to issuance of the first construction document; provided,  
25

1 however, that the project sponsor may elect to defer payment of said fees under Section  
2 107A.13.3.1.

3 (b) Any development impact requirement shall be completed prior to issuance of the  
4 first certificate of occupancy for the development project.

5 107A.13.3. Fee Deferral Program; Development Fee Deferral Surcharge. A project  
6 sponsor may elect to defer payment of any development impact or in-lieu fee collected by the  
7 Department to a due date prior to issuance by the Department of the first certificate of  
8 occupancy; provided, however, that the project sponsor shall pay 15 percent of the total  
9 amount of the development fees owed prior to issuance of the first construction document. If a  
10 project is subject to one of the six neighborhood infrastructure impact development fees listed  
11 in Subsection 107A.13.3.1.1, the project sponsor shall pay 20 percent of the total amount of  
12 the development fees owed prior to issuance of the first construction document. These pre-  
13 paid funds shall be deposited as provided in Subsection 107A.13.3.1.1 below. A project  
14 sponsor that received project approval prior to July 1, 2010 and has not yet paid a development impact  
15 or in-lieu fee may elect to defer payment under the provisions of this Section notwithstanding a  
16 condition of approval that required the fee to be paid prior to issuance of a building or site permit.

17 This option to defer payment may be exercised by (1) submitting a deferral request to  
18 the Department on a form provided by the Department prior to issuance of the first  
19 construction document, and (2) agreeing to pay a Development Fee Deferral Surcharge. This  
20 deferral option shall not be available to a project sponsor who paid the fee prior to the  
21 operative date of July 1, 2010; the project sponsor's reapplication for a building or site permit after  
22 expiration of the original permit and refund of the development fees paid shall not authorize the project  
23 sponsor to elect the deferral option. The deferral option shall expire on July 1, 2013 unless the  
24 Board of Supervisors extends it.

1           107A.13.3.1.1. Deposit of pre-paid portion of deferred development fees. If a  
2 development project is not subject to one of the six neighborhood infrastructure impact fees  
3 listed below, the pre-paid portion of the development fees shall be deposited into the  
4 appropriate fee account. If there is more than one fee account, the pre-paid portion of the fees  
5 shall be apportioned equally.

6           If a development project is subject to one of the six neighborhood infrastructure impact  
7 development fees listed below, the entire 20 percent development fee pre-payment shall be  
8 deposited in the appropriate neighborhood infrastructure impact fee account. These pre-paid  
9 funds shall be dedicated solely to replenishing the Neighborhood Infrastructure Seed Fund for  
10 that specific neighborhood infrastructure impact fee account. In no event shall a neighborhood  
11 infrastructure impact fee specific to one Area Plan be mixed with neighborhood infrastructure  
12 impact fees specific to a different Area Plan. If the 20 percent development fee pre-payment  
13 exceeds the total amount owed for the neighborhood infrastructure impact fee account, the  
14 remaining pre-paid portion of the 20 percent development fee pre-payment shall be  
15 apportioned equally among the remaining applicable development fees.

16           The neighborhood infrastructure development fees subject to the 20 percent pre-  
17 payment provision of this Subsection 107A.13.3.1.1 are as follows: (1) the Rincon Hill  
18 Community Infrastructure Impact Fee, as set forth in Planning Code Section 418.3(b)(1); (2)  
19 the Visitacion Valley Community Facilities and Infrastructure Fee, as set forth in Planning  
20 Code Section 420.3(b); (3) the Market and Octavia Community Infrastructure Fee, as set forth  
21 in Planning Code Section 421.3(b); (4) the Balboa Park Community Infrastructure Impact Fee,  
22 as set forth in Planning Code Section 422.3(b); (5) the Eastern Neighborhoods Infrastructure  
23 Impact Fee, as set forth in Planning Code Section 423.3(b); and (6) the Van Ness and Market  
24 Neighborhood Infrastructure Impact Fee, as set forth in Planning Code Section 424.3(b)(ii).  
25

1           107A.13.3.2 Payment of development fees; payment and calculation of Development  
2 Fee Deferral Surcharge. Except for any pre-paid fees, all deferred development fees  
3 remaining unpaid shall be paid in full prior to issuance of the first certificate of occupancy at  
4 the end of the deferral period. The Development Fee Deferral Surcharge shall be paid when  
5 the deferred fees are paid, and shall accrue at the Development Fee Deferral Surcharge Rate.

6           The Development Fee Deferral Surcharge Rate shall be calculated monthly by the ~~San~~  
7 ~~Francisco Treasurer's Office~~ Unit as a blended interest rate comprised of 50% of the Treasurer's  
8 yield on a standard two-year investment and 50% of the latest updated Monthly Earned Income  
9 Yield Rate for the City and County of San Francisco's Pooled Funds, as posted on the San Francisco  
10 Treasurer's website and 50 % of the Annual Infrastructure Construction Cost Inflation Estimate  
11 published by the Office of the City Administrator's Capital Planning Group and approved by  
12 the City's Capital Planning Committee consistent with its obligations under Section 409(b) of  
13 the San Francisco Planning Code. ~~The Treasurer's yield on a standard two-year investment shall~~  
14 ~~be 60% of the Two-Year U.S. FNMA Sovereign Agency Note Yield to Maturity and 40% of the Current~~  
15 ~~Two-Year U.S. Treasury Note Yield to Maturity as quoted from the close of business on the last open~~  
16 ~~market day of the month previous to the date when a project sponsor elects to defer the development~~  
17 ~~fees owed on a development project.~~ The annual Infrastructure Construction Cost Inflation  
18 Estimate shall be updated by the Office of the City Administrator's Capital Planning Group on  
19 an annual basis, in consultation with the Capital Planning Committee, with the goal of  
20 establishing a reasonable estimate of construction cost inflation for the next calendar year for  
21 a mix of public infrastructure and facilities in San Francisco. The Capital Planning Group may  
22 rely on past construction cost inflation data, market trends, and a variety of national, state and  
23 local commercial and institutional construction cost inflation indices in developing their annual  
24 estimates for San Francisco. Commencing on the effective date of this ordinance, Fthe San  
25 Francisco Treasurer's Office Unit shall publish the Development Fee Deferral Surcharge blended

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1 ~~rate~~ on ~~its~~ the Department of Building Inspection website at or near the beginning of each month  
2 ~~March 1, 2010~~. The accrual of any deferred development fees begins on the first day that a  
3 project sponsor elects to defer development fees, but never later than immediately after  
4 issuance of the first construction document. The Development Fee Collection Unit shall  
5 calculate the final Development Fee Deferral Surcharge for individual projects by multiplying  
6 the total development fees otherwise due prior to issuance of the construction document by  
7 the Development Fee Deferral Surcharge Rate by the actual day count of the entire  
8 Development Fee Deferral Period, which shall be the number of days between the project  
9 sponsor's election to defer to final payment of the deferred development fees. The  
10 Development Fee Deferral Surcharge shall be apportioned among all development fee funds  
11 according to the ratio of each development fee as a percentage of the total development fees  
12 owed on the specific project.

13 107A.13.4 Development Fee Collection Unit. There shall be a Development Fee  
14 Collection Unit established within the Department. The Unit's duties include: (1) receiving and  
15 organizing information from various City agencies concerning the amount of development fees  
16 owed or specific development impact requirements imposed under various sections of the  
17 San Francisco Municipal Code or other legal authority, (2) working with the project sponsor  
18 and relevant agencies to resolve any disputes or questions concerning the development fees  
19 or development impact requirements applied to specific development projects, (3) ensuring  
20 that the first construction document, or first certificate of occupancy if the project sponsor  
21 elects to defer payment, is not issued prior to payment of all development fees that are due  
22 and owing, (4) confirming with the Planning Department that any outstanding development  
23 impact requirements are satisfied prior to issuance of the first certificate of occupancy for  
24 projects subject to such requirements, (5) generating Project Development Fee Reports, (6)  
25 processing any development fee refunds, (7) publishing and updating the Citywide



1 Development Fee Register, (8) initiating lien proceedings to collect any unpaid development  
2 impact or in-lieu fees, and (9) performing such other duties as the Building Official requires.

3 The fee for the Department's services shall be as provided in Section 107A.13.14.

4 107A.13.5 Citywide Development Fee Register. The Unit shall publish a Citywide  
5 Development Fee Register that lists all current San Francisco development impact and in-lieu  
6 fees. The Unit shall update the Register whenever a development impact or in-lieu fee is  
7 newly enacted, rescinded or amended. The Unit shall make the Register available to the  
8 public upon request, including but not limited to posting it on the Department's website.

9 107A.13.6 Required City Agency or Department Notice to Development Fee Collection  
10 Unit. Prior to issuance of any building or site permit for a project, any department or agency  
11 responsible for calculating a development fee collected by the Unit or imposing a development  
12 impact requirement shall send written or electronic notification to the Development Fee  
13 Collection Unit that (i) identifies the development project, (ii) lists which specific development  
14 fees and/or development impact requirements are applicable and the legal authorization for  
15 their application, (iii) specifies the amount of the development fee or fees that the department  
16 or agency calculates is owed to the City or that the project sponsor has elected to satisfy a  
17 development impact requirement through the direct provision of public benefits, and (iv) lists  
18 the name and contact information for the staff person at each agency or department  
19 responsible for calculating the development fee or monitoring the development impact  
20 requirement.

21 107A.13.7 Project Development Fee Report. Prior to the issuance of the building or  
22 site permit for a development project that owes a development fee or fees or is subject to  
23 development impact requirements, and at any time thereafter, the Development Fee  
24 Collection Unit shall prepare and provide to the project sponsor, or any member of the public  
25 upon request, a Project Development Fee Report. The Report shall: (i) identify the

1 development project (ii) list which specific development fees and/or development impact  
2 requirements are applicable and the legal authorization for their application, (iii) specify the  
3 amount of the development fee or fees that the department or agency calculates is owed or  
4 that the project sponsor has elected to satisfy a development impact requirement through the  
5 direct provision of physical improvements, (iv) list the name and contact information for the  
6 staff person at each agency or department responsible for calculating the development fee or  
7 monitoring the development impact requirement, and (v) state whether the development fee or  
8 fees are due and payable prior to issuance of the first construction document or whether the  
9 project sponsor has requested deferral under Section 107A.13.3.1, and note the status of  
10 payment. A copy of the Project Development Fee Report shall always be made available to  
11 the project sponsor immediately prior to issuance of the site or building permit for a  
12 development project subject to any development fee or fees to provide adequate notice of the  
13 proposed development fee or fees. The Development Fee Collection Unit shall not issue a  
14 Final Development Fee Report and the respective site or building permit for a development  
15 project until it has received written confirmation from the First Source Hiring Administration  
16 (FHSA) that the project sponsor has executed a first source hiring agreement(s) with the  
17 FHSA consistent with Administrative Code Section 83.11.

18 107A.13.8 Failure to give notice of a development fee owed or development impact  
19 requirement. The failure of the Unit or a fee-assessing department or agency to give any  
20 notice of a development fee owed or development impact requirement shall not relieve the  
21 project sponsor of the obligation to pay the development fee when it is due. The procedure set  
22 forth in this Section is not intended to preclude enforcement of the development fee or  
23 development impact requirements pursuant to any other section of this Code, the Planning  
24 Code or other parts of the Municipal Code or under the laws of the State of California.

25 107A.13.9 Development fee dispute resolution; appeal to Board of Appeals.

1           107A.13.9.1 Procedure for resolution by Development Fee Collection Unit. If a dispute  
2 or question arises concerning the accuracy of the final Project Development Fee Report,  
3 including the mathematical calculation of any development fee listed thereon, the  
4 Development Fee Collection Unit shall attempt to resolve it in consultation with the  
5 department or agency affected by the disputed fee and the project sponsor. A person  
6 protesting the accuracy of the Report must submit the issue or issues in writing to the Unit  
7 with a copy to the department or agency whose development fee is in dispute. Any public  
8 notice of the issuance of the building or site permit shall notify the public of the right to request  
9 a copy of the Project Development Fee Report and of the right of appeal to the Board of  
10 Appeals under Section 107A.13.9.2.

11           107A.13.9.2 Appeal to Board of Appeals. (a) If the Development Fee Collection Unit is  
12 unable to resolve the dispute or question , the project sponsor or a member of the public may  
13 appeal the Project Development Fee Report to the Board of Appeals within 15 days of the  
14 issuance of the building or site permit under Article 8 et seq. of the San Francisco Business &  
15 Tax Regulations Code.

16           (b) In cases where a project sponsor is not using the site permit process and is  
17 required to pay a development fee or fees prior to issuance of the development project's  
18 building permit, and chooses not to defer payment under Section 107A.13.3.1, the sponsor  
19 may pay a disputed fee under protest and file an appeal within 15 days of the issuance of the  
20 permit.

21           (c) In order to appeal to the Board of Appeals under this Section, a project sponsor  
22 appellant must first have attempted to resolve the dispute or question by following the  
23 procedure in Section 107A.13.9.1. Evidence of this prior attempt must be submitted to the  
24 Board of Appeals in order for the Board to accept the appeal. Members of the public may file  
25 an appeal under this Section without providing such evidence.

1 (d) Promptly after an appeal has been filed, the Board of Appeals shall notify the  
2 department or agency whose development fee or development impact requirement is at issue  
3 of the fact that an appeal has been filed and the date scheduled for hearing. A representative  
4 of the Department of Building Inspection and of the department or agency whose  
5 development fee or development impact requirement is in dispute must be present at the  
6 appeal hearing.

7 (e) In hearing any appeal of the Project Development Fee Report, the Board's  
8 jurisdiction is strictly limited to determining whether the mathematical calculation of the  
9 development fee or the scope of a development impact requirement is accurate and resolving  
10 any technical disputes over the use, occupancy, floor area, unit count and mix, or other  
11 objective criteria that calculation of the challenged development fee or development impact  
12 requirement is based upon.

13 (f) If a decision by the Board of Appeals requires a refund of all or any portion of  
14 the disputed development fee, the refund shall be processed promptly by the Development  
15 Fee Collection Unit under Section 107A.13.11. If a decision requires a new determination  
16 regarding the scope of a development impact requirement, such new determination shall be  
17 made by the relevant City agency or department prior to issuance of the first certificate of  
18 occupancy. Where the Board determines that an additional amount of the fee or fees is due  
19 and owing, the additional amount shall be paid prior to issuance of the first certificate of  
20 occupancy for the development project.

21 107A.13.10 Violation of this Section deemed a violation of the Building Code. In  
22 addition to the lien proceedings authorized by Section 107A.13.14, a violation of this Section  
23 107A.13 shall be deemed a violation of the Building Code and subject to the provisions of  
24 Section 103A and any investigation or other fees authorized under other sections of this Code  
25 to compensate the Department for the cost of abating violations.

1           107A.13.11 Development fee refunds. Upon notification by the property owner or  
2 project sponsor and confirmation by the applicable department or agency that a fee refund is  
3 due, the Unit shall process the refund. The fee for processing the refund shall be as set forth  
4 in Table 1A-D – Other Building Permit and Plan Review Fees.

5           107A.13.12 Development fee information a public record. Any notice of development  
6 fees due or development impact requirements imposed sent to the Development Collection  
7 Unit by any fee-assessing departments and agencies, the Project Development Fee Report  
8 issued by the Unit, and any development fee refunds or development impact requirement  
9 revisions made are a matter of public record.

10           107A.13.13 Administrative fee. The fee for services provided by the Department  
11 under this Section 107A.13 shall be the Standard Hourly Rate for Administration set forth in  
12 Table 1A-D of this Code . The administrative fee is payable within 30 days' of the  
13 Department's notice that payment is due.

14           107A.13.14 Administrative procedures. The Building Official is empowered to adopt  
15 such administrative procedures as he or she deems necessary to implement this Section.  
16 Such administrative procedures shall be generally consistent with the procedural  
17 requirements set forth in this Section 107A.

18           107A.13.15 Wrongful Issuance of First Construction Document or Certificate of  
19 Occupancy; assessment lien; notice. In addition to any other remedy established in this Code  
20 or under other authority under the laws of the State of California, if DBI inadvertently or  
21 mistakenly issues the first construction document or first certificate of occupancy, whichever  
22 applies, for a development project that has not paid a development fee that is due and owing  
23 and payment has not been received within 30 days following notice that payment is due, or, in  
24 the case where a sponsor has elected to satisfy a development impact requirement through  
25 direct provision of physical improvements and where non-compliance with any such

1 requirement is not corrected within 30 days following notice, the Department shall initiate  
2 proceedings in accordance with Article XX of Chapter 10 of the San Francisco Administrative  
3 Code to make the entire unpaid balance of the fee that is due, including interest at the rate of  
4 one and one-half percent per month or fraction thereof on the amount of unpaid fee, a lien  
5 against all parcels used for the development project. The penalty fee provisions of this  
6 section shall also apply to projects that have elected to provide physical improvements in lieu  
7 of paying a development fee, as if they had elected to pay the relevant development fee.

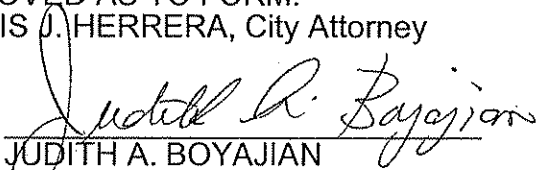
8 The Department shall send all notices required by Article XX to the owner or owners of  
9 the property and to the project sponsor if different from the owner. The Department shall also  
10 prepare a preliminary report, and notify the owner and sponsor of a hearing by the Board of  
11 Supervisors to confirm such report at least ten days before the date of the hearing. The report  
12 shall contain the owner and sponsor's names, a description of the development project, a  
13 description of the parcels of real property to be encumbered as set forth in the Assessor's  
14 Map Books for the current year, a description of the alleged violation of this Section, and shall  
15 fix a time, date, and place for hearing. The Department shall mail this report to the sponsor  
16 and each owner of record of the parcels of real property subject to the lien.

17 Any notice required to be given to an owner or sponsor shall be sufficiently given or  
18 served upon the owner or sponsor for all purposes in this Section if personally served upon  
19 the owner or sponsor or if deposited, postage prepaid, in post office letterbox addressed to  
20 the owner or sponsor at the official address of the owner or sponsor maintained by the Tax  
21 Collector for the mailing of tax bills or, if no such address is available, to the sponsor at the  
22 address of the development project, and to the applicant for the site or building permit at the  
23 address on the permit application.

1           Except for the release of the lien recording fee authorized by Administrative Code  
2 Section 10.237, all sums collected by the Tax Collector under this Section shall be held in  
3 trust by the Treasurer and deposited in the City's appropriate fee account.  
4

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

7 By:

  
8 JUDITH A. BOYAJIAN  
9 Deputy City Attorney  
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**LEGISLATIVE DIGEST**

[Development Fee Collection Procedure; Administrative Fee]

**Ordinance amending the San Francisco Building Code by amending Section 107A.13 to modify the method of calculating the Development Fee Deferral Surcharge Rate and to clarify when a project sponsor may elect to defer the payment of development impact and in-lieu fees; adopting environmental finding.**

Existing Law

The City and County of San Francisco imposes a number of impact fees on development projects and also requires certain development projects to provide physical improvements, facilities or below market rate housing units ("development impact requirements") as a condition of approval of the building or site permit for the project. These development impact fees and requirements are imposed to mitigate the estimated impacts of increased demand for public services, facilities or housing caused by development projects. In many cases, the Planning Code gives project sponsors the option of paying a fee in lieu of providing the physical improvements, facilities or below market rate housing units ("in-lieu fees") to mitigate the effects of new development. Development impact and in-lieu fees are distinct and different from fee for service or permit processing fees, which reimburse the City for the actual time and material expenses of City staff in reviewing and approving the permits required for new development.

On July 1, 2010, Chapter 107A.13 of the San Francisco Building Code went into effect. Chapter 107A.13 authorizes the Development Fee Collection Unit at the Department of Building Inspection to collect all development impact and in-lieu fees and enforce compliance with development impact requirements. All development fees are now required to be paid prior to issuance of the first building permit or other document authorizing construction of a development project, but provides that a project sponsor has the option to defer payment of a portion of the fees to a date prior to issuance of the first certificate of occupancy if the sponsor agrees to pay a deferral surcharge equivalent to the effective interest that the City would have accrued on the funds if it had collected the fees at the earlier date. This deferral option is available only to project sponsors who have not already paid the fee, and terminates on July 1, 2013 unless the Board of Supervisors extends the Fee Deferral Program.

Amendments to Existing Law

Section 107A.13.3.2 is modified to change the method of calculating the Development Fee Deferral Surcharge Rate and to require the Department of Building Inspection to publish the Rate on its website at or near the beginning of each month.

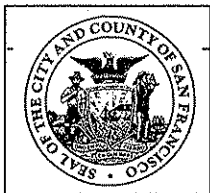


Section 107A.13.3 is amended to clarify that a project sponsor that received project approval prior to the July 1, 2010 operative date of Chapter 107A.13 of the Building Code may elect to defer payment of the development impact or in-lieu fee notwithstanding a condition of approval that required the fee to be paid prior to issuance of a building or site permit. It is further amended to clarify that if a project sponsor has paid the development impact or in-lieu fee for a project, the deferral option is not available even if the sponsor reapplies for a new permit after allowing the original permit to expire and getting a fee refund.

#### Background Information

These proposed amendments are technical in nature and clarify some unintended ambiguities in the legislation that went into effect on July 1, 2010. The Development Fee Deferral Surcharge Rate was simplified to correspond better to the Treasurer's existing monthly pooled funds rate. This will make administration and calculation of the Deferral Surcharge Rate easier and more transparent.

Who can benefit from the Deferral Program has been clarified to ensure that: (1) a project that had not paid development impact or in-lieu fees as of the operative date of Chapter 107A.13 may enroll in the Deferral Program regardless of conflicting language in its entitlements and (2) applicants who have paid development impact or in-lieu fees cannot willingly let permits expire in order to then seek refunds, reapply for a permit and defer payment of the fees.



## BUILDING INSPECTION COMMISSION (BIC)

Department of Building Inspection

Voice (415) 558-6164 - Fax (415) 558-6509

1660 Mission Street, San Francisco, California 94103-2414

October 8, 2010

Gavin Newsom  
Mayor

Ms. Angela Calvillo, Clerk of the Board  
Board of Supervisors

COMMISSION

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4694

Mel Murphy  
President

Reuben Hechanova  
Vice President

Kevin Clinch  
Frank Lee  
Warren Mar  
Criss Romero  
Debra Walker

**RE: File No. 101075 Ordinance amending the San Francisco Building Code by amending Section 107A.13 to modify the method of calculating the development fee deferral surcharge rate and to clarify when a project sponsor may elect to defer the payment of development impact and in-lieu fees, adopting environmental finding.**

Dear Ms. Calvillo:

Ann Aherne  
Secretary

On September 29, 2010 the Building Inspection Commission held a special meeting and heard public testimony on the proposed ordinance referenced above.

Vivian L. Day  
Director

The Commissioners voted unanimously to recommend that the Board of Supervisors approve this Ordinance. All Commissioners were present.

A copy of the Ordinance is attached.

Should you have any questions, please do not hesitate to call me at 558-6164.

Sincerely,

Ann Marie Aherne  
Commission Secretary

Attachment

cc: Mayor Gavin Newsom  
Supervisor David Chiu  
Alisa Somera, Clerk, Land Use & Economic Development Comm.  
Rick Caldeira, BOS  
Deputy City Attorney Judith Boyajian  
Director Vivian L. Day  
Deputy Director Laurence Kornfield  
Gail Johnson, BOS

City and County of San Francisco  
Department of Building Inspection



Gavin Newsom, Mayor  
Vivian L. Day, C.B.O., Director

September 8, 2010

Building Inspection Commission  
1660 Mission Street  
San Francisco, CA 94103

RE: Proposed Ordinance File # 101075  
Building Code-Development Fee Collection Procedure and Administrative Fee

Honorable Members of the Commission:

At the regular meeting of September 8, 2010, the full Code Advisory Committee (CAC) deliberated on a proposed ordinance (File #101075) amending the San Francisco Building Code by amending Section 107A.13 to modify the method of calculating the development fee deferral surcharge rate, clarify when a project sponsor may elect to defer the payment of development impact and in-lieu fees, and adopting environmental findings. The CAC voted unanimously to recommend support of the ordinance as written.

The CAC duly forwards this recommendation to the Building Inspection Commission for their consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kirk Means".

Kirk Means  
DBI Technical Services Division  
Secretary to the Code Advisory Committee

cc: Vivian L. Day, C.B.O., Director  
Laurence Kornfield, Deputy Director  
Willy Yau, Manager, Technical Services Division  
Ned Fennie, Jr., Chair, Code Advisory Committee  
Bill Strawn, Communications Manager

Technical Services Division  
1660 Mission Street - San Francisco CA 94103  
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BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
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TDD/TTY No. 554-5227

# MEMORANDUM

TO: Planning Department  
Environmental Review Officer

FROM: Angela Calvillo, Clerk of the Board

DATE: August 9, 2010

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Budget and Finance Committee

The Board of Supervisors Budget and Finance Committee has received the following, which is being referred to the Planning Department for determination as to whether the proposed fee increase will impact the environment.

**Please provide your findings within 10 days from the date of referral.**

File: 101075

Building Code - Development Fee Collection Procedure and Administrative Fee.

Please return this cover sheet with the Commission's response to Andrea Ausberry, Assistant Clerk, Budget and Finance.

cc: Nannie Turrell, Major Environmental Analysis  
Brett Bollinger, Major Environmental Analysis

\*\*\*\*\*  
RESPONSE FROM PLANNING DEPARTMENT - Date: August 10, 2010

No Comment  
 Recommendation Attached

*Exempt from CEQA.  
per SEQA Guidelines  
Section 15273, Rates,  
Referral - Fees  
Tolls, Taxes and  
Charges.*

Nannie R. Turrell for  
Bill Wycko, Environmental Review Officer