

BOARD of SUPERVISORS



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May 7, 2019

Planning Department  
Attn: John Rahaim  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Mr. Rahaim:

On April 30, 2019, Mayor Breed introduced the following proposed legislation:

**File No. 190458**

**Ordinance amending the Planning Code and the Administrative Code to abolish the North of Market Affordable Housing Fund and have certain fees collected in conjunction with North of Market affordable housing deposited in the Citywide Affordable Housing Fund; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

The proposed ordinance is being transmitted pursuant to the Rules of Order 3.22 for review and comment. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

c: Scott Sanchez, Acting Deputy Zoning Administrator  
Corey Teague, Zoning Administrator  
Lisa Gibson, Environmental Review Officer  
Devyani Jain, Deputy Environmental Review Officer  
AnMarie Rodgers, Director of Citywide Planning  
Dan Sider, Director of Executive Programs  
Aaron Starr, Manager of Legislative Affairs  
Joy Navarrete, Environmental Planning  
Laura Lynch, Environmental Planning

1 [Planning, Administrative Codes - North of Market Affordable Housing Fees and Citywide  
2 Affordable Housing Fund]

3 **Ordinance amending the Planning Code and the Administrative Code to abolish the**  
4 **North of Market Affordable Housing Fund and have certain fees collected in**  
5 **conjunction with North of Market affordable housing deposited in the Citywide**  
6 **Affordable Housing Fund; and making findings of consistency with the General Plan,**  
7 **and the eight priority policies of Planning Code, Section 101.1, and findings of public**  
8 **convenience, necessity, and welfare under Planning Code, Section 302.**

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

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

17 Section 1. Findings.

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

23 (b) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
24 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in  
25 Planning Commission Resolution No. \_\_\_\_\_, and incorporates such reasons by this  
reference thereto. A copy of said resolution is on file with the Clerk of the Board of  
Supervisors in File No. \_\_\_\_\_.

1 Section 2. Article 2 of the Planning Code is hereby amended by revising Section  
2 263.7, to read as follows:

3 **SEC. 263.7. SPECIAL HEIGHT EXCEPTIONS: NORTH OF MARKET RESIDENTIAL**  
4 **SPECIAL USE DISTRICT.**

5 \* \* \* \*

6 (d) **Conditions.** The ~~City~~ Planning Commission shall impose conditions on the  
7 approval of applications for conditional use authorization, required pursuant to Section 253 for  
8 buildings which exceed 40 feet in height in an R District, if such authorization includes a grant  
9 of an exception to the 80-foot base height limit, in order to mitigate the impact that such height  
10 exception is likely to have on the existing supply of affordable housing in the area. The  
11 condition shall require that the applicant pay a fee to the ~~City~~ Controller which shall be  
12 deposited in the Citywide North of Market Affordable Housing Fund established in Administrative  
13 Code Section 10.100-49 (the "Fund").

14 (e) **Fee.** The fee required pursuant to ~~S~~ubsection (d) above shall be equal to the sum  
15 of \$5 times the total gross square footage of floor space located above 80 feet in height as  
16 determined by the Zoning Administrator, as shown on the building plans. The fee shall be due  
17 and payable prior to the issuance of a temporary certificate of occupancy, unless the project  
18 sponsor agrees to and qualifies for participation in an amortized payment program, to be  
19 established by the Director of the Mayor's Office of Housing and Community Economic  
20 Development (MOHCED) and the Director of City Planning, such program to be subject to  
21 subsequent review and approval by the City Planning Commission and the Board of  
22 Supervisors, which program would result in the City receiving an amount equivalent to the  
23 value of the contribution at the time the temporary certificate of occupancy is issued.

24 \* \* \* \*

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1 (g) ~~North of Market~~ Citywide Affordable Housing Fund. ~~There is hereby established a~~  
2 ~~separate fund set aside for a special purpose called the "North of Market Affordable Housing Fund~~  
3 ~~(Fund)".~~ All fees monies collected by the Controller pursuant to this Section 263.7 shall be  
4 deposited in the Fund, but the fees shall be separately accounted for and expended by MOHCD as  
5 provided in this Section. All monies fees collected under this Section and deposited in the Fund shall  
6 be used solely to stabilize, rehabilitate, and retain affordable housing in the North of Market  
7 Residential Special Use District. No fees collected under this Section ~~portion of the Fund~~ may be  
8 used, by way of loan or otherwise, to pay any administrative, general overhead, or similar  
9 expense of any entity except for servicing cost related to participation in the amortized  
10 payment program. ~~The Fund shall be administered by the Director of the Mayor's Office of Housing~~  
11 ~~and Economic Community Development (MOHECD).~~

12 (h) **Rules and Regulations for Implementation.** The Director of MOHCED and the  
13 Director of City Planning shall prepare and submit to the ~~City~~ Planning Commission and the  
14 Board of Supervisors for review and approval such rules and regulations as may be  
15 necessary for the implementation of this Section. The Director of MOHCED and the Director of  
16 City Planning shall further propose such amendments or additions to the rules and regulations  
17 that he or she determines to be necessary. Such amendments and additions shall include  
18 periodic revision of the fee to reflect current conditions.

19 Section 3. Chapter 10 of the Administrative Code is hereby amended by revising  
20 Section 10.100-49, to read as follows:

21 **SEC. 10.100-49. CITYWIDE AFFORDABLE HOUSING FUND.**

22 (a) **Establishment of Fund.** The Citywide Affordable Housing Fund is established as  
23 a category eight fund to receive fee revenue dedicated to affordable housing and other  
24 contributions to the fund. The fund receives money from, among other sources:

25 (1) The North of Market Residential Special Use District, Planning Code Section 263.7;

- 1           ~~(1)(2)~~ The Jobs Housing Linkage Program, Planning Code Section 413 et seq.;
- 2           ~~(2)(3)~~ The Inclusionary Affordable Housing Program, Planning Code Section 415
- 3 et seq.;
- 4           ~~(3)(4)~~ The Market and Octavia Affordable Housing Program, Planning Code
- 5 Section 416.5;
- 6           ~~(5)~~ The Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee, Planning
- 7 Code Section 417.5;
- 8           ~~(4)(6)~~ The Eastern Neighborhoods Housing Fund, Planning Code Section 423.5;
- 9           ~~(5)(7)~~ The Expedited Condominium Conversion Program, Subdivision Code
- 10 Section 1396.4; and,
- 11           ~~(6)(8)~~ Repayments of loans and other program income associated with
- 12 investments initially made with monies from the fund.

13           \* \* \* \*

14           Section 4. Effective Date. This ordinance shall become effective 30 days after

15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board

17 of Supervisors overrides the Mayor's veto of the ordinance.

18           Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors

19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

22 additions, and Board amendment deletions in accordance with the "Note" that appears under

23           ///

24           ///

25           ///

1 the official title of the ordinance.

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

4

5 By:



6 KEITH NAGAYAMA  
7 Deputy City Attorney  
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## LEGISLATIVE DIGEST

[Planning, Administrative Codes - North of Market Affordable Housing Fees and Citywide Affordable Housing Fund]

**Ordinance amending the Planning Code and the Administrative Code to abolish the North of Market Affordable Housing Fund and have certain fees collected in conjunction with North of Market affordable housing deposited in the Citywide Affordable Housing Fund; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

### Existing Law

The North of Market Affordable Housing Fund (“NOM Fund”) is currently established in the Planning Code as a special fund established by the Controller to receive fees related to certain height exceptions made in the North of Market Residential Special Use District (“NOM Fees”). The NOM Fund is administered by the Mayor’s Office of Housing and Community Development (“MOHCD”) and must be used solely to stabilize, rehabilitate, and retain affordable housing in the North of Market Residential Special Use District. The Citywide Affordable Housing Fund (the “Citywide Fund”) is established under the Administrative Code to receive fee revenue dedicated to affordable housing from several different programs related to affordable housing, including programs in the Planning Code. MOHCD administers the Citywide Fund for the exclusive purpose of supporting affordable housing or other eligible uses prescribed by the code where a fee was established. The Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee is currently established in the Planning Code and must be deposited into the Citywide Fund.

### Amendments to Current Law

The Proposed Legislation amends the Planning Code to abolish the NOM Fund, require NOM Fees to be deposited into the Citywide Fund, and clarify MOHCD as the administrator of the NOM Fees. The NOM Fees within the Citywide Fund must be separately accounted for and expended by MOHCD. The Proposed Legislation also amends the Administrative Code to add the NOM Fees and the Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee as fee revenue to be received by the Citywide Fund.

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