

1 [Planning Code - Controller’s Reports]

2

3 **Ordinance amending the Planning Code to modify when the Controller is required to**  
4 **issue various reports; and making environmental findings, and findings of consistency**  
5 **with the General Plan.**

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

9

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

11

12 Section 1. Findings.

13 (a) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this  
14 Ordinance will serve the public necessity, convenience, and welfare for the reasons set forth  
15 in Planning Commission Resolution No. 18935, and incorporates those reasons herein by  
16 reference. A copy of said Planning Commission Resolution is on file with the Clerk of the  
17 Board of Supervisors in File No. 130549.

18 (b) The Board of Supervisors finds that this Ordinance is, on balance, consistent with  
19 the General Plan and the Priority Policies of Planning Code Section 101.1(b) for the reasons  
20 set forth in Planning Commission Resolution No. 18935, and incorporates those reasons  
21 herein by reference.

22 (c) The Planning Department has determined that the actions contemplated in this  
23 ordinance comply with the California Environmental Quality Act (California Public Resources  
24 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of  
25 Supervisors in File No. 130549 and is incorporated herein by reference.

1 Section 2. The Planning Code is hereby amended by amending Sections 409, 413.6,  
2 415.5, 418.5, 418.7, 420.6, 421.5, 422.5, 423.5, and 424.5, to read as follows:

3 **SEC. 409. ~~ANNUAL~~ CITYWIDE DEVELOPMENT FEE REPORTING REQUIREMENTS AND**  
4 **COST INFLATION FEE ADJUSTMENTS.**

5 (a) ***Annual* Citywide Development Fee and Development Impact Requirements**  
6 **Report.** In coordination with the Development Fee Collection Unit at DBI and the Planning  
7 Director, the Controller shall issue a report within 180 days after the end of each  
8 *even-numbered year* fiscal year, that provides information on all development fees established  
9 in the San Francisco Planning Code collected during the prior *two* fiscal *years* ~~*year*~~ organized  
10 by development fee account and all cumulative monies collected over the life of each  
11 development fee account, as well as all monies expended. The report shall also provide  
12 information on the number of projects that elected to satisfy development impact requirements  
13 through the provision of "in-kind" physical improvements, including on-site and off-site BMR  
14 units, instead of paying development fees. The report shall also include any annual reporting  
15 information otherwise required pursuant to the California Mitigation Fee Act, Government  
16 Code 66001 *et seq.* The report shall be presented by the Planning Director to the Planning  
17 Commission and to the Land Use & Economic Development Committee of the Board of  
18 Supervisors. The Report shall also contain information on the Controller's annual construction  
19 cost inflation adjustments to development fees described in subsection (b) below, as well as  
20 information on MOH's separate adjustment of the Jobs-Housing Linkage and Inclusionary  
21 Affordable Housing fees described in Sections 413.6(b) and 415.5(b)(3).

22 (b) **Annual Development Fee Infrastructure Construction Cost Inflation**  
23 **Adjustments.** Prior to issuance of the *Annual* Citywide Development Fee and Development  
24 Impact Requirements Report referenced in subsection (a) above, the Controller shall review  
25 the amount of each development fee established in the San Francisco Planning Code and,

1 with the exception of the Jobs-Housing Linkage Fee in Section 413 *et seq.* and the  
2 Inclusionary Affordable Housing Fee in Section 415 *et seq.*, shall adjust the dollar amount of  
3 any development fee on an annual basis every January 1 based solely on the Annual  
4 Infrastructure Construction Cost Inflation Estimate published by the Office of the City  
5 Administrator's Capital Planning Group and approved by the City's Capital Planning  
6 Committee no later than November 1 every year, without further action by the Board of  
7 Supervisors. The Annual Infrastructure Construction Cost Inflation Estimate shall be updated  
8 by the Capital Planning Group on an annual basis and no later November 1 every year, in  
9 consultation with the Capital Planning Committee, in order to establish a reasonable estimate  
10 of construction cost inflation for the next calendar year for a mix of public infrastructure and  
11 facilities in San Francisco. The Capital Planning Group may rely on past construction cost  
12 inflation data, market trends and a variety of national, state and local commercial and  
13 institutional construction cost inflation indices in developing their annual estimates for San  
14 Francisco. The Planning Department and the Development Fee Collection Unit at DBI shall  
15 provide notice of the Controller's development fee adjustments, including the Annual  
16 Infrastructure Construction Cost Inflation Estimate formula used to calculate the adjustment,  
17 and MOH's separate adjustment of the Jobs-Housing Linkage and Inclusionary Affordable  
18 Housing Fees on the Planning Department and DBI website and to any interested party who  
19 has requested such notice at least 30 days prior to the adjustment taking effect each  
20 January 1. The Jobs-Housing Linkage Fee and the Inclusionary Affordable Housing fees shall  
21 be adjusted under the procedures established in Sections 413.6(b) and 415.5(b)(3).

22

23 **SEC. 413.6. COMPLIANCE BY PAYMENT OF IN-LIEU FEE.**

24 (a) The amount of the fee which may be paid by the sponsor of a development project  
25 subject to this Section in lieu of developing and providing the housing required by

1 Section 413.5 shall be determined by the following formulas for each type of space proposed  
2 as part of the development project and subject to this Article.

3 \* \* \* \*

4 ~~Commencing on January 1, 2012, no~~ No later than January 1 of each year, MOH shall  
5 adjust the in-lieu fee payment option. No later than November 1 of each year, MOH shall  
6 provide the Planning Department, DBI, and the Controller with information on the adjustment  
7 to the in-lieu fee payment option so that it can be included in the Planning Department's and  
8 DBI's website notice of the fee adjustments and the Controller's ~~Annual~~ Citywide Development  
9 Fee and Development Impact Requirements Report described in Section ~~409(a)~~ ~~409(b)~~. MOH  
10 is authorized to develop an appropriate methodology for indexing the fee, based on  
11 adjustments in the costs of constructing housing and in the price of housing in San Francisco  
12 consistent with the indexing for the Residential Inclusionary Affordable Housing Program in  
13 lieu fee set out in Section 415.6. The method of indexing shall be published in the Procedures  
14 Manual for the Residential Inclusionary Affordable Housing Program. In making a  
15 determination as to the amount of the fee to be paid, the Department shall credit to the  
16 sponsor any excess Interim Guideline credits or excess credits which the sponsor elects to  
17 apply against its housing requirement.

18 \* \* \* \*

19  
20 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

21 Except as provided in Section 415.5(g), all development projects subject to this  
22 Program shall be required to pay an Affordable Housing Fee subject to the following  
23 requirements:

24 (a) **Payment of a Fee.** Payment of a fee to the Development Collection Unit at DBI for  
25 deposit into the Citywide Affordable Housing Fund for the purposes of that Fund.

1 (b) **Amount of Fee.** The amount of the fee which may be paid by the project sponsor  
2 subject to this Program shall be determined by MOH utilizing the following factors:

3 (1) The number of units equivalent to the applicable percentage of the number  
4 of units in the principal project. The applicable percentage shall be 20 percent or the  
5 percentage that applied to the project if the project is subject to the requirements of an earlier  
6 version of this Program due to the date it submitted its application. For the purposes of this  
7 Section, the City shall calculate the fee using the direct fractional result of the total number of  
8 units multiplied by the applicable percentage, rather than rounding up the resulting figure as  
9 required by Section 415.6(a).

10 (2) The affordability gap using data on the cost of construction of residential  
11 housing from the "San Francisco Sensitivity Analysis Summary Report: Inclusionary Housing  
12 Program" prepared by Keyser Marston Associates, Inc. in August 2006 for the Maximum  
13 Annual Rent or Maximum Purchase Price for the equivalent unit sizes. The Department and  
14 MOH shall update the technical report from time to time as they deem appropriate in order to  
15 ensure that the affordability gap remains current.

16 (3) ~~Commencing on January 1, 2012, no~~ No later than January 1 of each year,  
17 MOH shall adjust the fee. No later than November 1 of each year, MOH shall provide the  
18 Planning Department, DBI, and the Controller with information on the adjustment to the fee so  
19 that it can be included in the Planning Department's and DBI's website notice of the fee  
20 adjustments and the Controller's ~~Annual~~ Citywide Development Fee and Development Impact  
21 Requirements Report described in Section ~~409(a)~~ 409(b). MOH is authorized to develop an  
22 appropriate methodology for indexing the fee, based on adjustments in the costs of  
23 constructing housing and in the price of housing in San Francisco. The method of indexing  
24 shall be published in the Procedures Manual.

25 \* \* \* \*

1 **SEC. 418.5. RINCON HILL COMMUNITY IMPROVEMENTS FUND.**

2 (a) There is hereby established a separate fund set aside for a special purpose entitled  
3 the Rincon Hill Community Improvements Fund ("Fund"). All monies collected by the  
4 Development Fee Collection Unit at DBI pursuant to Section 418.3(e) shall be deposited in a  
5 special fund maintained by the Controller. The receipts in the Fund are hereby appropriated  
6 in accordance with law to be used solely to fund public infrastructure subject to the conditions  
7 of this Section.

8 \* \* \* \*

9 (c) The Controller's Office shall file ~~an annual~~ a report with the Board of Supervisors in  
10 even-numbered years ~~beginning one year after the effective date of Section 418.1 et seq.~~, which report  
11 shall set forth the amount of money collected in the Fund. The Fund shall be administered by  
12 the Planning Commission.

13 \* \* \* \*

14  
15 **SEC. 418.7. SOMA COMMUNITY STABILIZATION FUND.**

16 (a) There is hereby established a separate fund set aside for a special purpose entitled  
17 the SOMA Community Stabilization Fund ("Fund"). All monies collected by DBI pursuant to  
18 Section 419.3 shall be deposited in a special fund maintained by the Controller. The receipts  
19 in the Fund are hereby appropriated in accordance with law to be used solely to address the  
20 effects of destabilization on residents and businesses in SOMA subject to the conditions of  
21 this Section.

22 \* \* \* \*

23 (c) The Controller's Office shall file ~~an annual~~ a report with the Board of Supervisors in  
24 even-numbered years ~~beginning one year after the effective date of Section 418.1 et seq.~~, which report  
25 shall set forth the amount of money collected in the Fund. The Fund shall be administered

1 and expended by MOCD, but all expenditures shall first be approved by the Board of  
2 Supervisors through the legislative process. In approving expenditures from the Fund, MOCD  
3 and the Board of Supervisors shall accept any comments from the Community Advisory  
4 Committee, the public, and any relevant City departments or offices. Before approving any  
5 expenditures, the Board of Supervisors shall determine the relative impact from the  
6 development in the Rincon Hill Plan Area on the areas described in Section 418.7(b) and shall  
7 insure that the expenditures are consistent with mitigating the impacts from the development.

8 \* \* \* \*

9  
10 **SEC. 420.6. VISITACION VALLEY COMMUNITY FACILITIES AND INFRASTRUCTURE**  
11 **FUND.**

12 (a) There is hereby established a separate fund set aside for a special purpose entitled  
13 the Visitation Valley Community Facilities and Infrastructure Fund ("Fund"). All monies  
14 collected by DBI pursuant to Section 420.3(b) shall be deposited in the Fund which shall be  
15 maintained by the Controller.

16 \* \* \* \*

17 (g) The Controller's Office shall file ~~an annual~~ a report with the Board of Supervisors in  
18 even-numbered years ~~beginning one year after the effective date of Section 420.1 et seq.~~, which report  
19 shall set forth the amount of money collected in the Fund.

20  
21 **SEC. 421.5. MARKET AND OCTAVIA COMMUNITY IMPROVEMENTS FUND.**

22 (a) There is hereby established a separate fund set aside for a special purpose entitled  
23 the Market and Octavia Community Improvements Fund ("Fund"). All monies collected by  
24 DBI pursuant to Section 421.3(b) shall be deposited in a special fund maintained by the  
25

1 Controller. The receipts in the Fund to be used solely to fund community improvements  
2 subject to the conditions of this Section.

3 \* \* \* \*

4 (c) With full participation by the Planning Department and related implementing  
5 agencies the Controller's Office shall file ~~an annual~~ a report with the Board of Supervisors in  
6 even-numbered years beginning 180 days after the last day of the fiscal year of the effective date of  
7 Section 421.1 et seq., which report shall include the following elements: (1) a description of the  
8 type of fee in each account or fund; (2) amount ~~Amount~~ of the fee; (3) beginning ~~Beginning~~ and  
9 ending balance of the accounts or funds including any bond funds held by an outside trustee;  
10 (4) amount ~~Amount~~ of fees collected and interest earned; (5) identification ~~Identification~~ of each  
11 public improvement on which fees or bond funds were expended and amount of each  
12 expenditure; (6) an ~~An~~ identification of the approximate date by which the construction of  
13 public improvements will commence; (7) a ~~A~~ description of any inter-fund transfer or loan and  
14 the public improvement on which the transferred funds will be expended; and (8) Amount of  
15 refunds made and any allocations of unexpended fees that are not refunded.

16 \* \* \* \*

17  
18 **SEC. 422.5. BALBOA PARK COMMUNITY IMPROVEMENTS FUND.**

19 (a) There is hereby established a separate fund set aside for a special purpose entitled  
20 the Balboa Park Community Improvements Fund ("Fund"). All monies collected by the  
21 Development Fee Collection Unit at DBI pursuant to Section 422.3 shall be deposited in a  
22 special fund maintained by the Controller. The receipts in the Fund to be used solely to fund  
23 community improvements subject to the conditions of this Section.

24 \* \* \* \*

1 (d) With full participation by the Department and related implementing agencies, the  
2 Controller's Office shall file a report with the Board of Supervisors in even-numbered years,  
3 which report beginning 180 days after the last day of the fiscal year of the effective date of Section  
4 422.1 et seq. that shall include the following elements: (1) a description of the type of fee in  
5 each account or fund; (2) beginning and ending balance of the accounts or funds including  
6 any bond funds held by an outside trustee; (3) amount of fees collected and interest earned;  
7 (4) identification of each public improvement on which fees or bond funds were expended and  
8 amount of each expenditure; (5) an identification of the approximate date by which the  
9 construction of public improvements will commence; (6) a description of any inter-fund  
10 transfer or loan and the public improvement on which the transferred funds will be expended;  
11 and (7) amount of refunds made and any allocations of unexpended fees that are not  
12 refunded.

13 \* \* \* \*

14  
15 **SEC. 423.5. THE EASTERN NEIGHBORHOODS PUBLIC BENEFITS FUND.**

16 (a) There is hereby established a separate fund set aside for a special purpose entitled  
17 the Eastern Neighborhoods Public Benefits Fund ("Fund"). All monies collected by the  
18 Development Fee Collection Unit at DBI pursuant to Section 423.3(b) shall be deposited in a  
19 special fund maintained by the Controller. The receipts in the Fund to be used solely to fund  
20 Public Benefits subject to the conditions of this Section.

21 \* \* \* \*

22 (d) With full participation by the Planning Department and related implementing  
23 agencies, the Controller's Office shall file a report with the Board of Supervisors in  
24 even-numbered years, which report beginning 180 days after the last day of the fiscal year of the  
25 effective date of Section 423.1 et seq. that shall include the following elements: (1) a description of

1 the type of fee in each account or fund; (2) amount of fee collected; (3) beginning and ending  
2 balance of the accounts or funds including any bond funds held by an outside trustee; (4)  
3 amount of fees collected and interest earned; (5) identification of each public improvement on  
4 which fees or bond funds were expended and amount of each expenditure; (6) an  
5 identification of the approximate date by which the construction of public improvements will  
6 commence; (7) a description of any interfund transfer or loan and the public improvement on  
7 which the transferred funds will be expended; and (8) amount of refunds made and any  
8 allocations of unexpended fees that are not refunded.

9 \* \* \* \*

10  
11 **SEC. 424.5. VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE**  
12 **DISTRICT INFRASTRUCTURE FUND.**

13 (a) There is hereby established a separate fund set aside for a special purpose entitled  
14 the Van Ness and Market Neighborhood Infrastructure Fund ("Fund"). That portion of gross  
15 floor area subject to the \$15.00 per gross square foot fee referenced in Section 424.3(b)(ii)  
16 above shall be deposited into the Van Ness and Market Neighborhood Infrastructure Fund  
17 deposited in the Fund, which shall be maintained by the Controller. The receipts of the Fund  
18 are hereby appropriated in accordance with law to be used solely to fund public infrastructure  
19 subject to the following conditions:

20 (1) ~~(i)~~ All monies deposited in the Fund, plus accrued interest, shall be used  
21 solely to design, engineer, acquire and develop neighborhood open spaces and streetscape  
22 improvements that result in new publicly-accessible facilities within the Van Ness and Market  
23 Downtown Residential Special Use District or the area bounded by 10th Street, Howard  
24 Street, South Van Ness Avenue, the northeastern line of the Central Freeway, Market Street,  
25 Franklin Street, Hayes Street, and Polk Street. These improvements shall be consistent with

1 the Market and Octavia Area Plan of the General Plan and any Plan that is approved by the  
2 Board of Supervisors in the future for the area covered by the Van Ness and Market  
3 Downtown Residential Special Use District, except that monies from the Fund may be used by  
4 the Planning Commission to commission studies to revise the fee above, or to commission  
5 landscape, architectural or other planning, design and engineering services in support of the  
6 proposed public improvements.

7 ~~(2) (ii)~~ No portion of the Fund may be used, by way of loan or otherwise, to pay  
8 any administrative, general overhead, or similar expense of any public entity.

9 ~~(3) (iii)~~ The Controller's Office shall file ~~an annual a~~ report with the Board of  
10 Supervisors in even-numbered years by the end of the City's fiscal year, which report shall set forth  
11 the amount of money collected in the Fund. Monies in the Fund shall be appropriated by the  
12 Board of Supervisors and administered by the Director of Planning.

13 ~~(4) (iv)~~ At the close of a fiscal year in which the Market and Octavia Community  
14 Improvements Program has generated funding for no less than \$211 million of expenditures in  
15 the plan area, including revenue generated through this Section 424.1 *et seq.*, Section 421  
16 fee payments, in-kind improvements, public grants, San Francisco general funds, assessment  
17 districts, and other sources which contribute to the overall programming, all future funds  
18 generated through Section 424.1 *et seq.* shall be redirected one hundred (100) percent to the  
19 Citywide Affordable Housing Fund.

20 ~~(5) (v)~~ Expenditure of funds shall be coordinated with appropriate City agencies  
21 as detailed in Section 421.5(d) and (e).

22 ~~(6) (vi)~~ The Director shall have the authority to prescribe rules and regulations  
23 governing the Fund, which are consistent with Section 424.1 *et seq.* The Director shall make  
24 recommendations to the Board regarding allocation of funds.

1           Section 3. Effective Date. This ordinance shall become effective 30 days from the  
2 date of passage.

3  
4           Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to  
5 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,  
6 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are  
7 explicitly shown in this legislation as additions, deletions, Board amendment additions, and  
8 Board amendment deletions in accordance with the "Note" that appears under the official title  
9 of the legislation.

10  
11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13  
14 By: \_\_\_\_\_  
15           THOMAS J. OWEN  
16           Deputy City Attorney

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