

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

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

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

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

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

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

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

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

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

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

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

15 SEC. 31.22 BASIC FEES.

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

21 (1) For an initial study of a project excluding use of special expertise or technical  
22 assistance, as described in Section 31.2~~23~~23 below, the initial fee shall be:

23 — Where the total estimated construction cost as defined by the San Francisco  
24 Building Code is between \$0 and \$9,999: ~~\$8951,003;~~

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

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

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

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

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

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

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

15 An applicant proposing major revisions to a project application that has been inactive for more  
16 than six months and is assigned. An applicant proposing significant revisions to a project for which  
17 an application is on file with the Planning Department shall be charged time and materials to cover the  
18 full costs in excess of the initial fee paid shall submit a new application. An applicant proposing  
19 significant revisions to a project which has not been assigned and for which an application is  
20 on file with the Planning Department shall be charged time and materials to cover the full  
21 costs in excess of the initial fee paid.

22 (2) For preparation of an environmental impact report excluding use of special  
23 expertise or technical assistance, as described in Section 31.223 below, the initial fee shall be:

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

3           —       Where said total estimated construction cost is \$200,000 or more, but less than  
4 \$1,000,000: ~~\$19,870~~ 22,277 PLUS ~~.498~~ 0.558% of the cost over \$200,000;

5           —       Where said total estimated construction cost is \$1,000,000 or more, but less  
6 than \$10,000,000: ~~\$23,964~~ 26,864 PLUS ~~.337~~ 0.378% of the cost over \$1,000,000;

7           —       Where said total estimated construction cost is \$10,000,000 or more, but less  
8 than \$30,000,000: ~~\$54,294~~ 60,884 PLUS ~~.138~~ 0.155% of the cost over \$10,000,000;

9           —       Where said total estimated construction cost is \$30,000,000 or more, but less  
10 than \$50,000,000: ~~\$81,894~~ 91,884 PLUS ~~.038~~ 0.042% of the cost over \$30,000,000;

11          —       Where said total construction cost is \$50,000,000 or more, but less than  
12 \$100,000,000: ~~\$89,494~~ 100,333 PLUS ~~.038~~ 0.042% of the cost over \$50,000,000;

13          —       Where said total estimated construction cost is \$100,000,000 or more: ~~\$108,494~~  
14 121,634 PLUS ~~.013~~ 0.015% of the cost over \$100,000,000.

15                An applicant proposing major revisions to a project application that has been inactive for more  
16 than six months and is assigned. An applicant proposing significant revisions to a project for which  
17 an application is on file with the Planning Department shall be charged time and materials to cover the  
18 full costs in excess of the fee paid shall submit a new application. An applicant proposing significant  
19 revisions to a project which has not been assigned and for which an application is on file with  
20 the Planning Department shall be charged time and materials to cover the full costs in excess  
21 of the initial fee paid.

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

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

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1 (5) For preparation of an addendum to an environmental impact report that has  
2 previously been certified, pursuant to Section 15164 of the State CEQA Guidelines: ~~\$7,780~~  
3 \$8,941 plus time and materials as set forth in Subsection (b)(2).

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

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

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

15 (9) For preparation of an exemption that requires review of historical resource  
16 issues only, the following fees apply. For a determination of whether a property is an historical  
17 resource under CEQA, the fee is \$2,193. For a determination of whether a project would result in a  
18 substantial adverse change in the significance of an historical resource, the fee is \$3,040.

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

21 ~~(10)~~(11) For reactivating an application that the Environmental Review Officer has  
22 deemed withdrawn due to inactivity and the passage of time, subject to the approval of the  
23 Environmental Review Officer and within six months of the date the application was deemed  
24 withdrawn: ~~\$190~~ \$218 plus time and materials to cover any additional staff costs.

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1 (b) Payment.

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

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

13 (3) The Controller will annually adjust the fee amounts specified in Section  
14 31.22(a)(~~1~~, ~~2~~, ~~5~~, ~~6~~), (7), (8), (9), (10) , and (11), Section 31.22 (c), ~~and~~ Section 31.23(d) and  
15 Section 31.24(a) and (b) by the two-year average consumer price index (CPI) change for the  
16 San Francisco/San Jose Primary Metropolitan Statistical Area (PMSA). *Effective September 30,*  
17 *2007, the fee amounts specified in Section 31.22(a)(1),(2),(5),(6), (7),(8),( 9),(10) and Section 31.23(d)*  
18 *will increase 6.3% to support an increase in departmental overhead from rent costs at 1650 Mission*  
19 *Street.*

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

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

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

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

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

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

7 **SEC. 31.23 OTHER FEES.**

8 (a) Where an initial evaluation or preparation of an environmental impact report and  
9 related environmental studies require the use of special expertise or technical assistance not  
10 provided by the board, commission, department or other person who is to carry out the  
11 project, such expertise or assistance shall be paid for by such board, commission, department  
12 or other person. This payment shall be made either to the Planning Department or, if the  
13 Planning Department so requests, directly to the party that will provide such expertise or  
14 technical assistance.

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

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

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

23 SEC. 31.24 Community Streamlined Plan Area Fees.

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1           (a) The Planning Department shall charge the following Community Streamlined Plan  
2 Area Fees for environmental applications filed in adopted Plan Areas adopted effective after July 1,  
3 2005:

4           (1) For Class 1 and 3 Exemptions: same as basic fees outlined in Section 31.22(a)(8) and  
5 (10).

6           (2) For determination of the appropriate environmental document: \$11,683 and any fee  
7 pursuant to Section 31.24(c) below. In addition, the applicant shall pay the following fees as  
8 appropriate:

9           ~~(3)~~ (i) If the determination is that the project qualifies for a Community exemption or  
10 exclusion, the applicant shall pay a fee of: \$6,383.

11           (ii) If the determination is that the project does not qualify for a Community exemption  
12 or exclusion, the applicant shall pay fees as set forth in Section 31.24(b) below.

13           (b) ~~The Planning Department shall charge the following Community Streamlined~~  
14 ~~Plan Area Fees for environmental applications filed in Plan Areas adopted after July 1, 2005~~  
15 ~~at intake and for project applications filed in Plan Areas under development that will rely on~~  
16 ~~the Area Plan Programmatic Environmental Impact Report by the time of final billing and~~  
17 ~~require one or more of the following: Code amendments for the height or bulk district and~~  
18 ~~General Plan amendments. The fees for projects determined not to qualify for a Community~~  
19 ~~exemption or exclusion are as follows:~~

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

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

1           — Where said total estimated construction cost is \$10,000 or more, but less than \$200,000:  
2 \$5,190 PLUS 2.407% of the cost over \$10,000;

3           — Where said total estimated construction cost is \$200,000 or more, but less than  
4 \$1,000,000: \$9,764 PLUS 1.819% of the cost over \$200,000;

5           — Where said total estimated construction cost is \$1,000,000 or more, but less than  
6 \$10,000,000: \$24,319 PLUS 1.526% of the cost over \$1,000,000;

7           — Where said total estimated construction cost is \$10,000,000 or more, but less than  
8 \$30,000,000: \$161,706 PLUS 0.470% of the cost over \$10,000,000;

9           — Where said total estimated construction cost is \$30,000,000 or more, but less than  
10 \$50,000,000: \$255,785 PLUS 0.177% of the cost over \$30,000,000;

11           — Where said total estimated construction cost is \$50,000,000 or more, but less than  
12 \$100,000,000: \$291,223 PLUS 0.042% of the cost over \$50,000,000;

13           — Where said total estimated construction cost is \$100,000,000 or more: \$312,317 PLUS  
14 0.018% of the cost over \$100,000,000.

15           An applicant proposing major revisions to a project application that has been inactive for more  
16 than six months and is assigned shall submit a new application. An applicant proposing significant  
17 revisions to a project which has not been assigned and for which an application is on file with  
18 the Planning Department shall be charged time and materials to cover the full costs in excess  
19 of the initial fee paid.

20           (2) For preparation of an environmental impact report excluding use of special expertise or  
21 technical assistance, as described in Section 31.223 above, the initial fee shall be:

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

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1           — Where said total estimated construction cost is \$200,000 or more, but less than  
2 \$1,000,000: \$27,724 PLUS 0.694% of the cost over \$200,000;

3           — Where said total estimated construction cost is \$1,000,000 or more, but less than  
4 \$10,000,000: \$33,433 PLUS 0.470% of the cost over \$1,000,000;

5           — Where said total estimated construction cost is \$10,000,000 or more, but less than  
6 \$30,000,000: \$75,769 PLUS 0.193% of the cost over \$10,000,000;

7           — Where said total estimated construction cost is \$30,000,000 or more, but less than  
8 \$50,000,000: \$114,371 PLUS 0.053% of the cost over \$30,000,000;

9           — Where said total construction cost is \$50,000,000 or more, but less than \$100,000,000:  
10 \$124,971 PLUS 0.053% of the cost over \$50,000,000;

11           — Where said total estimated construction cost is \$100,000,000 or more: \$151,471 PLUS  
12 0.018% of the cost over \$100,000,000.

13           An applicant proposing major revisions to a project application that has been inactive for more  
14 than six months and is assigned shall submit a new application. An applicant proposing significant  
15 revisions to a project which has not been assigned and for which an application is on file with  
16 the Planning Department shall be charged time and materials to cover the full costs in excess  
17 of the initial fee paid.

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

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

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

6 (1) ~~Community exemption or exclusion — same as fees under 31.24(b)(1), plus a~~  
7 The fee shall be a proportional share of the cost of the Programmatic EIR, which is equal to the  
8 Department's average time and material costs to prepare and defend a Programmatic EIR divided by  
9 the buildable envelope times the square footage of the proposed project.

10 (2) ~~Negative declaration, same as the fees under 31.24(b)(1) (developed for full~~  
11 ~~long range planning recovery) plus a proportional share of the cost of the Programmatic EIR~~  
12 ~~which is equal to the Department time and material costs divided by the buildable envelope as~~  
13 ~~identified in the Programmatic EIR times the square footage of the proposed project.~~

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

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

21 (d) Except as provided below for projects in the Transit Center District area, if at the  
22 time of Community Plan adoption, a project application undergoing review required  
23 amendments for height or bulk districts or General Plan amendments and now complies with  
24 the Community Plan zoning, the applicant may choose to pay either the fees specified in  
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1 Section 31.22 or Section 31.24. For projects that paid fees under Section 31.22 and opt to  
2 pay fees under Section 31.24, the applicant shall withdraw the application filed under Section  
3 31.22 and file a new application. Applicants that file a new application and pay the Section  
4 31.24 fees shall be entitled to a refund under Section 31.22(c).

5 (i) Transit Center District Plan. Projects in the Transit Center District area that  
6 require amendments for height or bulk district or General Plan amendments at the time of  
7 project application shall pay the fees specified in Administrative Code Section 31.24(b) and  
8 31.24(c). For projects that paid fees under Section 31.22, the applicant shall pay the  
9 difference between Section 31.22 fees and Section 31.24(b) and 31.24(c) fees.

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

14 By: \_\_\_\_\_  
15 Elaine C. Warren  
16 Deputy City Attorney