

BOARD of SUPERVISORS



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July 25, 2019

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On July 23, 2019, the Board of Supervisors AMENDED, AMENDMENT OF THE WHOLE BEARING SAME TITLE, and re-referred this proposed legislation to Committee:

File No. 190458

Ordinance amending various sections of the Planning Code to modify maximum amounts of parking permitted in certain Neighborhood Commercial, Residential-Mixed, Community Commercial, and Mission Bay zoning districts, to require that above-grade parking in all districts be designed for conversion to other uses, and to update outdated references, clarify existing requirements, and improve the organization of the Code; amending the Environment Code to update a Planning Code cross-reference; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

The proposed ordinances are being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinances are 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: John Rahaim, Director
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
Don Lewis, 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 reflect the certain current**
5 **affordable housing fees collected in conjunction with the North of Market Residential**
6 **Special Use District affordable housing, and deposited such fee in the Citywide**
7 **Affordable Housing Fund; and making findings of consistency with the General Plan,**
8 **and the eight priority policies of Planning Code, Section 101.1, and findings of public**
9 **convenience, necessity, and welfare under Planning Code, Section 302.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 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 June 13, 2019, the Planning Commission, in Resolution No. 20465, adopted
19 findings that the actions contemplated in this ordinance are consistent, on balance, with the
20 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
21 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
22 Board of Supervisors in File No. 190458, 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. 20465, and incorporates such reasons by this reference

1 thereto. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File
2 No. 190458.

3 Section 2. Article 2 of the Planning Code is hereby amended by revising Section
4 263.7, to read as follows:

5 **SEC. 263.7. SPECIAL HEIGHT EXCEPTIONS: NORTH OF MARKET RESIDENTIAL**
6 **SPECIAL USE DISTRICT.**

7 * * * *

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

16 (e) **Fee.** The fee required pursuant to ~~S~~subsection (d) above shall be equal to the sum
17 of \$25.41 times the total gross square footage of floor space located above 80 feet in height
18 as determined by the Zoning Administrator, as shown on the building plans. The fee shall be
19 due and payable prior to the issuance of a temporary certificate of occupancy, unless the
20 project sponsor agrees to and qualifies for participation in an amortized payment program, to
21 be established by the Director of the Mayor's Office of Housing and Community Economic
22 Development (MOHCED) and the Director of City Planning, such program to be subject to
23 subsequent review and approval by the City Planning Commission and the Board of
24 Supervisors, which program would result in the City receiving an amount equivalent to the
25 value of the contribution at the time the temporary certificate of occupancy is issued.

1 * * * *

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

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

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

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

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

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

2 ~~(1)(2)~~ The Jobs Housing Linkage Program, Planning Code Sections 413 et seq.;

3 ~~(2)(3)~~ The Inclusionary Affordable Housing Program, Planning Code Sections 415
4 et seq.;

5 ~~(3)(4)~~ The Market and Octavia Affordable Housing Program, Planning Code
6 Section 416.5;

7 (5) The Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee, Planning
8 Code Section 417.5;

9 ~~(4)(6)~~ The Eastern Neighborhoods Housing Fund, Planning Code Section 423.5;

10 ~~(5)(7)~~ The Expedited Condominium Conversion Program, Subdivision Code
11 Section 1396.4; and,

12 ~~(6)(8)~~ Repayments of loans and other program income associated with
13 investments initially made with monies from the fund.

14 * * * *

15 Section 4. Effective Date. This ordinance shall become effective 30 days after
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
18 of Supervisors overrides the Mayor's veto of the ordinance.

19 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
23 additions, and Board amendment deletions in accordance with the "Note" that appears under
24 the official title of the ordinance.

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

By: 

KEITH NAGAYAMA
Deputy City Attorney
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REVISED LEGISLATIVE DIGEST

(7/23/2019, Amended in Board)

[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, reflect the current affordable housing fee collected in conjunction with the North of Market Residential Special Use District, and deposit such fee 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 in the amount of \$5 times the total gross square footage of floor space located above 80 feet in height as determined by the Zoning Administrator and as shown on the building plans within 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, reflect the current rate of the NOM Fees which has adjusted from \$5 to \$25.41 times the total gross square footage of floor space located above 80 feet in height, and require NOM Fees to be deposited into the Citywide Fund, and clarify MOHCD as the administrator of the NOM Fees in the Citywide Fund. 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.

Background Information

The Proposed Legislation reflects amendments made by the Board on July 23, 2019. Under Planning Code Section 409(b), development fees are adjusted annually by the Controller based on the Annual Infrastructure Construction Cost Inflation Estimate (“AICCIE”) prepared by the San Francisco Office of Resilience and Capital Planning, which uses inflation data, market trend analyses, employment data, and a variety of national, state, and local commercial and institutional construction cost inflation data. The initial NOM Fee rate of \$5 under Planning Code 263.7 was established in 1985. On June 13, 2019, the Planning Commission recommended an amendment to the Proposed Legislation that the NOM Fees under Planning Code 263.7 reflect the current adjusted fee based on the AICCIE. Such amendment was not reflected prior to the Land Use Committee hearing on July 15, 2019.

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