

1 [Building Code - Fee Waiver for 100% Affordable Housing and Accessory Dwelling Units]

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3 **Ordinance amending the Building Code to waive specified fees for 100% affordable**
4 **housing projects, as defined herein, and certain accessory dwelling unit projects for an**
5 **approximately one-year pilot program; and affirming the Planning Department's**
6 **determination under the California Environmental Quality Act.**

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

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

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15 Section 1.

16 (a) The Planning Department has determined that the actions contemplated in this
17 ordinance comply with the California Environmental Quality Act (California Public Resources
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
19 Supervisors in File No. 190214 and is incorporated herein by reference. The Board affirms
20 this determination.

21 (b) On March 20, 2019, at a duly noticed public hearing, the Building Inspection
22 Commission considered this ordinance in accordance with Charter Section D3.750-5 and
23 Building Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building
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1 Inspection Commission regarding the Commission’s recommendation is on file with the Clerk
2 of the Board of Supervisors in File No.190214.

3 Section 2. The San Francisco Building Code is hereby amended by adding Section
4 107A.15, to read as follows:

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6 **107A.15 Building Code fee waivers for 100% affordable housing projects and accessory**
7 **dwelling unit projects. Notwithstanding any fee provision of the Building Code to the contrary, the**
8 **following provisions shall apply to 100% affordable housing projects and accessory dwelling unit**
9 **projects where the subject accessory dwelling unit property is: (1) within a building or on a**
10 **property containing four or fewer dwelling units or (2) located on a nonprofit charitable**
11 **organization’s residential project.**

12 (a) Building inspection fees, plan review fees, records retention fees, and site surcharge fees
13 shall be waived. For purposes of this subsection (a), building inspection fees do not include electrical
14 and plumbing fees.

15 (b) For purposes of this Section 107A.15, affordable housing shall mean a multi-family
16 residential building, including any ancillary commercial space, where 100% of the residential units
17 (not including a manager’s unit) will be subject to a recorded regulatory restriction to ensure
18 affordability based on income, or where 100% of the residential units (not including a manager’s unit)
19 are funded by a nonprofit charitable organization and will provide permanent housing for homeless or
20 formerly homeless persons.

21 (c) For purposes of this Section 107A.15, accessory dwelling unit shall have the meaning set
22 forth in Planning Code Section 102. The applicant for the accessory dwelling unit is eligible for a fee
23 waiver (or proportionate fee waiver) solely for the establishment or modification of the accessory
24 dwelling unit and no other work on the applicant’s property that is subject to the Building Code.
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1 (d) Upon the effective date of the ordinance establishing Section 107A.15, which is on file with
2 the Clerk of the Board of Supervisors in File No. 190214, the fee waiver shall apply as of the date of
3 retroactivity stated in the ordinance establishing this Section.

4 (e) The fee waiver provisions also shall apply to 100% affordable housing projects and
5 accessory dwelling unit projects that have applied for building permits on or before the date of
6 retroactivity as stated in the ordinance identified in subsection (d) but have yet to receive a final
7 certificate of occupancy on the date of retroactivity; provided however, that the fee waiver shall apply
8 only to applicable Building Code fees that have not been paid as of the date of retroactivity. The
9 Department of Building Inspection shall not refund any fees paid for such projects prior to the date of
10 retroactivity.

11 (f) Subject to the exception in subsection (g), the fee waiver provisions shall apply for one year
12 from the effective date of the ordinance on file with the Clerk of the Board of Supervisors in File
13 No. 190214. One year from the effective date of the aforementioned ordinance, this Section 107A.15
14 shall expire by operation of law, except as stated in subsection (g).

15 (g) Any 100% affordable housing projects and accessory dwelling unit projects that apply for a
16 building permit on or after the date of retroactivity as stated in the ordinance identified in subsection
17 (d) are eligible for all applicable fee waivers even if such fees are due after this Section 107A.15
18 expires as set forth in subsection (f).

19 (h) To the extent the Department is aware that a project qualifies for a fee waiver under this
20 Section 107A.15, the Department shall inform the applicant about the fee waiver. The Department also
21 shall post notice of the fee waiver program on its website and at various locations in its offices where
22 the notice will be visible to applicants.

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24 Section 3. Department of Building Inspection Report. Ninety days prior to the
25 expiration date of Building Code Section 107A.15, the Department of Building Inspection shall

1 submit a report to the Board of Supervisors and the Building Inspection Commission on the
2 pilot program for fee waivers for 100% affordable housing projects and accessory dwelling
3 unit projects. The report shall include, but not be limited to, the number of projects taking
4 advantage of the fee waiver, the type and location of such projects, the total amount of fees
5 waived or projected to be waived during the term of the pilot program, and any administrative
6 impacts associated with the Department's processing of such waivers. The report also shall
7 include the following information in regard to an accessory dwelling unit(s) ("ADU"): (a) is the
8 ADU in a single family home or multi-unit building; (b) the length of time the applicant has
9 owned the property; (c) is the applicant an individual or a business; (d) does the applicant
10 intend to rent the ADU, and if so, does the applicant have a price range they are considering
11 for rent; (e) does the applicant have or has the applicant had building permit applications for
12 other residential properties in the City within the last 10 years; and (f) does the applicant own
13 in whole or in part other residential property in San Francisco as an individual or as part of a
14 partnership or corporation.

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16 Section 4. Effective Date; Retroactivity.

17 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
18 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
19 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
20 Mayor's veto of the ordinance.

21 (b) This ordinance shall be retroactive to ~~February 26~~ June 1, 2019, ~~the date of~~
22 ~~introduction of this ordinance~~. The Board of Supervisors intends that the Department of
23 Building Inspection exercise administrative discretion to waive the fees that are the subject of
24 this ordinance during the period before the effective date of this ordinance. Otherwise, in light
25 of this retroactivity provision, upon the effective date of this ordinance, the Department of

1 Building Inspection shall be obligated to refund any excess fees collected during that time
2 period.

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

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6 By: _____
7 JOHN D. MALAMUT
8 Deputy City Attorney
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