

## LEGISLATIVE DIGEST

[Planning Code - Transit Impact Development Fee Increase and Updates]

**Ordinance amending the San Francisco Planning Code, Article 4, by: 1) making technical corrections to specified definitions in Section 401 relating to the Transit Impact Development Fee (TIDF); 2) amending Sections 408, 411.1 through 411.5, 411.7, and 411.8 to increase TIDF rates and clarify TIDF implementation and collection; and 3) making environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.**

### Existing Law

The Transit Impact Development Fee ("TIDF") is a development fee charged on most new commercial development in the City in excess of 3,000 square feet. The fee is intended to recover a portion of the costs to the Municipal Transportation Agency incurs in meeting public transit service demands created by new commercial development that is subject to the fee, including maintaining and expanding service capacity through the addition of service hours; purchase, maintenance and repair of rolling stock; installation of new lines and additions to existing lines. The fee is imposed based upon one of six economic activity categories applicable to the new development; Cultural/Institution/Education (CIE); Management, Information and Professional Services (MIPS); Medical and Health Services; Production/Distribution/Repair (PDR); Retail/Entertainment; and Visitor Services. The current TIDF rates for each of these categories except PDR and Visitor Services is \$12.06 per square foot; for PDR and Visitor Services, the rate is \$9.65 per square foot. These rates, while adjusted for inflation, are based on a nexus study completed in 2001 and updated in 2004. Existing law calls for MTA to review the fee every five years, and update the data used to arrive at the base service standard rates, which is the TIDF that would allow the City to recover estimated costs incurred by MTA to meet the demand for public transit resulting from new development in the economic activity categories, minus grants received, fare revenue and other specified costs.

### Amendments to Current Law

The proposed ordinance makes adjustments to the TIDF rates based on a new nexus study on the TIDF completed in 2011, and also lowers the threshold for triggering the TIDF from 3000 square feet of new development to 800 square feet. In addition, the legislation would revise or eliminate several existing exemptions from the fee, including eliminating the exemption for charitable organizations. Finally, the legislation would clarify the process for collecting the fee for projects where a building or site permit was issued prior to July 1, 2010, but the fee remains unpaid. These revisions are explained in further detail below.

The proposed legislation would adjust the rates for the TIDF based upon the updated nexus study completed in 2011. The rate for the Cultural/Institution/Education (CIE), Medical and Health Services, and Retail/Entertainment economic activity categories would be increased to \$13.30 per square foot, except that the rate for museums, a subcategory of CIE, would be \$11.05 per square foot, a reduction from the current amount. The rate for the Management, Information and Professional Services (MIPS) and Visitor Services economic activity categories would be increased to \$12.64 per square foot, and the rate for the Production/Distribution/Repair (PDR) category would be reduced to \$6.80 per square foot. These rates are consistent with the rates contained in the proposed Transportation Sustainability Fee (TSF) legislation. In addition, in the case of building or site permits issued on or after October 1, 2012, the threshold for triggering the TIDF would drop from 3000 square feet to 800 square feet.

The legislation also clarifies the application of several exemptions to the fee, including clarifying that the exemption for public facilities and utilities does not apply in the case of new development on private property that is leased to the City, and eliminating exemption for several uses that are captured under the PDR economic activity category. In addition, the existing exemption for new development for non-profit organizations would be eliminated unless the organization has filed an application for environmental evaluation, a categorical exemption or a preliminary project assessment (or comparable documentation in the case of new development subject to oversight by the Oversight Board) on or before October 1, 2012.

The proposed legislation also clarifies the process for imposition and collection of the TIDF in those cases where a project was subject to the TIDF, but a building or site permit for the project was issued prior to July 1, 2010. In such cases, the SFMTA would continue to determine the amount of the fee due and notify the project sponsor of the fee amount in accordance with the procedures set forth in the law in effect as of June 30, 2010. Thus, in those cases the fee would continue to be due prior to issuance of a temporary certificate of occupancy or certificate of final completion. But fee payments would be made to the Development Fee Collection Unit of the Department of Building Inspection, and any request for review of a fee determination would likewise be handled in accordance with the current procedures set forth in Article 4 of the Planning Code and Section 107A of the Building Code.

The proposed legislation also makes several technical corrections and minor revisions to better integrate administration of the TIDF into the development fee administration process set forth in Article 4 of the Planning Code.

#### Background Information

The proposed legislation is intended to update TIDF rates based on the 2011 TIDF Update Report and address several administration and implementation issues that have arisen since the 2010 legislation that moved the TIDF from Chapter 38 of the Administrative Code to Article 4 of the Planning Code as part of a larger effort to centralize the administration of development impact fees.