

1 [Cost recovery fees for area plans, rezonings and programmatic environmental reviews.]

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3 **Ordinance amending the San Francisco Planning Code by adding Section 358 to**  
4 **impose a fee surcharge on projects in certain areas to recover the City’s actual costs in**  
5 **developing an area plan, specific plan, or rezoning study or preparing a programmatic**  
6 **environmental document for that area; amending the San Francisco Administrative**  
7 **Code by adding Section 10.100-370 to establish a special fund to receive the cost**  
8 **recovery fees and other moneys and to fund the development of future area plans,**  
9 **rezoning studies and programmatic environmental documents; and adopting Section**  
10 **302 and environmental findings.**

11 Note: Additions are *single-underline italics Times New Roman*;  
12 deletions are *strikethrough italics Times New Roman*.  
13 Board amendment additions are double underlined.  
14 Board amendment deletions are ~~strikethrough normal~~.

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

16 Section 1. Findings. The Planning Department has determined the proposed fees to  
17 be exempt from the requirements of the California Environmental Quality Act (CEQA)  
18 pursuant to CEQA Guidelines Section 15273(a), which exempts rates, tolls, fares and charges  
19 such as those proposed here.

20 Section 2. Pursuant to Planning Code Section 302, the Board of Supervisors hereby  
21 finds that this legislation will serve the public necessity, convenience and welfare for the  
22 following reasons:

23 (a) California Public Resources Code Section 21089(a) authorizes the City to  
24 recover from project sponsors the estimated costs incurred by the City in preparing a negative  
25 declaration or an environmental impact report for the project.

1 (b) California Government Code Section 66014 expressly authorizes a local  
2 jurisdiction to charge fees to recover the costs of preparing and revising plans and policies  
3 necessary for project approvals.

4 (c) California Government Code Section 65457 exempts from the requirements of  
5 the California Environmental Quality Act residential projects that are undertaken to implement  
6 and are consistent with a specific plan for which an environmental impact report has been  
7 certified. California Government Code Section 65456 authorizes the Board of Supervisors, in  
8 adopting a specific plan, to impose a specific plan fee on project applicants seeking approvals  
9 which are required to be consistent with the specific plan to defray the cost of preparation,  
10 adoption and administration of the specific plan, including the cost of the environmental review  
11 of the specific plan.

12 (d) The City funds the preparation of area plans, including specific plans, rezonings  
13 and environmental review documents that are used to approve development projects in  
14 certain areas of the City. It is in the public interest to recover from the sponsors of these  
15 projects a pro rata portion of those costs, in addition to application fees required by other  
16 provisions of this Code, in order to fund the preparation of future plans, studies, and  
17 programmatic environmental documents. Such plans and studies ensure community  
18 participation in planning for neighborhood change and are in the public interest to undertake.

19 (e) Project sponsors benefit from the City's preparation of area and specific plans,  
20 rezonings and programmatic environmental review documents because projects are then able  
21 to proceed without site-specific rezonings or other lengthy procedures and the projects are  
22 either exempted from the requirements of CEQA or qualify to prepare tiered environmental  
23 review documents making use of the City's programmatic environmental review.

24 Section 2. The San Francisco Planning Code is hereby amended by adding Section  
25 358, to read as follows:

1           SEC. 358. FEES FOR USE OF AREA PLAN, SPECIFIC PLAN, REZONING STUDY, OR  
2 PROGRAMMATIC ENVIRONMENTAL REVIEW DOCUMENT.

3           (a) When a project sponsor submits plans that require review by the Department under an  
4 area plan, specific plan, or rezoning adopted by the City for which a programmatic environmental  
5 review document was prepared and funded by the City, in whole or in part, the applicant shall pay to  
6 the Department a fee equivalent to the applicant's pro rata share of the estimated costs incurred by the  
7 City in preparing the area plan, specific plan, rezoning, and programmatic environmental review  
8 document.

9           (b) The following list of area plans, specific plans, rezoning studies, and associated  
10 environmental review documents completed after the effective date of this ordinance shall be subject to  
11 the fee established by this Section, as said list is amended from time to time by ordinance:

12           (i) Area Plans that are part of the City's General Plan;

13           (ii) Amendments to General Plan Elements and Area Plans;

14           (iii) Plans and rezoning adopted under the Department's Eastern Neighborhoods Program;

15           (iv) Plans and rezoning adopted under the Department's Better Neighborhoods Program,  
16 including but not limited to the Market-Octavia, Central Waterfront, Geary Boulevard,  
17 and Balboa Park Plans.

18           (c) Each applicant's pro rata share shall be computed as follows:

19           (i) The Department shall calculate the total estimated cost incurred by the City in  
20 preparing the plans, rezonings, and associated environmental review documents, and the estimated  
21 square footage of the development potential of the plans and rezonings. The Controller shall review  
22 and certify the Department's calculations.

23           (ii) The total estimated cost incurred by the City in preparing the area plan, specific plan or  
24 rezoning and the associated environmental review document shall be divided by the total gross square  
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1 footage of the maximum buildout alternative under the plan or rezoning as analyzed in the  
2 Environmental Impact Report to determine the cost of each gross square foot of development.

3 (iii) Each applicant's pro rata share of the estimated cost shall be determined by multiplying  
4 the total gross square footage of the applicant's proposed development by the cost per gross square  
5 foot of development potential as determined under subsection (ii). Any voluntary contribution made by  
6 a project sponsor or property owner to the City to defray the cost of preparation of the area plan,  
7 specific plan, rezoning study or programmatic environmental review document shall be a credit against  
8 the fee required by this section.

9 (d) The cost recovery fees paid pursuant to this Section shall be deposited into the Planning  
10 - Citywide Policy and Analysis and Environmental Review Fund established pursuant to Section  
11 10.100-370 of the San Francisco Administrative Code.

12 Section 3. The San Francisco Administrative Code is hereby amended by adding  
13 Section 10.100-370, to read as follows:

14 (a) Establishment of Fund. The Planning - Citywide Policy and Analysis and  
15 Environmental Review Fund is established as a category four fund to receive funds collected, pursuant  
16 to Section 358 of the Planning Code, for development of an areawide planning or rezoning study or  
17 preparation of a programmatic environmental review document.

18 (b) Use of the Fund. Monies in the fund shall be used exclusively to fund development of or  
19 amendments to areawide planning or rezoning studies or preparation of programmatic environmental  
20 review documents, including but not limited to costs incurred by the Planning Department, the City  
21 Attorney's Office, or other City departments.

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

24 By: \_\_\_\_\_  
25 JUDITH A. BOYAJIAN  
Deputy City Attorney