

BOARD of SUPERVISORS



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June 8, 2015

File No. 150568

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On June 1, 2015, Mayor Lee introduced the following legislation:

File No. 150568

Ordinance amending the Administrative Code to add the Citywide Affordable Housing Fund as a Category Eight self-appropriating fund; amending the Planning and Subdivision Codes to make corresponding changes to affordable housing fee provisions related to the Citywide Affordable Housing Fund; revising the Mayor's Housing Programs Fees Fund to change it to a Category Eight self-appropriating fund; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Victor Young".

By: Victor Young, Assistant Clerk

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

1 [Administrative, Planning, Subdivision Codes - Citywide Affordable Housing Fund, Mayor's
2 Housing Programs Fees Fund]

3 **Ordinance amending the Administrative Code to add the Citywide Affordable Housing**
4 **Fund as a Category Eight self-appropriating fund; amending the Planning and**
5 **Subdivision Codes to make corresponding changes to affordable housing fee**
6 **provisions related to the Citywide Affordable Housing Fund; revising the Mayor's**
7 **Housing Programs Fees Fund to change it to a Category Eight self-appropriating fund;**
8 **affirming the Planning Department's determination under the California Environmental**
9 **Quality Act; and making findings of consistency with the General Plan, and the eight**
10 **priority policies of Planning Code, Section 101.1.**

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

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

19 Section 1. Findings.

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

25 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
2 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
3 Board of Supervisors in File No. _____, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
5 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
6 in Planning Commission Resolution No. _____, and the Board incorporates such reasons
7 herein by reference.

8
9 Section 2. The Administrative Code is hereby amended by adding Section 10.100-49
10 and revising Section 10.100-117, to read as follows:

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

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

15 (1) The Jobs Housing Linkage Program, Planning Code Section 413 et seq.;

16 (2) The Inclusionary Affordable Housing Program, Planning Code Section 415 et
17 seq.;

18 (3) The Market and Octavia Affordable Housing Program, Planning Code Section
19 416.5;

20 (4) The Eastern Neighborhoods Housing Fund, Planning Code Section 423.5;

21 (5) The Expedited Condominium Conversion Program, Subdivision Code Section
22 1396.4; and,

23 (6) Repayments of loans and other program income associated with investments
24 initially made with monies from the fund.

1 (b) Use of Fund. The fund is to be used exclusively by the Mayor's Office of Housing and
2 Community Development, or its successor, for the purpose of supporting affordable housing in San
3 Francisco. Specific eligible uses of the fund are delineated for each fee in the code where the fee is
4 established. Within the fund, all fees, repayments, and program income shall be separately accounted
5 for as required by each fee.

6 (c) Exceptions to Fund Category. The Director of the Mayor's Office of Housing and
7 Community Development shall approve all expenditures from the fund.

8 (d) Administration of Fund. The Mayor's Office of Housing and Community Development, or
9 its successor, shall administer the fund and shall report annually to the Board of Supervisors on the
10 current status of the fund, the amounts approved for disbursement, and the number and types of
11 housing units or households assisted. The Mayor's Office of Housing and Community Development
12 shall have the authority to prescribe rules and regulations governing the Fund.

13
14 **SEC. 10.100-117. MAYOR'S ~~OFFICE OF~~ HOUSING PROGRAMS FEES FUND.**

15 (a) Establishment of Fund. The Mayor's Housing Programs Fees Fund is established
16 as a category ~~two~~ eight fund to receive monies from fees earned by the Mayor's Office of
17 Housing and Community Development in connection with the administration of affordable
18 housing. Such fees shall include, but are not be limited to, fees from single-family and
19 multifamily housing mortgage revenue bonds as issuer or as administrator, fees from the
20 California Natural Disaster Assistance Program, and fees from similar housing programs in
21 which the city earns fees for services provided by the Mayor's Office of Housing and
22 Community Development. This Section 10.100-117 shall not authorize the levy of fees except as
23 otherwise provided by ordinance or resolution of the Board of Supervisors.

24 (b) Use of Fund. The fund shall be used for the purpose of supporting the City's
25 efforts to provide affordable housing for persons and households of low and moderate income

1 in the City. For the purposes of this Fund, "low and moderate income" shall mean incomes
2 which are not greater than 120 percent of median for San Francisco, as defined by the United
3 States Department of Housing and Urban Development. Monies from the Fund may be used
4 for the following purposes:

5 (1-) To pay the costs of the Mayor's Office of Housing and Community Development
6 for administering housing programs for which administrative funding is not otherwise available
7 from the City's General Fund, federal or state grants, or other sources of administrative
8 funding. Such programs shall include the City's single-family and multifamily housing
9 mortgage revenue bond programs, the first time homebuyer programs, rental housing
10 development programs, and the monitoring of units to ensure their continued affordability.

11 (2-) To the extent that monies are available and not needed to cover current and
12 anticipated future administrative costs described in Subparagraph (1), ~~and with the approval of~~
13 ~~the Board of Supervisors, to the Mayor's Office of Housing and Community Development may~~ transfer
14 said monies to the Citywide Affordable Housing Fund, Administrative Code Section 10.100-49, to
15 make loans or grants for the development of affordable housing in the City.

16 (c) Exceptions to Fund Category. The Director of the Mayor's Office of Housing and
17 Community Development shall approve expenditures from the fund.

18 (d) Administration of Fund. The Mayor's Office of Housing and Community Development
19 shall administer the fund, and in such capacity shall review the needs of the administration of
20 affordable housing programs and the availability of monies from the fund for other eligible
21 purposes. ~~Funds for administration of affordable housing programs shall be appropriated through the~~
22 ~~annual budget process or by supplemental appropriation for the Mayor's Office of Housing.~~ The
23 Mayor's Office of Housing and Community Development shall report annually to the Board of
24 Supervisors on the current status of the Mayor's Housing Program Fees Fund as a part of the
25 ~~its Annual Report~~ annual budget process for the Mayor's Office of Housing, including the amounts of

1 fees received and to be budgeted for administrative funding, and any recommendations
2 deemed necessary to improve effectiveness of the Mayor's Housing Program Fees Fund in
3 achieving its purpose.

4 Section 3. The Planning Code is hereby amended by revising Sections 413.10, 415.5,
5 416.5, and 423.5 to read as follows:

6 **SEC. 413.10. CITYWIDE AFFORDABLE HOUSING FUND.**

7 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to
8 Section 413.9 shall be deposited in the *special fund maintained by the Controller called the*
9 *Citywide Affordable Housing Fund ("Fund"), established in Administrative Code Section 10.100-49.*
10 The receipts in the Fund *collected under Section 413 et seq. shall be ~~are hereby appropriated in~~*
11 *accordance with law to be* used solely to increase the supply of housing affordable to qualifying
12 households subject to the conditions of this Section. *The fees collected under this Section may not*
13 *be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense*
14 *of any entity.* The Mayor's Office of Housing and Community Development ("MOHCD") shall
15 develop procedures such that, for all projects funded by the Citywide Affordable Housing
16 Fund, MOHCD requires the project sponsor or its successor in interest to give preference in
17 occupying units first to Residential Certificate of Preference Holders under the San Francisco
18 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted
19 September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board *of*
20 *Supervisors* in File No. 080521, who meet all of the qualifications for the unit; and second to
21 any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the
22 qualifications for the unit or assistance, provided that the following limitations shall apply to the
23 Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing,
24 currently-occupied developments only for three years from the date the landlord filed with the
25 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to

1 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California
2 Government Code Section 7060 et seq. and the corresponding provisions of the San
3 Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative
4 Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to
5 new developments going through the initial occupancy process only for six years from the
6 date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from
7 the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of
8 the Rent Ordinance; and (iii) for any new residential development going through the initial
9 occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%)
10 of the units in such development. The Displaced Tenant's preference shall still apply even if
11 such Displaced Tenant declines a unit offered through application of the preference, but upon
12 accepting and occupying a unit obtained using the preference, such Displaced Tenant's
13 preference terminates.

14 MOHCD shall implement the Certificate of Preference Holder requirements of this
15 Section 413.10 by developing procedures and amending its applicable regulations within 90
16 days of the effective date of Ordinance No. 232-08, and MOHCD shall implement the
17 Displaced Tenant preference requirements of this Section by developing procedures and
18 amending its applicable regulations within 90 days of the effective date of the ordinance
19 creating the Displaced Tenant preference. Said procedures and regulations shall be subject to
20 approval by Resolution of the Board of Supervisors. The requirements of this paragraph are
21 directory rather than mandatory.

22 ~~The Fund shall be administered and expended by the Director of MOHCD, who shall have the~~
23 ~~authority to prescribe rules and regulations governing the Fund which are consistent with Section~~
24 ~~413.1et seq. No portion of the Fund may be used, by way of loan or otherwise, to pay any~~
25 ~~administrative, general overhead, or similar expense of any entity.~~

1 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

2 * * * *

3 (f) Use of Fees. All monies contributed pursuant to ~~the this Section~~ Inclusionary
4 Affordable Housing Program shall be deposited in the ~~special fund maintained by the Controller~~
5 ~~called the~~ Citywide Affordable Housing Fund ("the Fund"), ~~established in Administrative Code~~
6 Section 10.100-49. The Mayor's Office of Housing and Community Development ("MOHCD")
7 shall use the funds collected under this Section in the following manner:

8 (1) Except as provided in subsection (2) below, ~~the funds collected under this Section~~
9 ~~shall the receipts in the Fund are hereby appropriated in accordance with law to~~ be used to:

10 (A) increase the supply of housing affordable to qualifying households subject to
11 the conditions of this Section; and

12 (B) provide assistance to low and moderate income homebuyers; and

13 (C) pay the expenses of MOHCD in connection with monitoring and
14 administering compliance with the requirements of the Program. MOHCD is authorized to use
15 funds in an amount not to exceed \$200,000 every 5 years to conduct follow-up studies under
16 Section 415.9(e) and to update the affordable housing fee amounts as described above in
17 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated
18 through the annual budget process or supplemental appropriation for MOHCD. ~~The fund shall~~
19 ~~be administered and expended by MOHCD, which shall have the authority to prescribe rules and~~
20 ~~regulations governing the Fund which are consistent with this Section.~~

21 (2) "Small Sites Funds."

22 (A) Designation of Funds. MOHCD shall designate and separately account for
23 10% percent of all fees that it receives under Section 415.1et seq. ~~that are deposited into the~~
24 Citywide Affordable Housing Fund, established in Administrative Code Section 10.100-49, excluding
25 fees that are geographically targeted such as those referred to in Sections 415.5 (b)(1)6(a)(1)

1 and 827(b)(1)(C), to support acquisition and rehabilitation of Small Sites ("Small Sites Funds").
2 MOHCD shall continue to divert 10 percent of all fees for this purpose until the Small Sites
3 Funds reach a total of \$15 million at which point, MOHCD will stop designating funds for this
4 purpose. At such time as designated Small Sites Funds are expended and dip below \$15
5 million, MOHCD shall start designating funds again for this purpose, such that at no time the
6 Small Sites Funds shall exceed \$15 million. When the total amount of fees paid to the City
7 under Section 415.1et seq. totals less than \$10 million over the preceding 12 month period,
8 MOHCD is authorized to temporarily divert funds from the Small Sites Fund for other
9 purposes. MOHCD must keep track of the diverted funds, however, such that when the
10 amount of fees paid to the City under Section 415.1et seq. meets or exceeds \$10 million over
11 the preceding 12 month period, MOHCD shall commit all of the previously diverted funds and
12 10 percent of any new funds, subject to the cap above, to the Small Sites Fund.

13 (B) Use of Small Sites Funds. The funds shall be used exclusively to acquire or
14 rehabilitate "Small Sites" defined as properties consisting of less than 25 units. Units
15 supported by monies from the fund shall be designated as housing affordable to qualifying
16 households as defined in Section 415.1 for no less than 55 years. Properties supported by the
17 Small Sites Funds must be either

18 (i) rental properties that will be maintained as rental properties;

19 (ii) vacant properties that were formerly rental properties as long as those
20 properties have been vacant for a minimum of two years prior to the effective date of this
21 legislation,

22 (iii) properties that have been the subject of foreclosure or

23 (iv) a Limited Equity Housing Cooperative as defined in Subdivision Code
24 Sections 1399.1et seq. or a property owned or leased by a non-profit entity modeled as a
25 Community Land Trust.

1 (C) Initial Funds. If, within 18 months from the date of adoption of this ordinance,
2 MOHCD dedicates an initial one-time contribution of other eligible funds to be used initially as
3 Small Sites Funds, MOHCD may use the equivalent amount of Small Sites Funds received
4 from fees for other purposes permitted by the Citywide Affordable Housing Fund until the
5 amount of the initial one-time contribution is reached.

6 (D) Annual Report. At the end of each fiscal year, MOHCD shall issue a report
7 to the Board of Supervisors regarding the amount of Small Sites Funds received from fees
8 under this legislation, and a report of how those funds were used.

9 (E) Intent. In adopting this ordinance regarding Small Sites Funds, the Board of
10 Supervisors does not intend to preclude MOHCD from expending other eligible sources of
11 funding on Small Sites as described in this Section, or from allocating or expending more than
12 \$15 million of other eligible funds on Small Sites.

13 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD
14 requires the project sponsor or its successor in interest to give preference in occupying units
15 first to Residential Certificate of Preference Holders under the San Francisco Redevelopment
16 Agency's Property Owner and Occupant Preference Program, as reprinted September 11,
17 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521,
18 who otherwise meet all of the requirements for a unit; and second to any Displaced Tenant, as
19 defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or
20 assistance, provided that the following limitations shall apply to the Displaced Tenant
21 preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied
22 developments only for three years from the date the landlord filed with the Residential Rent
23 Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's
24 unit from the rental market pursuant to the Ellis Act, California Government Code Section
25 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and

1 Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and
2 37.9A; (ii) a Displaced Tenant may apply the preference to new developments going through
3 the initial occupancy process only for six years from the date the landlord filed with the Rent
4 Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the
5 Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for
6 any new residential development going through the initial occupancy process, the Displaced
7 Tenant preference shall apply only to twenty percent (20%) of the units in such development.
8 The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a
9 unit offered through application of the preference, but upon accepting and occupying a unit
10 obtained using the preference, such Displaced Tenant's preference terminates. Otherwise, it
11 is the policy of the City to treat all households equally in allocating affordable units under this
12 Program.

13 * * * *

14 **SEC. 416.5. USE OF FUNDS.**

15 The additional affordable housing requirement specified in this Section for the Market
16 and Octavia Plan Area and the Upper Market NCD shall be paid into the Citywide Affordable
17 Housing Fund, *established in Administrative Code Section 10.100-49*, but the funds shall be
18 separately accounted for. MOHCD shall expend the funds according to the following priorities:
19 First, to increase the supply of housing affordable to qualifying households in the Market and
20 Octavia Plan Area and the Upper Market NCD; second, to increase the supply of housing
21 affordable to qualifying households within 1 mile of the boundaries of the Plan Area and the
22 Upper Market NCD; third, to increase the supply of housing affordable to qualifying
23 households in the City and County of San Francisco. The funds may also be used for
24 monitoring and administrative expenses subject to the process described in Section
25 *415.5(f)415.7(e)*.

1 **SEC. 423.5. THE EASTERN NEIGHBORHOODS COMMUNITY IMPROVEMENTS**
2 **FUND.**

3 (a) Purpose. There is hereby established a separate fund set aside for a special
4 purpose entitled the Eastern Neighborhoods Community Improvements Fund ("Fund"). All
5 monies collected by the Development Fee Collection Unit at DBI pursuant to Section 423.3(e)
6 shall be deposited in the Fund maintained by the Controller. The receipts in the Fund shall be
7 appropriated in accordance with the normal budgetary process to fund Community
8 Improvements subject to the conditions of this Section. Monies collected by the Development
9 Fee Collection Unit at DBI pursuant to 423.3 shall be deposited as follows:

10 (1) For projects located in any zoning districts in the Eastern Neighborhoods
11 Program Area, excluding Designated Affordable Housing Zones, DBI shall deposit 100% of
12 the funds in the Eastern Neighborhoods Community Improvements Fund maintained by the
13 Controller.

14 (2) For projects located in Designated Affordable Housing Zones, DBI shall
15 deposit 25% of the funds in the Eastern Neighborhoods Community Improvement Fund and
16 75% in the Citywide Affordable Housing Fund, *established in Administrative Code Section 10.100-*
17 *49.* but the funds shall be separately accounted for and expended as provided in this Section.

18 * * * *

19
20 Section 4. The Subdivision Code is hereby amended by revising Section 1396.4 to
21 read as follows:

22 **SEC. 1396.4. CONDOMINIUM CONVERSION FEE AND EXPEDITED CONVERSION**
23 **PROGRAM.**

24 * * * *

1 (i) Upon confirmation of compliance with the rental requirement, DPW or the City
2 department in possession of the fee revenue shall refund the amount specified in Section (h)
3 to the subdivider and have all remaining fee revenues transferred to the Citywide Affordable
4 Housing Fund, established in Administrative Code Section 10.100-49, in the following percentage
5 allocations:

6 (1) 25% to the Mayor's Office of Housing and Community Development's
7 program for small site acquisition to purchase market rate housing and convert it to affordable
8 housing; and

9 (2) 75% ~~to the Citywide Affordable Housing Fund~~ for the purpose of expanding
10 affordable housing opportunities for low or moderate income households in San Francisco,
11 including, but not limited to, expanding public housing opportunities.

12 * * * *

13
14 Section 5. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor's veto of the ordinance.

18
19 Section 6. 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: 
SUSAN CLEVELAND-KNOWLES
Deputy City Attorney

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