

1 [Eastern Neighborhoods – conditional use requirement tied to capital expenditures finding.]

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3 **Ordinance amending the San Francisco Planning Code by adding Section 327.6(i) to**
4 **establish a conditional use requirement that is tied to Board of Supervisors findings on**
5 **the Eastern Neighborhoods Capital Expenditure Evaluation as set forth in**
6 **Administrative Code Section 10E.7; and making various findings, including**
7 **environmental findings and findings of consistency with the General Plan and priority**
8 **policies of Planning Code Section 101.1.**

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

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

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Section 1. Findings. The Board of Supervisors of the City and County of San

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Francisco hereby finds and determines that:

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(a) Under Planning Code Section 302, the Board of Supervisors finds that this

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ordinance will serve the public necessity, convenience and welfare for the reasons set forth in

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Planning Commission Resolution No. _____ recommending the approval of this

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Planning Code Amendment and incorporates such reasons by this reference thereto. A copy

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of said resolution is on file with the Clerk of the Board of Supervisors in File No. _____

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and is incorporated here by reference.

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(b) Under Planning Code Section 101.1, the Board of Supervisors finds that this

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ordinance is consistent with the Priority Policies of Planning Code Section 101.1(b) of the

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Planning Code and with the General Plan as proposed to be amended in companion

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legislation and hereby adopts the findings of the Planning Commission, as set forth in

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Planning Commission Resolution No. _____. A copy of said Resolution is on file with

1 the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
2 reference.

3 (c) In accordance with the actions contemplated herein, this Board adopted
4 Resolution No. _____, concerning findings pursuant to the California Environmental
5 Quality Act (California Public Resources Code sections 21000 et seq.). A copy of said
6 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____ and is
7 incorporated by reference herein.

8 Section 2. The San Francisco Planning Code is hereby amended by adding Section
9 327.6(i), to read as follows:

10 SEC. 327.6(i).

11 (i) Upon receipt of Within 60 days of receiving the Eastern Neighborhoods Capital
12 Expenditure Evaluation Report as specified in Administrative Code Section 10E.7, the Board
13 of Supervisors Office of the Controller shall assess whether funds collected from the Eastern
14 Neighborhoods Impact Fee are being effectively utilized for capital projects serving the
15 Eastern Neighborhoods, and whether such projects are successfully advancing towards
16 implementation, as set forth in the abovementioned Section. Based on this assessment, the
17 following shall occur:

18 (A) Should the Board of Supervisors determine that these fees are being If the
19 Controller determines that the funds have been effectively utilized as set forth in Section
20 10E.7 of the Administrative Code, the BoardController, by motion and within 120 days of
21 receiving the Capital Expenditure Evaluation, shall make shall issue an affirmative finding to
22 the Board of Supervisors and the Planning Commission certifying that the intention of this
23 aforementioned Section is being met. No further Board of Supervisor Controller action is
24 necessary for purposes of this Subsection.

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1 (B) Should the Board of Supervisors determine that the fees are not being effectively
2 utilized, or fail to make the motion referred to in Subsection (A) above, within 120 days of
3 receiving the Capital Expenditure Evaluation, then the following projects shall require a
4 conditional use authorization, If the Controller fails to issue the certification described in
5 Subsection (i)(A) above or if the Controller determines that the fees are not being effectively
6 utilized as set forth in Administrative Code Section 10E.7 and notifies the Board of
7 Supervisors and Planning Commission of this determination, then the following shall occur:

8 (i) Any project specified below within the Eastern Neighborhoods Area
9 Plan that has not already received final and effective approvals from the Planning
10 Department, Zoning Administrator, and/or the Planning Commission, shall require a
11 conditional use authorization, in addition to any other approvals necessary under the Planning
12 Code:

13 (aa) Residential projects containing more than 10 new units that have not
14 received issuance of their first site or building permit; or

15 (bb) Non-residential projects containing a net new addition or new
16 construction of 10,000 square feet or more that have not received issuance of their first site or
17 building permit.

18 (C) Elimination of interim conditional use requirement. (i) At any time
19 after the Controller has determined that Eastern Neighborhood impact fees are not being
20 effectively utilized as set forth in Section 327.6(i)(B) above, or fails to certify that they are
21 being effectively utilized as set forth in Section 327.6(i)(A), the Planning Department may
22 provide the Controller with a newly updated or revised Eastern Neighborhoods Capital
23 Expenditure Evaluation Report.

1 (ii) Within 60 days of receiving an updated or revised Report, the Office of the
2 Controller shall determine whether funds collected from the Eastern Neighborhoods Public
3 Benefit Fee are being effectively utilized for capital projects serving the Eastern
4 Neighborhoods consistent with the intent of the Section 10E.7 of the Administrative Code.

5 (iii) If, on the basis of a new, updated or revised Eastern Neighborhoods Capital
6 Expenditure Evaluation Report, the Controller determines that the development impact fees
7 collected to date are being effectively utilized as set forth in Section 327.6(i)(A) above, any
8 projects within the Eastern Neighborhoods Plan Area that required a conditional use
9 authorization on an interim basis as set forth in Section 327.6(i)(B) shall no longer require
10 such conditional use authorization unless the underlying use requires conditional use
11 authorization independent of the requirements set forth in Section 327.6(i)(B).

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

16 By: _____
17 John D. Malamut
18 Deputy City Attorney