

1 [Administrative Code - Fee Update]

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3 **Ordinance amending the San Francisco Administrative Code, Chapter 31, Sections**
4 **31.22, 31.23, and 31.23.1 to: 1) increase all fees based on the Controller's annual two-**
5 **year average consumer price index; and 2) adopting findings, including environmental**
6 **findings.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are *strike-through italics Times New Roman*.
9 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

11
12 Section 1. Findings.

13 (a) The Planning Department is able to recover the cost of long range planning
14 through its building permit review, CEQA (California Environmental Quality Act, California
15 Public Resources Code Sections 21000 et seq.) review, and land use entitlement fees.

16 (b) The current fee structure is set to recover a portion of long range planning cost
17 through said fees, but the cost of long range planning, which includes historic preservation
18 survey and designation work, is increasing beyond the annual cost of living adjustment.

19 (c) It is in the public interest for the private project sponsor to reimburse the City for
20 the benefit he or she derives as a consequence of public supported planning.

21 (d) Environmental Finding. The Planning Department has determined that the
22 proposed fee adjustments are statutorily excluded from CEQA under the CEQA Guidelines
23 Section 15273(a), which exempts rates, tolls, fares and charges such as those proposed here.
24 Said determination is on file with the Clerk of the Board of Supervisors in File No. 110706 and
25 is incorporated herein by reference.

1 Section 2. The San Francisco Administrative Code is hereby amended by amending
2 Sections 31.22 to read as follows:

3 **SEC. 31.22 BASIC FEES.**

4 (a) The Planning Department shall charge the following basic fees to applicants for
5 projects located outside of recently adopted Plan Areas (adopted after July 1, 2005) that do
6 not require one or more of the following, which will be initiated through the adoption of an Area
7 Plan: Code amendments for the height or bulk district and General Plan amendments, as
8 specified in Section 31.21 above:

9 (1) For an initial study of a project excluding use of special expertise or technical
10 assistance, as described in Section 31.23 below, the initial fee shall be:

11 Where the total estimated construction cost as defined by the San Francisco
12 Building Code is between \$0 and \$9,999: ~~\$1,0701,092~~;

13 Where said total estimated construction cost is \$10,000 or more, but less than
14 \$200,000: ~~\$4,2494163~~ PLUS ~~2.0242.066~~% of the cost over \$10,000;

15 Where said total estimated construction cost is \$200,000 or more, but less than
16 \$1,000,000: ~~\$8,2518,084~~ PLUS ~~1.5301.562~~ % of the cost over \$200,000;

17 Where said total estimated construction cost is \$1,000,000 or more, but less
18 than \$10,000,000: ~~\$20,98720,561~~ PLUS ~~1.2841.311~~% of the cost over \$1,000,000;

19 Where said total estimated construction cost is \$10,000,000 or more, but less
20 than \$30,000,000: ~~\$141,220138,356~~ PLUS ~~0.3960.404~~% of the cost over \$10,000,000;

21 Where said total estimated construction cost is \$30,000,000 or more, but less
22 than \$50,000,000: ~~\$ 223,531218,998~~ PLUS ~~0.1490.152~~% of the cost over \$30,000,000;

23 Where said total estimated construction cost is \$50,000,000 or more, but less
24 than \$100,000,000: ~~\$254,453249,293~~ PLUS ~~0.0360.037~~% of the cost over \$50,000,000;

1 Where said total estimated construction cost is \$100,000,000 or more:

2 ~~\$272,962,267,426~~ PLUS 0.016% of the cost over \$100,000,000.

3 An applicant proposing major revisions to a project application that has been inactive
4 for more than six months and is assigned shall submit a new application. An applicant
5 proposing significant revisions to a project which has not been assigned and for which an
6 application is on file with the Planning Department shall be charged time and materials to
7 cover the full costs in excess of the initial fee paid.

8 (2) For preparation of an environmental impact report excluding use of special
9 expertise or technical assistance, as described in Section 31.23 below, the initial fee shall be:

10 Where the total estimated construction cost as defined in the San Francisco
11 Building Code is between \$0 to \$199,999: ~~\$24,255,23,763~~;

12 Where said total estimated construction cost is \$200,000 or more, but less than
13 \$1,000,000: ~~\$24,255,23,763~~ PLUS ~~0.5840.596~~% of the cost over \$200,000;

14 Where said total estimated construction cost is \$1,000,000 or more, but less
15 than \$10,000,000: ~~\$29,248,28,655~~ PLUS ~~0.3960.404~~% of the cost over \$1,000,000;

16 Where said total estimated construction cost is \$10,000,000 or more, but less
17 than \$30,000,000: ~~\$66,289,64,945~~ PLUS ~~0.1650.162~~% of the cost over \$10,000,000;

18 Where said total estimated construction cost is \$30,000,000 or more, but less
19 than \$50,000,000: ~~\$100,041,98,012~~ PLUS ~~0.0450.044~~% of the cost over \$30,000,000;

20 Where said total construction cost is \$50,000,000 or more, but less than
21 \$100,000,000: ~~\$109,240,107,025~~ PLUS ~~0.0450.044~~% of the cost over \$50,000,000;

22 Where said total estimated construction cost is \$100,000,000 or more:
23 ~~\$132,433,129,747~~ PLUS 0.016% of the cost over \$100,000,000.

24 An applicant proposing major revisions to a project application that has been inactive
25 for more than six months and is assigned shall submit a new application. An applicant

1 proposing significant revisions to a project which has not been assigned and for which an
2 application is on file with the Planning Department shall be charged time and materials to
3 cover the full costs in excess of the initial fee paid.

4 (3) For an appeal to the Planning Commission: The fee shall be \$500.00 to the
5 appellant; provided, however, that the fee shall be waived if the appeal is filed by a
6 neighborhood organization that: (a) has been in existence for 24 months prior to the appeal
7 filing date, (b) is on the Planning Department's neighborhood organization notification list, and
8 (c) can demonstrate to the Planning Director or his/her designee that the organization is
9 affected by the proposed project. An exemption from paying this appeal fee may be granted
10 when the requestor's income is not enough to pay for the fee without affecting their abilities to
11 pay for the necessities of life, provided that the person seeking the exemption demonstrates
12 to the Planning Director or his/her designee that they are substantially affected by the
13 proposed project.

14 (4) For an appeal to the Board of Supervisors of environmental determinations,
15 including the certification of an EIR, a negative declaration, or determination of a categorical
16 exemption, the fee shall be \$500.00 to the appellant; provided, however, that the fee shall be
17 waived if the appeal is filed by a neighborhood organization that: (a) has been in existence for
18 24 months prior to the appeal filing date, (b) is on the Planning Department's neighborhood
19 organization notification list, and (c) can demonstrate to the Planning Director or his/her
20 designee that the organization is affected by the proposed project. Fees shall be used to
21 defray the cost of appeal for the Planning Department. Such fee shall be refunded to the
22 appellant in the event the Planning Department rescinds its determination or the Board of
23 Supervisors remands or rejects the environmental impact report, negative declaration, or
24 determination of a categorical exemption to the Planning Commission for revisions based on
25 issues related to the adequacy and accuracy of the environmental determination. An

1 exemption from paying this appeal fee may be granted when the requestor's income is not
2 enough to pay for the fee without affecting their ability to pay for the necessities of life,
3 provided that the person seeking the exemption demonstrates to the Clerk of the Board of
4 Supervisors or his/her designee that they are substantially affected by the proposed project.

5 (5) For preparation of an addendum to an environmental impact report that has
6 previously been certified, pursuant to Section 15164 of the State CEQA Guidelines: or
7 reevaluation of a modified project for which a negative declaration has been prepared:
8 ~~\$22,84422,381~~ plus time and materials as set forth in Subsection (b)(2).

9 (6) For preparation of a supplement to a draft or certified final environmental impact
10 report: One-half of the fee that would be required for a full environmental impact report on the
11 same project, as set forth in Paragraph (2) above, plus time and materials as set forth in
12 Subsection (b)(2).

13 (7) (a) For preparation of a Certificate of Exemption from Environmental Review
14 determining that a project is categorically exempt, statutorily exempt, ministerial/nonphysical,
15 an emergency, or a planning and feasibility study: ~~\$291285~~ for applications that require only a
16 stamp, ~~\$5,6975,581~~ as an initial fee for applications that require an Exemption Certificate, plus
17 time and materials as set forth in Subsection (b)(2).

18 (7) (b) For preparation of a Class 32 Certificate of Exemption from Environmental
19 Review determining that a project is categorically exempt, the initial fee shall be:

20 Where the total estimated construction cost as defined by the San Francisco
21 Building Code is between \$0 and \$9,999: ~~\$10,47610,264~~;

22 Where said total estimated construction cost is \$10,000 or more, but less than
23 \$200,000: ~~\$10,47610,264~~ +PLUS ~~0.1820.178~~% of the cost over \$10,000;

24 Where said total estimated construction cost is \$200,000 or more, but less than
25 \$1,000,000: ~~\$10,82210,602~~ PLUS ~~0.1720.169~~% of the cost over \$200,000;

1 Where said total estimated construction cost is \$1,000,000 or more, but less
2 than \$10,000,000: ~~\$12,201,11,954~~ PLUS ~~0.0530-0.052%~~ of the cost over \$1,000,000;

3 Where said total estimated construction cost is \$10,000,000 or more: ~~\$16,978~~
4 ~~16,634~~ PLUS ~~0.386-0.378%~~ of the cost over \$10,000,000.

5 (8) For preparation of an exemption that requires review of historical resource
6 issues only, the following fees apply. For a determination of whether a property is an
7 historical resource under CEQA, the fee is ~~\$2,387,339~~. For a determination of whether a
8 project would result in a substantial adverse change in the significance of an historical
9 resource, the fee is ~~\$3,310,243~~.

10 (9) For preparation of a letter of exemption from environmental review: ~~\$291,285~~,
11 plus time and materials as set forth in Subsection (b)(2).

12 (10) For review of a categorical exemption prepared by another City Agency, such as
13 the Municipal Transportation Agency or the Public Utilities Commission: ~~\$245,240~~, plus time
14 and materials as set forth in Subsection (b)(2).

15 (11) For reactivating an application that the Environmental Review Officer has
16 deemed withdrawn due to inactivity and the passage of time, subject to the approval of the
17 Environmental Review Officer and within six months of the date the application was deemed
18 withdrawn: ~~\$237,232~~ plus time and materials to cover any additional staff costs.

19 (12) Monitoring Conditions of Approval and Mitigation Monitoring: Upon adoption of
20 conditions of approval and/or mitigation measures which the Environmental Review Officer
21 determines require active monitoring, the fee shall be ~~\$1,153,130~~, as an initial fee, plus time
22 and materials as set forth in Section 31.22(b)(2).

23 (b) Payment.

24 (1) The fee specified in Subsection (a)(1) shall be paid to the Planning Department
25 at the time of the filing of the environmental evaluation application, and where an

1 environmental impact report is determined to be required, the fee specified in Subsection
2 (a)(2) shall be paid at the time the Notice of Preparation is prepared, except as specified
3 below. However, the Director of Planning or his/her designee may authorize phased
4 collection of the fee for a project whose work is projected to span more than one fiscal year. A
5 nonrefundable processing fee of ~~\$5352~~ is required to set-up any installment payment plan for
6 all application fees. The balance of phased payments must be paid in full one week in
7 advance of the first scheduled public hearing before the Planning Commission in consider the
8 project or before any Environmental Impact report is published.

9 (2) The Planning Department shall charge the applicant for any time and material
10 costs incurred in excess of the initial fee charged if required to recover the Department's costs
11 for providing services. Provided, however, that where a different limitation on time and
12 materials is set forth elsewhere in this section, then that limitation shall prevail.

13 (3) The Controller will annually adjust the fee amounts specified in Section
14 31.22(a)(1), (2), (5), (7), (8), (9), (10) , *and* (11), *and* (12), *Section 31.22(b)(1) and (6), and* Section
15 31.22(c), Section 31.23(d) and Section 31.23.1(a) and (b) by the two-year average consumer
16 price index (CPI) change for the San Francisco/San Jose Primary Metropolitan Statistical
17 Area (PMSA).

18 (4) Any fraternal, charitable, benevolent or any other nonprofit organization, that is
19 exempt from taxation under the Internal Revenue laws of the United States and the Revenue
20 and Taxation Code of the State of California as a bona fide fraternal, charitable, benevolent or
21 other nonprofit organization, or public entity that submits an application for the development of
22 residential units or dwellings all of which are affordable to low and moderate income
23 households, as defined by the United State Housing and Urban Development Department, for
24 a time period that is consistent with the policy of the Mayor's Office of Housing and the San
25 Francisco Redevelopment Agency may defer payment of the fees specified herein, with the

1 exception of the fees payable pursuant to Section 31.22(a)(3) and (4) and Section
2 31.22(a)(11) herein, until the time of issuance of the building permit, before the building permit
3 is released to the applicant; or (2) within one year of the date of completion of the
4 environmental review document, whichever is sooner. This exemption shall apply
5 notwithstanding the inclusion in the development of other nonprofit ancillary or accessory
6 uses.

7 (5) An exemption from paying the full fees set forth in Section 31.22(a)(3) and (4)
8 herein may be granted when the requestor's income is not enough to pay the fee without
9 affecting his or her ability to pay for the necessities of life, provided that the person seeking
10 the exemption demonstrates to the Director of Planning or his/her designee that he or she is
11 substantially affected by the proposed project.

12 (6) Exceptions to the payment provisions noted above may be made when the
13 Director of Planning or his/her designee has authorized phased collection of the fee for a
14 project whose work is projected to span more than one fiscal year. A nonrefundable
15 processing fee of ~~\$5352~~ is required to set-up any installment payment plan for all application
16 fees. The balance of phased payments must be paid in full one week in advance of the first
17 scheduled public hearing before the Planning Commission to consider the project or before
18 any Environmental Impact report is published.

19 (c) Refunds. When a request for an initial evaluation or for preparation of an
20 environmental impact report is (1) either withdrawn by the applicant prior to publication of an
21 environmental document or (2) deemed canceled by the Planning Department due to inactivity
22 on the part of the applicant, then the applicant shall be entitled to a refund of the fees paid to
23 the Department less the time and materials expended minus a ~~\$436427~~ processing fee.
24 Refund requests must be submitted within six months of the project closure date.

1 (d) Late Charges and Collection of Overdue Accounts. The Director or his/her
2 designee shall call upon the Bureau of Delinquent Revenues or duly licensed collection
3 agencies for assistance in collecting delinquent accounts more than 60 days in arrears, in
4 which case any additional costs of collection may be added to the fee amount outstanding. If
5 the Department seeks the assistance of a duly licensed collection agency, the approval
6 procedures of Administrative Code Article 5, Section 10.39-1 et seq. will be applicable.

7 (e) These amendments to fees related to the Planning Department are intended to
8 provide revenues for the staffing and other support necessary to provide more timely
9 processing of applications within that Department.

10
11 Section 3: The San Francisco Administrative Code is hereby amended by amending
12 Section 31.23 to read as follows:

13 **SEC. 31.23 OTHER FEES.**

14 (a) Where an initial evaluation or preparation of an environmental impact report and
15 related environmental studies require the use of special expertise or technical assistance not
16 provided by the board, commission, department or other person who is to carry out the
17 project, such expertise or assistance shall be paid for by such board, commission, department
18 or other person. This payment shall be made either to the Planning Department or, if the
19 Planning Department so requests, directly to the party that will provide such expertise or
20 technical assistance.

21 (b) Where outside consultants are used for such purposes, and the project is to be
22 directly carried out by a person other than a board, commission or department of the City,
23 such consultants shall report their findings directly to the Planning Department.

24 (c) Where employees of the City are used for such purposes, the costs of such
25 employees shall be paid to the board, commission or department providing such employees.

1 (d) In addition to any filing fees required by statute, the County Clerk shall collect a
2 documentary handling fee in the amount of ~~\$3332~~ for each filing made pursuant to California
3 Fish and Game Code Section 711.4, Subdivision (d).
4

5 Section 4. The San Francisco Administrative Code is hereby amended by amending
6 Section 31.23.1, to read as follows:

7 **SEC. 31.23.1 Community Plan Fees.**

8 (a) The Planning Department shall charge the following Community Plan Fees for
9 environmental applications filed in adopted Plan Areas effective after July 1, 2005:

10 (1) For Class 1 and 3 Exemptions: same as basic fees outlined in Section
11 31.22(a)(8) and (10).

12 (2) For determination of the appropriate environmental document: ~~\$12,72012,462~~
13 and any fee pursuant to Section 31.23.1(c) below. In addition, the applicant shall pay the
14 following fees as appropriate:

15 (i) If the determination is that the project qualifies for a Community exemption or
16 exclusion, the applicant shall pay a fee of ~~\$6,9506,809~~.

17 (ii) If the determination is that the project does not qualify for a Community
18 exemption or exclusion, the applicant shall pay fees as set forth in Section 31.23.1(b) below.

19 (b) The fees for projects determined not to qualify for a Community exemption or
20 exclusion are as follows:

21 (1) For an initial study excluding use of special expertise or technical assistance, as
22 described in Section 31.22 above, the initial fee shall be:

23 Where the total estimated construction cost as defined by the San Francisco
24 Building Code is between \$0 and \$9,999: ~~\$1,3601,332~~;

1 Where said total estimated construction cost is \$10,000 or more, but less than
2 \$200,000: \$5,6515,536 PLUS 2.5712-519% of the cost over \$10,000;

3 Where said total estimated construction cost is \$200,000 or more, but less than
4 \$1,000,000: \$10,63110,415 PLUS 1.9431-904% of the cost over \$200,000;

5 Where said total estimated construction cost is \$1,000,000 or more, but less
6 than \$10,000,000: \$26,47825,941 PLUS 1.6301-597% of the cost over \$1,000,000;

7 Where said total estimated construction cost is \$10,000,000 or more, but less
8 than \$30,000,000: \$176,062172,491 PLUS 0.5020-492% of the cost over \$10,000,000;

9 Where said total estimated construction cost is \$30,000,000 or more, but less
10 than \$50,000,000: \$278,494272,846 PLUS 0.1890-185% of the cost over \$30,000,000;

11 Where said total estimated construction cost is \$50,000,000 or more, but less
12 than \$100,000,000: \$317,077310,647 PLUS 0.0450-044% of the cost over \$50,000,000;

13 Where said total estimated construction cost is \$100,000,000 or more:
14 \$340,044333,148 PLUS 0.019% of the cost over \$100,000,000.

15 An applicant proposing major revisions to a project application that has been inactive
16 for more than six months and is assigned shall submit a new application. An applicant
17 proposing significant revisions to a project which has not been assigned and for which an
18 application is on file with the Planning Department shall be charged time and materials to
19 cover the full costs in excess of the initial fee paid.

20 (2) For preparation of an environmental impact report excluding use of special
21 expertise or technical assistance, as described in Section 31.23 above, the initial fee shall be:

22 Where the total estimated construction cost as defined in the San Francisco
23 Building Code is between \$0 to \$199,999: \$30,18529,573;

24 Where said total estimated construction cost is \$200,000 or more, but less than
25 \$1,000,000: \$30,18529,573 PLUS 0.7410-726% of the cost over \$200,000;

1 Where said total estimated construction cost is \$1,000,000 or more, but less
2 than \$10,000,000: ~~\$36,40135,663~~ PLUS ~~0.5020.492%~~ of the cost over \$1,000,000;

3 Where said total estimated construction cost is \$10,000,000 or more, but less
4 than \$30,000,000: ~~\$82,49580,822~~ PLUS ~~0.2060.202%~~ of the cost over \$10,000,000;

5 Where said total estimated construction cost is \$30,000,000 or more, but less
6 than \$50,000,000: ~~\$124,524121,999~~ PLUS ~~0.0560.055%~~ of the cost over \$30,000,000;

7 Where said total construction cost is \$50,000,000 or more, but less than
8 \$100,000,000: ~~\$136,065133,306~~ PLUS ~~0.0560.055%~~ of the cost over \$50,000,000;

9 Where said total estimated construction cost is \$100,000,000 or more:
10 ~~\$164,918161,573~~ PLUS 0.019% of the cost over \$100,000,000.

11 An applicant proposing major revisions to a project application that has been inactive
12 for more than six months and is assigned shall submit a new application. An applicant
13 proposing significant revisions to a project which has not been assigned and for which an
14 application is on file with the Planning Department shall be charged time and materials to
15 cover the full costs in excess of the initial fee paid.

16 (3) For the preparation of a focused Environmental Impact Report: one-half the fee
17 that would be required for a full environmental impact report, as set forth in Paragraph (b)(2)
18 above, plus time and materials.

19 (4) The fees above listed in Section 31.24(b) will sunset 20 years after the effective
20 date of Plan Adoption.

21 (c) The Planning Department shall recover the cost of preparing and defending
22 programmatic EIRs, including consultant and City Attorney costs, from project sponsors that
23 file or have filed projects in recently adopted Plan Areas (after July 1, 2005) and filed projects
24 within 10 years of the Programmatic EIR certification.

1 The fee shall be a proportional share of the cost of the Programmatic EIR, which is
2 equal to the Department's average time and material costs to prepare and defend a
3 Programmatic EIR divided by the buildable envelope times the square footage of the
4 proposed project.

5 (d) Except as provided below for projects in the Transit Center District area, if at the
6 time of Community Plan adoption, a project application undergoing review required
7 amendments for height or bulk districts or General Plan amendments and now complies with
8 the Community Plan Zoning, the applicant may choose to pay either the fees specified in
9 Section 31.22 or Section 31.23.1. For projects that paid fees under Section 31.22 and opt to
10 pay fees under Section 31.23.1, the applicant shall withdraw the application filed under
11 Section 31.22 and file a new application. Applicants that file a new application and pay the
12 Section 31.23.1 fees shall be entitled to a refund under Section 31.22(c).

13 (i) Transit Center District Plan. Projects in the Transit Center District area that
14 require amendments for height or bulk district or General Plan amendments at the time of
15 project application shall pay the fees specified in Administrative Code Section 31.23.1(b) and
16 31.23.1(c). For projects that paid fees under Section 31.22, the applicant shall pay the
17 difference between Section 31.22 fees and Section 31.23.1(b) and 31.23.1(c) fees.

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By:


22 Marlena G. Byrne
23 Deputy City Attorney
24
25



City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 110706

Date Passed: July 26, 2011

Ordinance amending the San Francisco Administrative Code, Chapter 31, Sections 31.22, 31.23, and 31.23.1 to: 1) increase all fees based on the Controller's annual two-year average consumer price index; and 2) adopting findings, including environmental findings.

June 27, 2011 Budget and Finance Committee - RECOMMENDED

July 12, 2011 Board of Supervisors - CONTINUED ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

July 19, 2011 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

July 26, 2011 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 110706

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/26/2011 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Edwin Lee

Date Approved