

FILE NO. 081235

ORDINANCE NO.

1 [Subdivision Code – notice and appeal procedures, DBI review fee.]

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3 **Ordinance amending the Subdivision Code Section 1313 to modify noticing procedures**  
4 **for subdivision applications and delete the Department of Public Works appeal hearing**  
5 **on engineering and surveying matters; amending Section 1314 concerning appellants**  
6 **so that it conforms with the California Subdivision Map Act; amending Section 1359 to**  
7 **conform with the abovementioned amendments; amending Section 1315 to include a**  
8 **processing fee for all subdivisions that the Department of Building Inspection reviews;**  
9 **and making environmental findings.**

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

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

15 Section 1. The San Francisco Subdivision Code is hereby amended by amending  
16 Section 1313, to read as follows:

17 SEC. 1313. NOTICE AND HEARING.

18 (a) Other than with respect to an application for a conversion including one or more  
19 residential units, the Director shall give notice in the following manner to the public and  
20 interested parties of each application for a Tentative Map, or for a Parcel Map for which a  
21 Tentative Map is not required. If the application is for a vesting tentative map, the notice shall  
22 so state.

23 (1) ~~Notice of the Director's receipt of an application shall be published in at least~~  
24 ~~one newspaper of general circulation within the City and County of San Francisco.~~

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1                   (2)—— Notice of the Director's receipt of the application shall be mailed or  
2 delivered to each local agency expected to provided water, sewage, streets, roads, schools,  
3 or other essential facilities or services to the project, whose ability to provide those facilities  
4 and services may be significantly affected.

5                   ——(32)—— Notice of the Director's receipt of the application shall be mailed or  
6 delivered to all owners of real property, as shown on the latest equalized assessment roll,  
7 within 300 feet of the real property that is the subject of the application. In lieu of utilizing the  
8 assessment roll the local agency may utilize records of the County Assessor or Tax Collector  
9 which contain more recent information than the assessment roll. A copy of such notice shall  
10 be mailed to the owner of the subject real property or the owner's duly authorized agent, and  
11 to the project applicant, if a different person. If the number of persons to whom notice would  
12 be mailed or delivered pursuant to this paragraph is greater than 1,000, the Director, in lieu of  
13 mailed or delivered notice, may provide notice by placing a display advertisement of at least  
14 one-eighth page in at least one newspaper of general circulation within the City and County of  
15 San Francisco *at least 10 days prior to the hearing.*

16                   (43)—— Notice of the Director's receipt of the application shall be mailed or  
17 delivered to any person who has filed a written request for notice with the Director's office.

18                   (b)     The Department of City Planning shall publish, and shall give to the same  
19 persons and agencies as entitled to notice under Subsection (a), notice of ~~the any~~ Planning  
20 Commission ~~public~~-hearing on a proposed *Tentative Map for a Conversion which includes one or*  
21 *more residential units-subdivision* and shall also give similar notice to ~~the any~~ tenants ~~in~~ if the  
22 property is proposed to be converted. If the application is for a vesting tentative map, the  
23 notice shall so state.

1           (c)    ~~When a public hearing is requested in writing by a person whose interest would be~~  
2 ~~affected, within 10 days of the date that notice of an application subject to Subsection (a) of this Section~~  
3 ~~was sent or published, the Director shall hold a public hearing with respect to the application in~~  
4 ~~question.~~

5           (d)    If the Director is required under Section 1312 or elects to hold a public hearing  
6 with respect to an application, he or she shall give notice not less than 10 days prior to the  
7 hearing date as provided in Subsection (a) of this Section. If the application is for a  
8 Conversion, he or she shall also notify each tenant of the property proposed for Conversion  
9 and, ~~if the Conversion is one for which a Tentative Map is not required, he or she need not~~  
10 ~~notify owners of property within 300 feet as described in Section 1313 (a)(32).~~

11           (e)    Other than applications for a Conversion which includes one or more residential  
12 units, all applications for a Tentative Map or for a Parcel Map for which a Tentative Map is not  
13 required, shall include, in addition to all other information required:

14               (1)    A list of the names, assessor's lot and block numbers and mailing  
15 addresses of all those shown in the last equalized assessment roll as owning property within  
16 300 feet of the property proposed to be subdivided.

17               (2)    A 300-foot radius map delineating all the properties described in  
18 Subsection (c)(1).

19               (3)    ~~Three~~ One stamped envelopes preaddressed to each or the listed  
20 property owners, suitable for mailing notice of the application and of any hearing or appeal  
21 thereon. Blank Department of Public Works envelopes will be furnished to a proposed  
22 subdivider on request. Unused envelopes will be returned to the proposed subdivider on  
23 request.

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1           (f) Any Department hearing required under Section 1312 or permitted by this Code  
2 may, at the discretion of the Director, be held jointly with the Department of City Planning.

3           (g) The provisions of this Section shall be superseded by those of any amendment  
4 to California Government Code Sections 65090 or 65091, or to any provision of the SMA,  
5 should the amended provisions require additional notice.

6           Section 2. The San Francisco Subdivision Code is hereby amended by amending  
7 Section 1314, to read as follows:

8           SEC. 1314. APPEALS.

9           (a) The proposed subdivider, ~~any tenant in a property for which a Conversion is~~  
10 ~~proposed, and~~ ~~other than with respect to a Conversion for which a Tentative Map is not required~~  
11 ~~any person who owns property within 300 feet of a proposed subdivision, or any interested party~~ may  
12 appeal to the Board from a final decision of the Director approving, conditionally approving, or  
13 disapproving a Tentative Map, or a Parcel Map for which a Tentative Map is not required. Any  
14 such appeal must be filed in writing with the Clerk of the Board within 10 days of release of  
15 the decision appealed, and must be accompanied by the fee specified in Section 1315 (b) of  
16 this Code.

17           (b) The Director shall mail or deliver to the proposed subdivider, any tenant in a  
18 property for which a Conversion is proposed, and any person who owns property within 300  
19 feet of a proposed subdivision, other than a Conversion for which a Tentative Map is not  
20 required, notice of: (1) his or her decision on any Tentative Map, or Parcel Map for which a  
21 Tentative Map is not required, and of any conditions which may have been incorporated in a  
22 conditional approval; (2) the right to appeal the Director's decision; and (3) the availability for  
23 examination of the Director's report.

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1 (c) With respect to appeals under this Section, the Board shall schedule a hearing  
2 on the appeal to be held within 30 days after the appeal has been filed, and shall give notice  
3 as provided in Section~~s~~ 1313 (a)(1) and ~~1313 (a)(2), and~~ to the persons entitled to notice of the  
4 Director's decision under Section 1314 (b). The Board also shall publish notice of the hearing in at  
5 least one newspaper of general circulation within the City and County of San Francisco.

6 Section 3. The San Francisco Subdivision Code is hereby amended by amending  
7 Section 1315, to read as follows:

8 SEC. 1315. FEES.

9 (a) Fees, payable to the Department of Public Works, shall be charged for checking  
10 and processing the maps, plans and reports, lot line adjustments, certificates of compliance,  
11 amended maps, records of survey, certificates of correction, and other actions and  
12 procedures set forth in California Government Code section 66451.2. Said fees shall be due  
13 at the time of filing an application. Failure to pay such fees shall result in a return of the  
14 application as incomplete to the applicant. The fee schedule is as follows:

- 15 (1) Air Space (four lots or less) is \$8,598.00 with a fee of \$500.00 for each additional  
16 lot;
- 17 (2) Lot Subdivision "Final Map" is \$8,437.00;
- 18 (3) Condominium Conversion is \$8,336.00;
- 19 (4) Parcel Map is \$7,770.00;
- 20 (5) Lot Merger Re-subdivision is \$6,943.00;
- 21 (6) Amended Map is \$2,704.00;
- 22 (7) Lot Line Adjustment is \$2,704.00;
- 23 (8) Lot Merger is \$2,581.00;
- 24 (9) Certificate of compliance is \$2,139.00;
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1 (10) Certificate of correction is \$2,139.00;  
2 (11) Record of survey is \$507.00; and  
3 (12) Other actions not specified above, shall be based on actual costs that the  
4 Department incurs in administering and processing the action or procedure and shall be  
5 charged on a time and materials basis. The Department shall provide the applicant with a  
6 written estimate of said costs at the time of application, and the applicant shall pay such fees  
7 prior to the time that the application is deemed complete. To the extent that the estimated fees  
8 do not cover actual costs, any outstanding amount due shall be a condition of the  
9 Department's final decision on the action or procedure. To the extent that the estimated fees  
10 exceeded the actual costs, the Department shall refund the excess amount to the applicant  
11 within a reasonable period after the Department's final decision on the action or procedure.

12 (b) A fee of \$250 shall be charged to defray costs of an appeal under Section 1314 of  
13 this Code.

14 (c) Payment of fees charged under this Code does not waive the fee requirements of  
15 other ordinances and rules and regulations pursuant thereto.

16 (d) There is hereby created a Subdivision Fund wherein all funds received under the  
17 provisions of this Section shall be deposited. All expenditures from the Fund shall be for  
18 engineering or technical investigations and equipment directly related to the checking and  
19 processing of the maps, plans, reports and parcel map waivers filed under this Code, and all  
20 such expenditures are hereby appropriated for said purposes.

21 (e) Additional Fees.

22 (1) In instances where administration or processing of any application, action, or  
23 procedure is or will exceed the fee amount established pursuant to subsection (a), the  
24 Director, in his or her discretion, may require an applicant or permittee to pay a sum in excess  
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1 of the subject fee amounts. This additional sum shall be sufficient to recover actual costs that  
2 the Department incurs and shall be charged on a time and materials basis. The Director also  
3 may charge for any time and materials costs that other agencies, boards, commissions, or  
4 departments of the City, including the City Attorney's Office, incur in connection with the  
5 processing or administration of a particular application, action, or procedure. Whenever  
6 additional fees are or will be charged, the Director, upon request of the applicant or permittee,  
7 shall provide in writing the basis for the additional fees or an estimate of the additional fees to  
8 be charged.

9 (2) DBI Review Fee. A fee of \$374.00 shall be charged for each action specified above that the  
10 Department of Building Inspection reviews. This fee is in addition to the fees specified above and shall  
11 be paid separately at the time of application.

12 (f) Beginning with fiscal year 2006-2007, the fees which are established herein may  
13 be adjusted each year, without further action by the Board of Supervisors, to reflect changes  
14 in the relevant Consumer Price Index, as determined by the Controller. No later than April  
15 15th of each year, the Director shall submit the Department's current fee schedule to the  
16 Controller, who shall apply the price index adjustment to produce a new fee schedule for the  
17 following year. No later than May 15th of each year, the Controller shall file a report with the  
18 Board of Supervisors reporting the new fee schedule and certifying that: (a) the fees produce  
19 sufficient revenue to support the costs of providing the services for which the fee is charged  
20 and (b) the fees do not produce revenue that exceeds the costs of providing the services for  
21 which each permit fee is charged. Notwithstanding the procedures set forth in this Section, the  
22 Board of Supervisors, in its discretion, may modify the fees at any time.

23 Section 4. The San Francisco Subdivision Code is hereby amended by amending  
24 Section 1359, to read as follows:  
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1           SEC. 1359. PARCEL MAP.

2           (a)    The requirements of Subsection (c) of Section 1356 of this Code shall apply to  
3 Parcel Maps.

4           (b)    The Parcel Map shall conform to the requirements of Chapter 2, Article 3 of  
5 SMA and to the Subdivision Regulations regarding detailed format and contents.

6           (c)    In the case of Conversions where a Tentative Map is not required, the  
7 requirements of Sections 1314 and the requirements of Article 9 on Conversions shall apply,  
8 provided that hearings as provided in Sections ~~1313 and~~ 1332 shall not be required, and the  
9 10-percent low and moderate income occupancy as provided in Section 1341 shall not be  
10 required, and provided further that Article 9 shall not be applied to two-unit buildings where  
11 both units are owner-occupied for one year prior to the application for Conversion. The  
12 Director of Planning, however, shall make the determination pursuant to Section 1385  
13 concerning preservation of low and moderate income housing.

14           (d)    In addition to the requirements of Subsection (c), the owners of record of a two-  
15 unit building conversion that qualify for the exemption from Article 9 must certify under penalty  
16 of perjury and the Department must verify with the Rent Stabilization and Arbitration Board,  
17 and with the Human Rights Commission as applicable, that since November 16, 2004, no  
18 eviction as defined in San Francisco Administrative Code Section 37.9(a)(8)—(14) of a senior,  
19 disabled person, or catastrophically ill tenant as defined below has occurred, or if an eviction  
20 has taken place under Administrative Code Section 37.9(a)(11) or (14), that the original tenant  
21 reoccupied the unit after a temporary eviction. For purposes of this Subsection a "senior"  
22 shall be a person who is 60 years or older and has been residing in the unit for 10 years or  
23 more at the time of the ~~lottery~~application for Conversion; a "disabled" tenant is defined for  
24 purposes of this Subsection as a person who is disabled within the meaning of Title 42 U.S.C.  
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1 Section 12102(2)(A); and a "catastrophically ill" tenant is defined for purposes of this  
2 Subsection as a person who is disabled as defined above, and who is suffering from a life  
3 threatening illness as certified by his or her primary care physician.

4 (e) If the owners of record cannot satisfy the requirements of Subsection (d), then  
5 the owners of record shall comply with Article 9, including its Section 1396.1(g)(3), prior to  
6 submitting an application for Conversion.

7 (f) If the Department determines that an applicant has knowingly provided false  
8 material information under Subsection (d) above, the Department shall immediately deny the  
9 application, or if the applicant has submitted an application for conversion, shall immediately  
10 deny the application for conversion. Moreover, the Department, the Director, or other  
11 authorized person or entity may also enforce the provisions of this Subsection under Section  
12 1304 or any other applicable provision of law as warranted.

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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

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