

[Planning Code - Amending Area Plan Fee Waiver Criteria for Affordable Housing]

Ordinance amending the Planning Code by amending Section 406 to revise the criteria for waiver of Area Plan fees, including the Rincon Hill Community Infrastructure Impact Fee, the Market and Octavia Community Improvements Impact Fee, the Eastern Neighborhoods Infrastructure Impact Fee, the Balboa Park Impact Fee, and the Visitacion Valley Community Facilities and Infrastructure Impact Fee, for affordable housing projects; and making findings, including environmental findings.

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

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

Section 1. Findings. The Board of Supervisors hereby finds that:

A. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference.

B. Pursuant to Section 302 of the Planning Code, the Board finds that this ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. _____ and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. _____ is on file with the Board of Supervisors in File No. _____.

C. This ordinance is in conformity with the General Plan and the Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. _____ and the Board incorporates those findings herein by reference.

1 Section 2. The San Francisco Planning Code is hereby amended by amending Section
2 406 to read as follows:

3 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT**
4 **PROJECT REQUIREMENTS.**

5 (a) Waiver or Reduction Based on Absence of Reasonable Relationship.

6 (1) The sponsor of any development project subject to a development fee or
7 development impact requirement imposed by this Article may appeal to the Board of
8 Supervisors for a reduction, adjustment, or waiver of the requirement based upon the absence
9 of any reasonable relationship or nexus between the impact of development and either the
10 amount of the fee charged or the on-site requirement.

11 (2) Any appeal authorized by this Section shall be made in writing and filed with the
12 Clerk of the Board no later than 15 days after the date the Department or Commission takes
13 final action on the project approval that assesses the requirement. The appeal shall set forth
14 in detail the factual and legal basis for the claim of waiver, reduction, or adjustment.

15 (3) The Board of Supervisors shall consider the appeal at a public hearing within 60
16 days after the filing of the appeal. The appellant shall bear the burden of presenting
17 substantial evidence to support the appeal, including comparable technical information to
18 support appellant's position. The decision of the Board shall be by a simple majority vote and
19 shall be final.

20 (4) If a reduction, adjustment, or waiver is granted, any change in use within the
21 project shall invalidate the waiver, adjustment, or reduction of the fee or inclusionary
22 requirement. If the Board grants a reduction, adjustment or waiver, the Clerk of the Board
23 shall promptly transmit the nature and extent of the reduction, adjustment or waiver to the
24 Development Fee Collection Unit at DBI and the Unit shall modify the Project Development
25 Fee Report to reflect the change.

(b) Waiver or Reduction, Based on Housing Affordability ~~or Duplication of Fees.~~

(1) An affordable housing unit shall receive a waiver from the Rincon Hill Community Infrastructure Impact Fee, the Market and Octavia Community Improvements Impact Fee, the Eastern Neighborhoods Infrastructure Impact Fee, the Balboa Park Impact Fee, and the Visitacion Valley Community Facilities and Infrastructure Impact Fee if the affordable housing unit:

(A) is affordable to a household at or below 80% of the Area Median Income (as published by HUD), including units that qualify as replacement Section 8 units under the HOPE SF program;

(B) is subsidized by MOH, the San Francisco Housing Authority, and/or the San Francisco Redevelopment Agency; and

(C) is subsidized in a manner which maintains its affordability for a term no less than 55 years, whether it is a rental or ownership opportunity. Project sponsors must demonstrate to the Planning Department staff that a governmental agency will be enforcing the term of affordability and reviewing performance and service plans as necessary.

~~The Planning Commission shall give special consideration to offering reductions or waivers of the impact fee to housing projects on the grounds of affordability in cases in which the State of California, the Federal Government, MOH, the San Francisco Redevelopment Agency, or other public agency subsidies target new housing for households at or below 50% of the Area Median Income as published by HUD, including units that qualify as replacement Section 8 units under the HOPE SF program. This waiver clause intends to provide a local 'match' for these deeply subsidized units and should be considered as such by relevant agencies. Specifically these units may be rental or ownership opportunities but they must be subsidized in a manner which maintains their affordability for a term no less than 55 years. Project sponsors must demonstrate to Department staff that a governmental agency will be enforcing the term of affordability and reviewing performance and service plans as necessary; usually this takes the form of a deed restriction.~~

1 ~~(2) — The Planning Department shall publish an annual schedule of specific values for~~
2 ~~waivers and reductions available under this subsection. Department staff shall apply these waivers~~
3 ~~based on the most recent schedule published at the time that fee payment is made.~~

4 (32) Projects that meet the requirements of this subsection are eligible for a 100
5 percent fee reduction until an alternative fee schedule is published by the Department. ~~Ideally~~
6 ~~some contribution will be made to Community Improvement Programs for specific areas, as these units~~
7 ~~will place an equal demand on community improvements infrastructure.~~

8 (3) This waiver clause shall not be applied to units built as part of a developer's
9 efforts to meet the requirements of the Inclusionary Affordable Housing Program, and Section
10 415 of this Code.

11 (4c) Waiver based on Duplication of Fees. The City shall make every effort not to
12 assess duplicative fees on new development. In general, project sponsors are only eligible for
13 fee waivers under this Subsection if a contribution to another fee program would result in a
14 duplication of charges for a particular type of community infrastructure. The Department shall
15 publish a schedule annually of all known opportunities for waivers and reductions under this
16 clause, including the specific rate. Requirements under Section 135 and 138 of this Code do
17 not qualify for a waiver or reduction. Should future fees pose a duplicative charge, such as a
18 Citywide open space or childcare fee, the same methodology shall apply and the Department
19 shall update the schedule of waivers or reductions accordingly.

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

22 By: _____
23 Susan Cleveland-Knowles
24 Deputy City Attorney
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