BOARD of SUPERVISORS

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M E M O R A N D U M

TO: Patrick O'Riordan, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: John Carroll, Assistant Clerk
Land Use and Transportation Committee

DATE: June 20, 2025

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Mahmood on June 10, 2025:

File No. June 10, 2025

Ordinance amending the Building and Planning Codes to comply with California Government Code, Section 66007, by postponing the collection of development impact fees for designated residential development projects to the date of first certificate of occupancy or first temporary certificate of occupancy, whichever occurs first; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

The proposed ordinance is being transmitted pursuant to Charter, Section D3.750-5, for public hearing and recommendation. It is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Please forward me the Commission's recommendation and reports at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: john.carroll@sfgov.org.

c:
Offices of Chair Melgar and Supervisor Mahmood
Tate Hanna, Department of Building Inspection
Patty Lee, Department of Building Inspection

[Building and Planning Codes - Development Impact Fees for Residential Development Projects]

Ordinance amending the Building and Planning Codes to comply with California Government Code, Section 66007, by postponing the collection of development impact fees for designated residential development projects to the date of first certificate of occupancy or first temporary certificate of occupancy, whichever occurs first; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 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. The Board affirms this determination.

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

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

(c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code amendments 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 said resolution is on file with the Clerk of the Board of Supervisors in File No. _____.

(d) On _____, at a duly noticed public hearing, the Building Inspection Commission considered this ordinance in accordance with Charter Section 4.121 and Building Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building Inspection Commission regarding the Commission's recommendation is on file with the Clerk of the Board of Supervisors in File No. _____.

(e) No local findings are required under California Health and Safety Code Section 17958.7 because the amendments to the Building Code contained in this ordinance do not regulate materials or manner of construction or repair, and instead relate in their entirety to administrative procedures for implementing the code, which are expressly excluded from the definition of a "building standard" by California Health and Safety Code Section 18909(c).

Section 2. Chapter 1A of the Building Code is hereby amended by revising Sections 107A.13.3, 107A.13.4, and 107A.13.7, to read as follows:

107A.13.3 Timing of development fee payments and satisfaction of development impact requirements.

(a) ***Timing for payment and compliance.***

(1) All development impact or in-lieu fees owed for a development project shall be paid by the project sponsor prior to issuance of the first construction document; provided, however, that the project sponsor may elect to defer payment of said fees under Section 107A.13.3.1.

~~*(b)*~~ *(2)* Any development impact requirement shall be completed prior to issuance of the first certificate of occupancy for the development project.

(b) ***Designated Residential Development Projects.*** *Pursuant to California Government Code Section 66007, development impact fees for Designated Residential Development Projects, as that term is defined in Government Code Section 66007(c)(4), shall be paid on the issuance date of the First Certificate of Occupancy or first Temporary Certificate of Occupancy, whichever occurs first, unless the development impact fee qualifies for early collection pursuant to Subsection 66007(c)(2).*

107A.13.4 Development Fee Collection Unit. There shall be a Development Fee Collection Unit established within the Department. The Unit's duties include: (1) receiving and organizing information from various City agencies concerning the amount of development fees owed or specific development impact requirements imposed under various sections of the San Francisco Municipal Code or other legal authority, (2) working with the project sponsor and relevant agencies to resolve any disputes or questions concerning the development fees or development impact requirements applied to specific development projects, (3) ensuring that the first construction document, or ~~*first certificate of occupancy*~~ *First Certificate of Occupancy or first Temporary Certificate of Occupancy* if the project *is a Designated Residential Development Project or if the* sponsor elects to defer payment, is not issued prior to payment of all development fees that are due and owing, (4) confirming with the Planning Department that any outstanding development impact requirements are satisfied prior to issuance of the first certificate of occupancy for projects subject to such requirements, (5) generating Project

Development Fee Reports, (6) processing any development fee refunds, (7) publishing and updating the Citywide Development Fee Register, (8) initiating lien proceedings to collect any unpaid development impact or in-lieu fees, and (9) performing such other duties as the Building Official requires. The fee for the Department's services shall be as provided in Section 107A.13.14.

107A.13.7 Project Development Fee Report. Prior to the issuance of the building or site permit for a development project that owes a development fee or fees or is subject to development impact requirements, and at any time thereafter, the Development Fee Collection Unit shall prepare and provide to the project sponsor, or any member of the public upon request, a Project Development Fee Report. The Report shall: (i) identify the development project, (ii) list which specific development fees and/or development impact requirements are applicable and the legal authorization for their application, (iii) specify the amount of the development fee or fees that the department or agency calculates is owed or that the project sponsor has elected to satisfy a development impact requirement through the direct provision of physical improvements, (iv) list the name and contact information for the staff person at each agency or department responsible for calculating the development fee or monitoring the development impact requirement, *(v) identify the fee dispute process pursuant to Section 107A.13.9,* and (v*i*) state *by when*~~*whether*~~ the development fee or fees are due and payable *pursuant to* ~~*prior to issuance of the first construction document or whether the project sponsor has requested deferral under*~~ Section 107A.13.3~~.1~~, and note the status of payment. A copy of the Project Development Fee Report shall always be made available to the project sponsor immediately prior to issuance of the site or building permit for a development project subject to any development fee or fees to provide adequate notice of the proposed development fee or fees. The Development Fee Collection Unit shall not issue a Final

Development Fee Report and the respective site or building permit for a development project until it has received written confirmation from the First Source Hiring Administration (FSHA) that the project sponsor has executed a first source hiring agreement(s) with the FSHA consistent with Administrative Code Section 83.11.

Section 3. Article 4 of the Planning Code is hereby amended by revising Sections 402, 403, 411A.3, 413.5, 424.6.2, 424.7.2, and 452.2, to read as follows:

SEC. 402. PROCEDURE FOR PAYMENT AND COLLECTION OF DEVELOPMENT FEES.

* * * *

(d) **Timing of Fee Payments.** All impact fees are due and payable to the Development Fee Collection Unit at DBI *consistent with the provisions of* ~~*at the time of, and in no event later than, issuance of the "first construction document" as defined in Section 401 of this Code and Section 107A.13.1 of the Building Code provided that a project sponsor may defer payment of the fee, excluding any fees that must be deposited in the Citywide Affordable Housing Fund (Administrative Code Section 10.100-49), to a later date pursuant to*~~ Section 107A.13.3 of the Building Code.

(e) **Amount and Applicability of Impact Fees.** When the Planning Department determines that a project is subject to development impact fees established in the Planning Code, with the exception of the Inclusionary Housing Fee as set forth in Section 415 et seq., the assessment shall be based on the types of fees and the rates of those fees in effect at the time of Final Approval. After Final Approval, the City shall not impose subsequently established development impact fees or increase the rate of existing fees on the development project, including annual inflation adjustments pursuant to Section 409, except as provided in subsection*s* (e)(1)-*(e)*(2) of this Section 402. The Planning Department shall transmit the fee

assessment to the Development Fee Collection Unit at DBI in accordance with this Section 402.

(1) **Modification, Renewal, Extension for Projects.** After the Final Approval, if a development project requires a modification to, renewal, or extension of a previously approved Development Application, the Planning Department shall reassess development impact fees pursuant to subsection (e)(2). For the purposes of this subsection (e)(1), a "modification" shall not include a legislatively-authorized reduction or waiver of fees, including any waivers pursuant to Section 406.

(2) **Amount of Reassessment.** For any development project that requires a modification to, renewal, or extension pursuant to subsection (e)(1), the Planning Department shall reassess fees as follows:

(A) **Modified Projects.** For projects increasing Gross Floor Area of any use, the Planning Department shall assess the new or increased Gross Floor Area by applying the types of impact fees in effect at the time of Final Approval at the rates in effect at the time of modification. For projects reducing Gross Floor Area, the Planning Department shall assess the types and rates of fees in effect at the time of Final Approval only on the remaining Gross Floor Area. If the modified project would result in a new type of fee or a different rate based on applicable thresholds in effect at the time of Final Approval, the entire project square footage is subject to the new type of fee or different rate in effect at the time of modification. The City shall refund fees, if any, without interest, based on the fees in effect at the time of Final Approval.

(B) **Renewal and Extended Projects.** For projects receiving a renewal or extension, the Planning Department shall reassess fees for the entire project's Gross Floor Area based on the type of fees and rates of those fees in effect at the time of renewal or extension.

* * * *

SEC. 403. PAYMENT OF DEVELOPMENT FEE(S) OR SATISFACTION OF DEVELOPMENT IMPACT REQUIREMENT(S) AS A CONDITION OF APPROVAL; TEMPORARY FEE REDUCTION PROGRAM.

In addition to any other condition of approval that may otherwise be applicable, the Department or Commission shall require as a condition of approval of a development project subject to a development fee or development impact requirement under this Article *4* that such development fee or fees be paid *consistent with the timing set forth in Building Code Section 107A.13.3*~~*prior to the issuance of the first construction document for any building or buildings within the development project*~~, in proportion to the amount required for each building if there are multiple buildings, with an option for the project sponsor to defer payment of 85*%* ~~*percent*~~ of the fees, or 80*%* ~~*percent*~~ of the fees if the project is subject to a neighborhood infrastructure impact development fee, to prior to issuance of the first certificate of occupancy, as provided by Section 107A.13.3*.1* of the San Francisco Building Code ("Fee Deferral Program"). The Fee Deferral Program shall not apply to fees that must be deposited in the Citywide Affordable Housing Fund (Administrative Code Section 10.100-49). Projects subject to development agreements executed pursuant to Chapter 56 of the Administrative Code shall be eligible for the Fee Deferral Program, except as may otherwise be agreed to by the parties to the development agreement. The Department or Commission shall also require as a condition of approval that any development impact requirement imposed on a development project under this Article shall be satisfied prior to issuance of the first certificate of occupancy for any building or buildings within the development project, in proportion to the amount required for each building if there are multiple buildings.

* * * *

SEC. 411A.3. APPLICATION OF TSF.

* * * *

(c) **Timing of Payment.** The TSF shall be paid ~~*at the time of and in no event later than when the City issues a first construction document, with an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with*~~ *consistent with the timing set forth in* Section 107A.13.3 of the San Francisco Building Code.

* * * *

SEC. 413.5. COMPLIANCE BY PAYMENT OF IN-LIEU FEE.

* * * *

(b) Any in-lieu fee required under this Section 413.5 is due and payable to the Development Fee Collection Unit at DBI ~~*at the time of and in no event later than issuance of the first construction document, with an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Affordable Housing Fund in accordance with*~~ *consistent with the timing set forth in* Section 107A.13.3 of the San Francisco Building Code.

* * * *

SEC. 424.6.2. APPLICATION OF TRANSIT CENTER DISTRICT OPEN SPACE IMPACT FEE.

* * * *

(e) **Timing of Fee Payments.** The Transit Center District Open Space Impact Fee is due and payable to the Development Fee Collection Unit at DBI ~~*at the time of and in no event later than issuance of the first construction document, with an option for the project sponsor to defer*~~

~~*payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be paid into the appropriate fund in accordance with*~~*consistent with timing set forth in* Section 107A.13.3 of the San Francisco Building Code .

SEC. 424.7.2. APPLICATION OF TRANSIT CENTER DISTRICT TRANSPORTATION AND STREET IMPROVEMENT IMPACT FEE.

* * * *

(e) **Timing of Fee Payments.** The Transit Center District Transportation and Street Improvement Impact Fee is due and payable to the Development Fee Collection Unit at DBI ~~*at the time of and in no event later than issuance of the first construction document, with an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be paid into the appropriate fund in accordance with*~~*consistent with the timing set forth in* Section 107A.13.3 of the San Francisco Building Code.

* * * *

SEC. 425.2. APPLICATION OF FEES.

* * * *

(d) **Timing of Fee Payments.** The fee shall be due and payable to the Development Fee Collection Unit at DBI ~~*at the time of issuance of the first construction document for the development project. However, the project sponsor shall have the option to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge as set forth in*~~*consistent with the timing set forth in* Section 107A.13.3 of the San Francisco Building Code.

* * * *

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

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Robb Kapla
ROBB KAPLA
Deputy City Attorney

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FILE NO. 250657

LEGISLATIVE DIGEST

[Building and Planning Codes - Development Impact Fees for Residential Development Projects]

Ordinance amending the Building and Planning Codes to comply with California Government Code, Section 66007, by postponing the collection of development impact fees for designated residential development projects to the date of first certificate of occupancy or first temporary certificate of occupancy, whichever occurs first; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Existing Law

Section 107A.13.3 of the Building Code requires development impact fees be paid prior to permit issuance, unless the applicant selects to defer fees under the fee deferral program in Section 107A.13.3.1.

Article 4 of the Planning Code details the assessment and payment of various development impact fees. Some Article 4 development fee sections cite the Building Code for determining when fees are due, while fee sections restate the requirement that fees be paid prior to permit issuance without citing the Building Code.

Amendments to Current Law

The Proposed Legislation amends Section 107A.13.3 to specify that, pursuant to amendments made to California Government Code Section 66007 by Senate Bill 937, impact fees for designated residential development projects are not due until issuance of a first certificate of occupancy, unless the fee qualifies for early collection. It also amends Section 107A.13.7, which governs the contents of Project Development Fee Reports, to identify the fee dispute resolution process and to refer to Section 107A.13.3 for fee payment deadlines.

The Proposed Legislation also amends the Planning Code to consistently refer to Building Code Section 107A.13.3 for determining when fees are due.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

- [x] 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- [ ] 2. Request for next printed agenda (For Adoption Without Committee Reference)
  (Routine, non-controversial and/or commendatory matters only)
- [ ] 3. Request for Hearing on a subject matter at Committee
- [ ] 4. Request for Letter beginning with "Supervisor _____ inquires…"
- [ ] 5. City Attorney Request
- [ ] 6. Call File No. _____ from Committee.
- [ ] 7. Budget and Legislative Analyst Request (attached written Motion)
- [ ] 8. Substitute Legislation File No. _____
- [ ] 9. Reactivate File No. _____
- [ ] 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☒ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

☐ Yes ☒ No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Mahmood

Subject:

Building and Planning Codes - Development Impact Fees for Residential Development Projects

Long Title or text listed:

Ordinance amending the Building and Planning Codes to comply with California Government Code Section 66007 by postponing the collection of development impact fees for designated residential development projects to the date of first certificate of occupancy or first temporary certificate of occupancy, whichever occurs first; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Signature of Sponsoring Supervisor: /s/ Bilal Mahmood