BOARD of SUPERVISORS

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: June 25, 2025

To: Planning Department/Planning Commission

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

Subject: Board of Supervisors Legislation Referral - File No. 250680
Planning Code - Waiving Certain Development Impact Fees in the Market and Octavia Area Plan

☒ California Environmental Quality Act (CEQA) Determination
(California Public Resources Code, Sections 21000 et seq.)
☒ Ordinance / Resolution
☐ Ballot Measure

☒ Amendment to the Planning Code, including the following Findings:
(Planning Code, Section 302(b): 90 days for Planning Commission review)
☒ General Plan ☒ Planning Code, Section 101.1 ☒ Planning Code, Section 302

☐ Amendment to the Administrative Code, involving Land Use/Planning
(Board Rule 3.23: 30 days for possible Planning Department review)

☐ General Plan Referral for Non-Planning Code Amendments
(Charter, Section 4.105, and Administrative Code, Section 2A.53)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

☐ Historic Preservation Commission
☐ Landmark *(Planning Code, Section 1004.3)*
☐ Cultural Districts *(Charter, Section 4.135 & Board Rule 3.23)*
☐ Mills Act Contract *(Government Code, Section 50280)*
☐ Designation for Significant/Contributory Buildings *(Planning Code, Article 11)*

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

[Planning Code - Waiving Certain Development Impact Fees in the Market and Octavia Area Plan]

Ordinance amending the Planning Code to waive certain development impact fees in the Market and Octavia Area Plan (the Market and Octavia Area Plan and Upper Market Neighborhood Commercial District Affordable Housing Fee, the Market and Octavia Community Improvements Fund, the Van Ness & Market Affordable Housing and Neighborhood Infrastructure Fee, and the Van Ness & Market Community Facilities Fee), to amend the Van Ness & Market Residential Special Use District, to provide that the Market and Octavia Community Advisory Committee shall sunset six months after the effective date of this Ordinance, and to make conforming amendments to some of the definitions in Planning Code, Section 401; affirming the Planning Department's determination under the California Environmental Quality Act; making public necessity, convenience, and welfare findings under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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. Environmental and Land Use 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 adopts such reasons 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.

Section 2. General Legislative Findings.

(a) California faces a severe crisis of housing affordability and availability, prompting the Legislature to declare, in Section 65589.5 of the Government Code, that the State has "a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of a chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives."

(b) This crisis is particularly severe in San Francisco. It is characterized by dramatic increases in rent and home sale prices over recent years. According to the Planning Department's 2020 Housing Inventory, the cost of housing in San Francisco has increased

dramatically since the Great Recession of 2008-2009, with the median sale price for a two-bedroom house more than tripling from $493,000 in 2011 to $1,580,000 in 2021. This includes a 9% increase in housing costs from 2019 to 2020, even in the face of the COVID-19 pandemic. The median rental price for a two-bedroom apartment saw similar although slightly smaller increases, nearly doubling from $2,570 per month in 2011 to $4,500 per month in 2019, before declining in 2020 due to the pandemic.

(c) On January 31, 2023, the City adopted the 2022 Update of the Housing Element of the General Plan ("2022 Housing Element"), as required by State law. This Update commits the City to meeting its Regional Housing Needs Allocation ("RHNA") goals that in the 2023-2031 Housing Element cycle total 82,069 units over eight years, which is more than 2.5 times the goal of the previous cycle. Among other policies, the 2022 Housing Element also commits the City to remove governmental constraints on housing.

(d) In 2008, the City adopted the Market and Octavia Area Plan ("Plan"), which, among other things, established new height and zoning controls within the Plan area. The Plan substantially upzoned the area around Van Ness Avenue and Market Street to create a high-density, transit-oriented residential neighborhood and established the Van Ness and Market Special Use District, which imposed certain additional development impact fees on projects in this area to fund affordable housing and infrastructure improvements for parks, streets, and transit. These new fee requirements supplement the City's Inclusionary Affordable Housing Program and Transportation Sustainability Fee, which continue to apply citywide, including in the Market and Octavia Plan area.

(e) The economic impacts of the COVID-19 pandemic have presented significant challenges to the financial feasibility of new residential development projects, including supply chain disruptions, labor market constraints, historically high inflation, dramatically increased federal interest rates, and a weaker housing market. These factors have contributed to a

significant decrease in housing production. In 2024, 1,457 new units were constructed citywide, a substantial decrease from 4,716 units in 2020.

(f) In the Market and Octavia Area Plan, only two projects that were not subject to a Development Agreement that provided modified requirements to support financial feasibility have commenced construction since the onset of the COVID-19 pandemic in 2020: one 29-unit project that secured financing before the economic impacts of the pandemic became manifest, and one 333-unit project that began construction in 2023 but has since paused construction due to post-pandemic market conditions and increased development costs. As of May 14, 2024, 25 additional projects with a total of 2,213 units have been approved in the Area Plan, but have not commenced construction.

(g) In 2008, as part of the adoption of the Market and Octavia Area Plan ("Plan"), the Market and Octavia Community Advisory Committee ("CAC") was established. The CAC is an advisory body to the City whose primary responsibility is to advise City agencies on the allocation of impact fee revenue to fund the community improvements identified in the Area Plan. The Market and Octavia CAC was established without a sunset clause, unlike the other area plan CACs which have a similar purview and were established with a sunset clause. For example, the Eastern Neighborhoods CAC, also established in 2008, had a sunset clause of 2024, and the SoMa CAC established in 2019 has a sunset clause of 2035.

Section 3. Article 4 of the Planning Code is hereby amended by revising Sections 401, 406, 416.3, 421.3, 424.3, and 425.2, to read as follows:

SEC. 401. DEFINITIONS.

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* * * *

"Development Application" shall mean any application for a building permit, site permit, Conditional Use, Variance, Large Project Authorization, or any application pursuant to Planning Code Sections 309, 309.1, or 322~~.~~ *or any application to the Planning Department for ministerial approval pursuant to state law, including but not limited to California Government Code Sections 65913.4, 65650 et seq., or 65912.100 et seq.*

*** * * ***

F

* * * *

"Final Approval." For the purposes of this Section *401* shall mean *(*1) approval of a project's first Development Application, unless such approval is appealed; or *(*2) if a project only requires a building permit, ~~*issuance*~~ *planning approval* of the first site or building permit, unless such permit is appealed; or *(*3) if the first Development Application or first site or building permit is appealed, then the final decision upholding the Development Application, or first site or building permit, on the appeal by the relevant City Board or Commission.

* * * *

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

* * * *

(k) ***Waiver of Fees for Projects in the Market and Octavia Area Plan.***

(1) Development projects located within the Market and Octavia Area Plan that have not received Final Approval, as that term is defined in Section 401 of this Code, as of January 1, 2026 shall not be subject to development impact fee requirements under Sections 416, 421, 424, and 425 of this Code.

(2) Development projects located within the Market and Octavia Area Plan that have received Final Approval prior to January 1, 2026, and have not been issued a First Construction Document as of that date shall be entitled to a waiver of all development impact fee requirements under Sections 416, 421, 424, and 425 of this Code.

(3) Development projects located within the Market and Octavia Area Plan that have received Final Approval prior to January 1, 2026, and that have been issued a First Construction Document as of that date shall be entitled to a waiver of any portion of the development impact fee requirements under Sections 416, 421, 424, and 425 of this Code that has been deferred and not yet paid pursuant to Building Code Section 107A.13.3.

SEC. 416. MARKET AND OCTAVIA AREA PLAN AND UPPER MARKET NEIGHBORHOOD COMMERCIAL DISTRICT AFFORDABLE HOUSING FEE.

* * * *

SEC. 416.3. APPLICATION OF AFFORDABLE HOUSING FEE REQUIREMENT.

The requirements of Sections 415.1 through 415.9 shall apply in the Market and Octavia Plan Area and the entirety of the Upper Market NCT District in addition to the following ~~*additional*~~ affordable housing requirement:

(a) Amount of Fee. ~~*All development projects that have not received Department or Commission approval as of the effective date of May 30, 2008 and that are subject to the Residential Inclusionary Affordable Housing Program*~~ *Development projects that are subject to the Residential Inclusionary Affordable Housing Program* shall pay an additional affordable housing fee per the fee schedule in Table 416.3A*, except as provided under Section 406(k)*.

* * * *

SEC. 421. MARKET AND OCTAVIA COMMUNITY IMPROVEMENTS FUND.

* * * *

SEC. 421.3. APPLICATION OF COMMUNITY IMPROVEMENTS IMPACT FEE.

(a) **Application.** Section 421.1 et seq. shall apply to any development project located in the Market and Octavia Program Area as defined in Section 401 *of this Code, except as provided under Section 406(k) of this Code*.

* * * *

SEC. 424. VAN NESS & MARKET AFFORDABLE HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.

* * * *

SEC. 424.3. APPLICATION OF VAN NESS & MARKET AFFORDABLE HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.

(a) Application and Timing of Fee Payments. Section 424.1 et seq. shall apply to any development project located in the Van Ness & Market Residential Special Use District, as established in Section 249.33 of this Code*, except as provided under Section 406(k) of this Code*. The Fee shall be paid to DBI for deposit into either the Van Ness and Market Downtown Residential Special Use District Affordable Housing Fund or the Van Ness and Market Downtown Residential Special Use District Infrastructure Fund, as applicable, at the time required by Section 402(d) *of this Code*.

* * * *

SEC. 425. VAN NESS & MARKET COMMUNITY FACILITIES FEE AND FUND.

* * * *

SEC. 425.2. APPLICATION OF FEES.

(a) **Applicable Projects.** *Except as provided under Section 406(k) of this Code*, ~~T~~*t*he Van Ness & Market Community Facilities Fee is applicable to any development project within the

Van Ness & Market Residential Special Use District, described in Section 249.33 *of this Code*, that:

(1) Includes new construction, or an addition of space, in excess of 800 gross square feet of residential use; or

(2) Converts 800 gross square feet or more of existing structure(s) from non-residential to residential use.

* * * *

Section 4. Articles 2 and 3 of the Planning Code are hereby amended by revising Sections 249.33 and 341.5, to read as follows:

SEC. 249.33. VAN NESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT.

* * * *

(b) **Use Controls.**

~~*(1) Non-residential Uses. For newly-constructed buildings or additions which exceed 20 percent or more of an existing structure's Gross Floor Area, at least three occupied square feet of Residential Use shall be provided for each occupied square foot of Non-Residential Use. In order to accommodate local government office uses near City Hall, publicly-owned or leased buildings or lots are exempted from the requirements of this subsection. Replacement of existing office uses on the same parcel and other Public Facility and Art Activities, as defined in Section 102, are exempt from the requirements of this subsection (b)(1).*~~

(~~2~~1) **Residential Density.** There shall be no density limit for Residential Uses by lot area, but by the applicable requirements and limitations elsewhere in this Code, including but not limited to height, bulk, setbacks, open space, and exposure, as well as by the Market & Octavia Area Plan Fundamental Principles for Design, other applicable design

guidelines, applicable elements and area plans of the General Plan, and design review by the Planning Department. The limitations set forth in the Zoning Control Table for the district in which the lot is located shall not apply.

~~*(3) **Residential Affordable Housing Program.** All projects in this District shall be subject to all the terms of Section 415 et seq. of the Inclusionary Affordable Housing Program. Notwithstanding the foregoing, projects within the Van Ness & Market Residential Special Use District shall at a minimum fulfill the requirements to the levels specified in this section. Should Section 415 require greater contributions to the affordable housing program, those requirements shall supersede this section. Proposed exceptions to these requirements due to hardships associated with construction type, specifically heights above 120 feet, are not applicable in this Special Use District because parcels are receiving an up zoning through increased density and benefits through the general transformation of the district to a transit oriented neighborhood with a mixed use character. Requirements and administration of this program shall follow the conditions outlined in Section 415 et seq. of this Code unless otherwise specified in this Section.*~~

~~*(A) **Payment of Affordable Housing Fee.** Except as provided in Section 415.5(g) of this Code, all development projects subject to Section 415 et seq. in the Van Ness Market Special Use District shall be required to pay an Affordable Housing Fee under Section 415.5 equivalent to 20 percent of the number of units in the principal project.*~~

~~*(B) **Alternatives to Payment of Affordable Housing Fee.** If a project sponsor both qualifies for and chooses to meet the requirements through an Alternative to the Program, the project sponsor may choose one of the Alternatives in Section 415.5(g).*~~

~~*(i) **On Site Housing Requirements and Benefits**. For projects that qualify for and choose to fulfill the requirements of Section 415 through the provision of onsite housing, the Planning Department shall require that 12 percent of all units constructed on the project site shall be affordable to qualifying households so that a project applicant must construct .12 times the total*~~

~~*number of units produced in the principal project. If the total number of units is not a whole number, the project applicant shall round up to the nearest whole number for any portion of .5 or above.*~~

~~*(ii) **Compliance Through Off-Site Housing Development.** For projects that qualify for and choose to fulfill the requirements of Section 415 through the provision of off-site housing, the Planning Department shall require that 20 percent of all units constructed on the project site shall be affordable to qualifying households so that a project applicant must construct .20 times the total number of units produced in the principal project. If the total number of units is not a whole number, the project applicant shall round up to the nearest whole number for any portion of .5 or above.*~~

(~~4~~2) **Open Space Provider.** The off-site open space permitted by this Section *249.33* may be provided individually by the project sponsor or jointly by the project sponsor and other project sponsors, provided that each square foot of jointly developed open space may count toward only one sponsor's requirement. With the approval of the Planning Commission, a public or private agency may develop and maintain the open space, provided that (A) the project sponsor or sponsors pay for the cost of development of the number of square feet the project sponsor is required to provide, (B) provision satisfactory to the Commission is made for the continued maintenance of the open space for the actual lifetime of the building giving rise to the open space requirement, and (C) the Commission finds that there is reasonable assurance that the open space to be developed by such agency will be developed and open for use by the time the building, the open space requirement of which is being met by the payment, is ready for occupancy.

* * * *

(~~5~~3) **Lot Coverage.** The rear yard requirements of Section 134 of this Code shall not apply. Lot coverage is limited to 80% ~~*percent*~~ at all levels containing a dwelling unit or group housing bedroom. The unbuilt portion of the lot shall be open to the sky except for ~~*those*~~

obstructions permitted in yards per Section 136(c) of this Code. Exceptions to the 20*% ~~percent~~* open area may be granted pursuant to the procedures of Section 309 *of this Code*.

(*~~6~~4*) **Floor Area Ratio.** *~~(A)~~ For non-residential uses, ~~T~~t*he maximum *Floor Area Ratio (*"FAR*")* allowed, except as allowed in this Section *249.33*, shall be that described in Section 123(c) *of this Code*, provided that it shall not be greater than 9:1. *For residential uses, there shall be no limits on FAR.* The definition of Gross Floor Area shall be that in Section 102 *of this Code* as of the date of approval of this Section 249.33*~~, and shall include all Residential uses~~*. The provisions of Section 124(g) of this Code shall not apply in this special use district.

*~~(B) **Floor Area Bonus Permitted for Public Improvements or In-lieu Contributions to the Van Ness and Market Neighborhood Infrastructure Fund and In lieu Contributions to the Citywide Affordable Housing Fund.~~*

~~(i) The Gross Floor Area of a structure or structures on a lot may exceed the maximum ratio described in Section 123(c) of this Code through participation in the Van Ness and Market Affordable Housing and Neighborhood Infrastructure Program, according to the procedures described in Section 424.~~

~~(ii) Notwithstanding the provisions of Sections 127 and 128 of this Code projects in this Special Use District are not eligible to acquire Transferable Development Rights from a Transfer Lot or Lots pursuant to the provisions of Sections 127 and 128 for that increment of FAR above the base FAR limit in Section 124 up to the maximum FAR described in Section 123(c). Instead, a project may pay to the City's Citywide Affordable Housing Fund thirty dollars ($30) per additional gross square foot for that increment of FAR above the base FAR limit in Section 124 up to the maximum FAR described in Section 123(c). Any monies deposited into the Citywide Affordable Housing Fund shall be administered as provided for in Section 415 et seq.~~

*~~(7) **Retail Use Size.** Retail Uses shall be principally permitted up to 5,999 gross square feet and conditionally permitted if 6,000 gross square feet and above.~~*

~~*(8) **Formula Retail.** Formula Retail Uses, as defined in Section 102, shall require a Conditional Use Authorization as set forth in Section 303.1.*~~

(~~9~~5) **Micro-Retail.** "Micro-Retail" shall mean a Retail Use, other than a Formula Retail Use, measuring no less than 100 gross square feet, no greater than 1,000 gross square feet and a 10 foot minimum depth from the front façade.

* * * *

(~~10~~6) **Accessory Parking.** For projects that provide 25% or more on-site affordable housing units as defined in Section 415, accessory non-residential parking may be used jointly as accessory residential parking for residential uses within the same project, so long as the following criteria ~~is~~ *are* met:

* * * *

(~~11~~7) **Cannabis-Related Land Uses.** All cannabis-related uses, which includes Cannabis Retail (Retail Sales and Service Category), Medical Cannabis Dispensary, Industrial Agriculture, Agriculture and Beverage Processing 2, Light Manufacturing, Laboratory, Wholesale, or Parcel Delivery Service, as defined in Section 102 shall follow the land use controls of the NCT-3 Moderate-Scale Neighborhood Commercial Transit District, Section 752 of this Code.

(~~12~~8) **Living Roofs and Living Walls.**

* * * *

(~~13~~9) **Option for In-Kind Provision of Transportation Sustainability Fee.** Notwithstanding the requirements of Planning Code ~~s~~Section 411A et seq., ~~D~~*d*evelopment projects in this District may propose to provide transportation improvements to the City directly. In such a case, the City, at its sole discretion, may enter into an In-Kind Improvements Agreement with the sponsor of such project and issue a fee waiver for the *Transportation Sustainability Fee* (*"*TSF*")* from the Municipal Transportation Agency Board of

Directors (the “MTA” and the “MTA Board,” respectively), subject to the following rules and requirements:

* * * *

~~*(14) **Option for Provision of Affordable Housing Fees.** Development projects in this District may pay the affordable housing fees required under sections 416 and 424 by choosing any of the alternatives set forth in Section 415.5(g), upon approval by the Planning Director and the Director of the Mayor's Office of Housing and Community Development of the methodology to calculate the equivalency of the fees required under sections 416 and 424 to the alternatives set forth in Section 415.5(g). The Planning Department, in consultation with the Mayor's Office of Housing and Community Development, is authorized to prepare rules or regulations to establish this methodology, and to bring those rules or regulations to the Planning Commission for inclusion in the Procedures Manual, as set forth in Section 415. Nothing in this subsection shall be interpreted to change any obligations established by contract with the City.*~~

~~*(15) **Option for Income Levels of Affordable Units.** Notwithstanding the provisions of Section 415.6(h), a project may use California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and 4% tax credits under the Tax Credit Allocation Committee (TCAC) to help fund its obligations under Section 415.1 et seq. as long as the project provides 20% of the units as affordable to households at 50% of Area Median Income for on-site housing, or 10% of the units as affordable to households at 50% of Area Median Income and 30% of the units as affordable to households at 60% of Area Median Income for on-site housing. The income table to be used for such projects when the units are priced at 50% or 60% of Area Median Income is the income table used by MOHCD for the Inclusionary Affordable Housing Program, not that used by TCAC or CDLAC. Except as provided in this subsection (b)(15), all units provided under this Section must meet all of the requirements of Section 415.1 et seq. and the Procedures Manual for on-site housing, except that the requirement to provide moderate- and middle-income units under in Section 415.6(a) may be replaced with low*~~

~~*income affordable units that satisfy TCAC requirements for 4% tax credits. If the number of affordable units required by Section 415.6 exceeds the number of affordable units required to use 4% tax credits, the project shall comply with higher requirement under Section 415.6 and the additional Inclusionary obligation above the tax credit units may be met by providing on-site affordable units equally distributed between moderate- and middle-income households as defined in Section 415.6.*~~

(~~16~~*10*) **Option for Dedication of Land.**

(A) Development projects in this District may opt to fulfill the Inclusionary Housing requirement of Section 415 through the Land Dedication alternative ~~*contained*~~ in Section 419.6. The Land Dedication alternative is available for development projects within the District under the same terms and conditions as provided for in Section 419.5(a)(2), except that in lieu of the Land Dedication Alternative requirements of Table 419.5, projects may satisfy the requirements of Section 415.5 by dedicating land for affordable housing if the dedicated land could accommodate a total amount of units that is equal to or greater than 35% of the units that are being provided on the principal development project site, as determined by the Planning Department. Any dedicated land shall be at least partly located within one mile of the boundaries of either the Market and Octavia Plan Area or the Upper Market NCT District.

(B) Notwithstanding the requirements of Section 419.5(a)(2)(H), development projects dedicating land shall obtain the required letter from the Mayor's Office of Housing and Community Development verifying acceptance of the dedicated land no later than 180 days following Planning Commission or Planning Department approval of the development project. The Director of the Mayor's Office of Housing and Community Development may waive application of Section 419.5(a)(2)(G).

~~*(C) Development projects that elect to dedicate land pursuant to this subsection (b)(16) may be eligible for a waiver against all or a portion of their affordable housing fees under*~~

~~*Sections 416 and 424 if the Planning Director determines that the land acquisition costs for the dedicated land exceed the development project's obligations under the fee option of Section 415. The Planning Director, in consultation with the Director of the Mayor's Office of Housing and Community Development and the Director of Property, shall calculate the waiver amount based on actual commercially reasonable costs to acquire the dedicated land. If the Director of the Mayor's Office of Housing and Community Development requests that the land dedication occur before the First Construction Document for the development project, the waiver amount shall be increased by the reasonable value of the City's early use of the dedicated land.*~~

(~~17~~11) **Required Minimum Dwelling Unit Mix.** Development projects in this District shall comply with Section 207.6.

(~~18~~12) **Active Uses.** For purposes of this ~~s~~Section 249.33, Arts Activities and Institutional Community Uses are considered to be "active uses," as defined in Section 145.4 of this Code.

(~~19~~13) Projects with on-site affordable housing units provided pursuant to a Purchase and Sale Agreement with the City ~~*and County of San Francisco*~~ that are in excess of the amount required by Planning Code Section 415 may deviate from the building floor distribution requirements of Section 415.6(f)(1) by up to 15%.

* * * *

SEC. 341.5. MARKET AND OCTAVIA COMMUNITY ADVISORY COMMITTEE.

*** * * ***

(c) This Section 341.5 shall automatically terminate six months after this Ordinance No. _____, in Board of Supervisors File No. _____ becomes effective, unless the Board of Supervisors extends it. After that date, the City Attorney is authorized to cause this Section 341.5 to be removed from the Planning Code.

Section 5. 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 6. 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/ Andrea Ruiz-Esquide
ANDREA RUIZ-ESQUIDE
Deputy City Attorney

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FILE NO. 250680

LEGISLATIVE DIGEST

[Planning Code - Waiving Certain Development Impact Fees in the Market and Octavia Area Plan]

Ordinance amending the Planning Code to waive certain development impact fees in the Market and Octavia Area Plan (the Market and Octavia Area Plan and Upper Market Neighborhood Commercial District Affordable Housing Fee, the Market and Octavia Community Improvements Fund, the Van Ness & Market Affordable Housing and Neighborhood Infrastructure Fee, and the Van Ness & Market Community Facilities Fee), to amend the Van Ness & Market Residential Special Use District, to provide that the Market and Octavia Community Advisory Committee shall sunset six months after the effective date of this Ordinance, and to make conforming amendments to some of the definitions in Planning Code, Section 401; affirming the Planning Department's determination under the California Environmental Quality Act; making public necessity, convenience, and welfare findings under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Article 4 of the Planning Code contains development impact fees that the City assesses as part of the development process. Some of those fees apply Citywide, while others apply to specific areas of the City. Four of these area-specific fees apply in the Market and Octavia Area Plan: the Market and Octavia Area Plan and Upper Market Neighborhood Commercial District Affordable Housing Fee, the Market and Octavia Community Improvements Fund, the Van Ness & Market Affordable Housing and Neighborhood Infrastructure Fee, and the Van Ness & Market Community Facilities Fee.

Amendments to Current Law

This Ordinance waives the Market and Octavia Area Plan and Upper Market Neighborhood Commercial District Affordable Housing Fee, the Market and Octavia Community Improvements Fund, the Van Ness & Market Affordable Housing and Neighborhood Infrastructure Fee, and the Van Ness & Market Community Facilities Fee, under the following circumstances:

- Development projects located within the Market and Octavia Area Plan that have not received Final Approval, as that term is defined in Section 401 of this Code, as of January 1, 2026 shall not be subject to any of these fees;

- Development projects located within the Market and Octavia Area Plan that have received Final Approval prior to January 1, 2026, and have not been issued a First Construction Document as of that date shall be entitled to a waiver of these fees.

- Development projects located within the Market and Octavia Area Plan that have received Final Approval prior to January 1, 2026, and that have been issued a First Construction Document as of that date shall be entitled to a waiver of any portion of these fees that has been deferred and not yet paid pursuant to Building Code Section 107A.13.3.

As used in this Ordinance, “Final Approval” means “1) approval of a project’s first Development Application, unless such approval is appealed; or 2) if a project only requires a building permit, issuance of the first site or building permit, unless such permit is appealed; or 3) if the first Development Application or first site or building permit is appealed, then the final decision upholding the Development Application, or first site or building permit, on the appeal by the relevant City Board or Commission.”

"First construction document" is in turn defined in Section 107A.13.1 of the San Francisco Building Code as “the first building permit issued for a development project or, in the case of a site permit, the first building permit addendum issued or other document that authorizes construction of the development project. Construction document shall not include permits or addenda for demolition, grading, shoring, pile driving, or site preparation work.”

The Ordinance also amends Sections 249.33 of the Planning Code, which establishes the Van Ness & Market Residential Special Use District, and some of the definitions in Section 401 of the Planning Code, to make conforming changes. In addition, it also provides that the Market and Octavia Community Advisory Committee (CAC) shall automatically terminate six months after the Ordinance becomes effective, unless the Board of Supervisors extends it, and authorizes the City Attorney to remove the section that established the CAC from the Planning Code.

Background Information

The Ordinance contains ample findings setting forth its intent – primarily, to improve the financial feasibility of development projects in the Plan Area, in order to facilitate housing development, address the housing crisis, and meet the City’s obligations under the Housing Element.

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