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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