

1 [Subdivision Code - Condominium Conversion Impact Fee]

2

3 **Ordinance amending the Subdivision Code, by adding Section 1396.4, to adopt a**
4 **condominium conversion impact fee applicable to buildings qualifying for, but not**
5 **being selected or participating in, the 2013 condominium conversion lottery only,**
6 **subject to specified requirements, including lifetime leases for non-purchasing**
7 **tenants; and adopting environmental findings.**

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

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

12 Section 1. Findings. (a) The Planning Department has determined that the actions
13 contemplated in this Ordinance are in compliance with the California Environmental Quality
14 Act (California Public Resources Code sections 21000 et seq.). Said determination is on file
15 with the Clerk of the Board of Supervisors in File No. 120669 and is incorporated herein by
16 reference.

17 (b) A copy of the report on the fees identified herein is in Clerk of the Board of
18 Supervisors File No. 120669 and is incorporated herein by reference. The City Controller's
19 Office has independently confirmed that the fee amounts identified in said report remain valid.
20 This determination is on file with the Clerk of the Board of Supervisors File No. 120669 and is
21 incorporated herein by reference.

22 Section 2. The San Francisco Subdivision Code is hereby amended by adding
23 Section 1396.4, to read as follows:

24 SEC. 1396.4. CONDOMINIUM CONVERSION IMPACT FEE.

25

1 (a) Findings. The findings of Planning Code Section 415.1 concerning the City's inclusionary
2 affordable housing program are incorporated herein by reference and support the basis for charging
3 the fee set forth herein as it relates to the conversion of dwelling units into condominiums.

4 (b) Any building that: (1) participated in the 2013 condominium conversion lottery, but was not
5 selected for conversion or (2) could have participated in the 2013 condominium conversion lottery, but
6 elected not to do so, may bypass the provisions of Section 1396 (the annual lottery conversion
7 limitation) if the building owners for said building comply with Section 1396.3(g)(1) and pay the
8 condominium conversion impact fee subject to the requirements of this Section.

9 (c) Eligible buildings as set forth in Subsection (b) may exercise their option to participate in
10 this fee program according to the following requirements:

11 (1) The applicant(s) for the subject building shall pay the fee specified in Subsection (e)
12 no later than January 24, 2014 for the entire building.

13 (2) No later than the last business day before July 25, 2014:

14 (i) DPW shall determined that the applicant's condominium conversion
15 subdivision application is complete, or

16 (ii) The application is deemed complete by operation of law.

17 (3) The applicant shall obtain final and effective tentative approval of the condominium
18 subdivision or parcel map no later than December 31, 2014.

19 (4) Any map application subject to a required public hearing on the subdivision or a
20 subdivision appeal shall have the time limit set forth in Subsection (c)(3) suspended until March 13,
21 2015.

22 (5) The Director of the Department of Public Works is authorized to waive the time
23 limit set forth in Subsection (c)(3) as it applies to a particular building due to extenuating or unique
24 circumstances. Such waiver may be granted only after a public hearing and in no case shall the time
25 limit extend beyond July 24, 2015.

1 (d) Should the subdivision application be denied or be rejected as untimely in accordance with
2 the dates specified above, or the tentative subdivision map or tentative parcel map disapproved, DPW
3 shall refund the entirety of the applicant's fee specified in Subsection (e).

4 (e) The fee amount is \$20,000.00 per unit. Said fee is reduced for each year the building has
5 participated in the condominium conversion lottery up to and including the 2013 lottery in accordance
6 with the following formula:

- 7 (1) 2 years of participation, 20% fee reduction per unit;
8 (2) 3 years of participation, 40% fee reduction per unit;
9 (3) 4 years of participation, 60% fee reduction per unit; and
10 (4) 5 or more years of participation, 80% fee reduction per unit.

11 (f) For purposes of Section (e), a building shall get credit only for those years that it
12 participated in the lottery even though such building could have qualified for and participated in other
13 condominium conversion lotteries.

14 (g) Life Time Lease for Non-purchasing Tenants. No subdivider or subsequent condominium
15 unit owner shall refuse to renew a lease or extend a rental agreement to any non-purchasing tenant at
16 the time of Final Map or Parcel Map approval. Any extended leases or rental agreements made
17 pursuant hereto shall expire only upon the death or demise of such tenant or the last surviving member
18 of the tenant's household, provided such surviving member is related to the tenant by blood, marriage,
19 or domestic partnership, and is aged 62 or older at the time of death or demise of such tenant, or at
20 such time as the tenant voluntarily vacates the unit after giving due notice of such intent to vacate.
21 Each lease shall contain a provision allowing the tenant to terminate the lease and vacate the unit upon
22 30 days' notice. Rent charged during the term of any extended lease or rental agreement pursuant to
23 the provisions of this Section shall not exceed the rent charged at the time of filing of the application
24 for conversion, plus any increases proportionate to the increases in the residential rent component of
25 the "Bay Area Cost of Living Index, U.S. Dept. of Labor," provided that the rental increase provisions

1 of this Section shall be operative only in the absence of other applicable rent increase or arbitration
2 laws. This Section shall not alter or abridge the rights or obligations of the parties in performance of
3 their covenants, including but not limited to the provision of services, payment of rent or the
4 obligations imposed by Sections 1941, 1941.1 and 1941.2 of the California Civil Code. There shall be
5 no decrease in dwelling unit maintenance or other services historically provided to such units and such
6 tenants.

7 (h) In recognition of the rental requirements of Section (g), the fee for each unit in which a
8 non-purchasing tenant resides at the time specified in Section (g) shall be refunded to the subdivider
9 under the following formula:

- 10 (1) One unit, 10% fee reduction for such unit;
- 11 (2) Two units, 20% fee reduction for each unit;
- 12 (3) Three units, 30% fee reduction for each unit.

13 (i) Upon confirmation of compliance with the rental requirement, DPW shall refund the amount
14 specified in Section (h) to the subdivider and have all remaining fee revenues transferred to the
15 Citywide Affordable Housing Fund.

16 (j) Waiver or reduction of fee based on absence of reasonable relationship.

17 (1) A project applicant of any project subject to the requirements in this Section
18 may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of the requirements
19 based upon the absence of any reasonable relationship or nexus between the impact of development
20 and the amount of the fee charged or for the reasons set forth in Subsection (2) below, a project
21 applicant may request a waiver from the Board of Supervisors.

22 (2) Any appeal of waiver requests under this clause shall be made in writing and filed
23 with the Clerk of the Board no later than 15 days after the date the sponsor is required to pay and has
24 paid to the Treasurer the fee as required in this Section. The appeal shall set forth in detail the factual
25 and legal basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall

1 consider the appeal at the hearing within 60 days after the filing of the appeal. The appellant shall
2 bear the burden of presenting substantial evidence to support the appeal, including comparable
3 technical information to support appellant's position. If a reduction, adjustment, or waiver is granted,
4 any change of use or scope of the project shall invalidate the waiver, adjustment or reduction of the fee.
5 If the Board grants a reduction, adjustment or waiver, the Clerk of the Board shall promptly transmit
6 the nature and extent of the reduction, adjustment or waiver to the Treasurer and Department of Public
7 Works.

8 (k) Any building that participates in the fee program set forth herein shall automatically be
9 ineligible to participate in the 2014 condominium conversion lottery. DPW shall refund to the
10 applicant any fees paid to participate in the 2014 lottery and shall remove any lottery tickets associated
11 with the subject building from the lottery drawing.

12 (l) Buildings that convert pursuant to this Section shall have no effect on the terms and
13 conditions of Section 1341A, 1385A, or 1396 of this Code.

14 Section 3. Effective Date. This ordinance shall become effective 30 days from the
15 date of passage.

16 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
17 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
18 punctuation, charts, diagrams, or any other constituent part of the Subdivision Code that are
19 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
20 Board amendment deletions in accordance with the "Note" that appears under the official title
21 of the legislation.

22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24 By: _____
25 John D. Malamut
Deputy City Attorney