

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 certain buildings ~~qualifying for~~**
 5 **~~participating but not being selected or participating in the 2013 or 2012 condominium~~**
 6 **~~conversion lottery only~~ that would be permitted to convert during a sixseven year**
 7 **period, and subject to specified requirements, including lifetime leases for non-**
 8 **purchasing tenants; adding Section 1396.5, to suspend the annual condominium**
 9 **conversion lottery until 2024 and resume said lottery under specified circumstances**
 10 **tied to permanently affordable rental housing production; amending Section 1396, to**
 11 **restrict future condominium lotteries to buildings of no more than four units with a**
 12 **specified number of owner occupied units for three years prior to the lottery; and**
 13 **adopting environmental findings.**

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

17

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

19 Section 1. Findings. (a) The Planning Department has determined that the actions
 20 contemplated in this Ordinance are in compliance with the California Environmental Quality
 21 Act (California Public Resources Code sections 21000 et seq.). Said determination is on file
 22 with the Clerk of the Board of Supervisors in File No. 130480 and is incorporated herein by
 23 reference.

24 (b) This Board finds that the condominium conversion impact fee as set forth in this
 25 legislation is an appropriate charge imposed as a condition of property development, which in

1 this case is the City's approval of a condominium conversion subdivision, a discretionary
2 development approval pursuant to the San Francisco Subdivision Code and the California
3 Subdivision Map Act. Based on data, information, and analysis in a Condominium Conversion
4 Nexus Analysis report prepared by Keyser Marston Associates, Inc., dated January 2011, and
5 the findings of Planning Code Section 415.1 concerning the City's inclusionary affordable
6 housing program, this Board finds and determines that there is ample evidentiary support to
7 charge the impact fee set forth herein as it relates to a subdivision map approval that allows
8 the conversion of dwelling units into condominiums. Said impact fee also is lower than the fee
9 amount supported in the abovementioned Nexus Analysis report. The Board further finds and
10 determines, that based on this evidence, the manner in which these fees are allocated and
11 assessed on a per unit cost for each unit converted to a condominium bears a reasonable
12 relationship to the subdivision applicants' burdens on the City that result from the change in
13 use and ownership status from a dwelling unit within an unsubdivided property to a
14 condominium unit. A copy of the report on the fees identified herein is in Clerk of the Board of
15 Supervisors File No. 130480 and is incorporated herein by reference. The City Controller's
16 Office has independently confirmed that the fee amounts identified in said report remain valid.
17 This determination is on file with the Clerk of the Board of Supervisors File No. 130480 and is
18 incorporated herein by reference.

19 (c)(1) The present backlog of existing applications for condominium conversion under
20 the existing 200-unit annual condominium conversion lottery process in Subdivision Code
21 Article 9 (Conversions) extends well over a decade. Indicative of this backlog, approximately
22 700 tenancy-in-common (TIC) and other owner-occupied buildings, containing 2,269 dwelling
23 units, registered for the 2013 lottery condominium conversion lottery in an effort to be selected
24 for the 200 units that were available. The proposed expedited approval process for
25 condominium conversions (the "Expedited Conversion program") is intended as a one time

1 adjustment to the backlog in applications for conversions given the specific needs of existing
2 owners of tenancy-in-common units. Therefore, the eExpedited eConversion program set forth
3 in this legislation's proposed Section 1396.4 is intended as the exclusive method for allocating
4 approvals for conversions of apartments and tenancy-in-common buildings into condominiums
5 for the entire period that is established in the proposed Section 1396.5.

6 (2) Due to the present backlog of existing applications, the Office of the Controller
7 estimates that owners of 1,730 of the units not selected in the 2013 lottery would pay the
8 impact fee and avail themselves of the seven-year expedited conversion program. The
9 program also permits TICs that did not enter the 2012 and 2013 lottery to convert, which could
10 result in more than 1,730 dwelling units taking advantage of the expedited conversion
11 program. The number of conversions is therefore anticipated to be well in excess of the 200
12 unit per year allotment in the existing lottery. The Ordinance balances the number of units
13 converted under this program in a relatively short period of time by suspending the lottery until
14 the City's affordable housing production replaces the number of units converted under the
15 expedited conversion program. The maximum number of years of suspension of the lottery
16 will be the number of converted units divided by 200. Therefore, under the suspension, there
17 will be no net loss of the number of converted units over time as compared to the existing
18 lottery. Conversions of apartments to condominiums also results in the eviction of existing
19 tenants in the converted buildings because many tenants cannot afford to purchase their
20 units. A large number of conversions under the expedited conversion program would magnify
21 this impact and result in a large number of tenants evicted into a very expensive rental
22 housing market. The Office of the Controller estimates that tenants of these converted
23 properties would likely spend between \$0.8 and \$1.1 million annually in higher rent alone due
24 to displacement and/or rent decontrol. Therefore, the Ordinance balances this impact on
25 existing tenants and the effects of tenant displacement on the City in general by requiring that

1 applicants for the Expedited Conversion program offer existing tenants a lifetime lease. The
2 abovementioned Controller's report is on file with the Clerk of the Board of Supervisors in File
3 No. 130480 and is incorporated herein by reference.

4 (3) In addition, this legislation attempts to integrate this process with the adoption of
5 additional controls on future conversions. This legislation does not intend to affect in any way
6 the conversion of 100% owner-occupied two unit buildings in accordance with the terms of
7 Subdivision Code Section 1359.

8 (d) As set forth in the Housing Element of the General Plan, in particular Objective 3, it
9 is the City's policy to preserve the existing supply of rent controlled housing and to increase
10 the production of new affordable rental units. The conversion of rental housing into
11 condominiums, without replacement, results in the loss of existing rent controlled housing
12 contrary to public policy.

13 (e) In 2012, the voters of the City of San Francisco approved Proposition C that
14 proposed in part to fund and produce 9000 affordable rental housing units over thirty years,
15 establishing an annual baseline production of approximately 300 affordable housing units.

16 (f) It is the further intent of this legislation to suspend future conversions of rental
17 housing pending the replacement of units converted through the expedited conversion
18 program and to provide additional protections to tenants in buildings to be converted as
19 specified above.

20 Section 2. The San Francisco Subdivision Code is hereby amended by adding
21 Sections 1396.4 and 1396.5, to read as follows:

22 SEC. 1396.4. CONDOMINIUM CONVERSION IMPACT FEE AND EXPEDITED
23 CONVERSION PROGRAM.

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 or 2012 condominium conversion
5 lottery, but was not selected for conversion or (2) could have participated in the 2013
6 condominium conversion lottery, but elected not to do so, may bypass be exempted from the
7 annual lottery provisions of Section 1396 (the annual lottery conversion limitation) if the building
8 owners for said building comply with Section 1396.3(g)(1) and pay the condominium conversion
9 impact fee subject to the all the requirements of this Section 1396.4. In addition Notwithstanding
10 the foregoing, no property or applicant subject to any of the prohibition on conversions set
11 forth in Section 1396.2(e), in particular a property with the eviction(s) set forth in Section
12 1396.2(b), is eligible for said bypass the expedited conversion process under this Section
13 1396.4. Eligible buildings as set forth in this Section (b) may exercise their option to
14 participate in this fee program according to the following requirements:

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

17 —— (1) The applicant(s) for the subject building shall pay the fee specified in
18 Subsection (c) no later than January 24, 2014 for the entire building.

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

20 —— (i) DPW shall determined that the applicant's condominium conversion
21 subdivision application is complete, or

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

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

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

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

8 (1) Any building that participated in but was not selected for the 2012 or 2013
9 condominium conversion lottery consisting of (a) four units or less in which one unit has been
10 continuously occupied continuously by one of the applicant owners of record for no less than
11 five years prior to April 15, 2013, or (b) buildings consisting of five or six units in which 50
12 percent or more of the units have been continuously occupied continuously by the applicant
13 owners of record for no less than five years as of April 15, 2013, is eligible for conversion
14 under this Subsection. The applicant(s) for the subject building seeking to convert under this
15 Subsection shall pay the fee specified in Subsection (e) no later than January 24 April 14,
16 2014 for the entire building along with additional information as the Department may require
17 including certification of continued eligibility; however, the deadline for an applicant to pay the
18 fee may be extended pursuant to (j)(3) of this Section.

19 (2) Any building that participated in but was not selected for the 2012 or 2013
20 condominium conversion lottery consisting of (a) four units or less in which one unit has been
21 continuously occupied continuously by one of the applicant owners of record for no less than
22 three years prior to April 15, 2014, or (b) buildings consisting of five six units in which 50
23 percent or more of the units have been continuously occupied continuously by the applicant
24 owners of record for no less than three years as of April 15, 2014, is eligible for conversion
25 under this Subsection. The applicant(s) for the subject building may apply for conversion

1 under this Subsection on or after April 15, 2014 and shall pay the fee specified in Subsection
2 (e) no later than January 23, 2015 along with additional information as the Department may
3 require including certification of continued eligibility; however, the deadline for an applicant to
4 pay the fee may be extended pursuant to (j)(3) of this Section.

5 (3) For Additionally Qualified Buildings consisting of (a) four units or less in which one
6 unit has been continuously occupied continuously by one of the applicant owners of record for
7 no less than six years as of April 15, 2015 or (b) buildings consisting of five or six units in
8 which 50 percent or more of the units have been continuously occupied continuously by the
9 applicant owners of record for no less than six years as of April 15, 2015, the applicant(s) for
10 the subject building may apply for conversion under this Subsection on or after April 15, 2015
11 and shall pay the fee specified in Subsection (e) no later than January 22, 2016 along with
12 additional information as the Department may require including certification of continued
13 eligibility.

14 (4) For Additionally Qualified Buildings consisting of (a) four units or less in which one
15 unit has been continuously occupied continuously by one of the applicant owners of record for
16 no less than six years as of April 15, 2016, or (b) buildings consisting of five or six units in
17 which 50 percent or more of the units have been continuously occupied continuously by the
18 applicant owners of record for no less than six years as of April 15, 2016, the applicant(s) for
19 the subject building may apply for conversion under this Subsection on or after April 15, 2016
20 and shall pay the fee specified in Subsection (e) no later than January 20, 2017 along with
21 additional information as the Department may require including certification of continued
22 eligibility.

23 (5) For Additionally Qualified Buildings consisting of (a) four units or less in which one
24 unit has been continuously occupied continuously by one of the applicant owners of record for
25 no less than six years as of April 15, 2017, or (b) buildings consisting of five or six units in

1 which 50 percent or more of the units have been ~~continuously occupied~~ continuously by the
2 applicant-owners of record for no less than six years as of April 15, 2017, the applicant(s) for
3 the subject building may apply for conversion under this Subsection on or after April 15, 2017
4 and shall pay the fee specified in Subsection (e) no later than January 19, 2018 along with
5 additional information as the Department may require including certification of continued
6 eligibility.

7 (6) For Additionally Qualified Buildings consisting of (a) four units or less in which one
8 unit has been ~~continuously occupied~~ continuously by one of the applicant-owners of record for
9 no less than six years prior to April 15, 2018, or (b) buildings consisting of five or six units in
10 which 50 percent or more of the units have been ~~continuously occupied~~ continuously by the
11 applicant-owners of record for no less than six years as of April 15, 2018, the applicant(s) for
12 the subject building may apply for conversion under this Subsection on or after April 15, 2018
13 and shall pay the fee specified in Subsection (e) no later than January 25, 2019 along with
14 additional information as the Department may require including certification of continued
15 eligibility.

16 (7) For Additionally Qualified Buildings consisting of (a) four units or less in which one
17 unit has been occupied continuously by one owner of record for no less than six years prior to
18 April 15, 2019, or (b) buildings consisting of five or six units in which 50 percent or more of the
19 units have been occupied continuously by owners of record for no less than six years as of
20 April 15, 2019, the applicant(s) for the subject building may apply for conversion under this
21 Subsection on or after April 15, 2019 and shall pay the fee specified in Subsection (e) no later
22 than January 24, 2020 along with additional information as the Department may require
23 including certification of continued eligibility. An Additionally Qualified Building subject to
24 Subsection 9(A) shall be eligible to convert pursuant to this Subsection as long as there is
25 fully executed written agreement in which the owners each have an exclusive right of

1 occupancy to individual units in the building to the exclusion of the owners of the other units
2 and 50 percent or more of the units have been occupied continuously by owners of record for
3 no less than six years as of January 24, 2020.

4 (8) For applications for conversion pursuant to Subsections (3)-(7) only, a unit that is
5 “occupied continuously” shall be defined as a unit occupied continuously by an owner of
6 record for the six year period without an interruption of occupancy and so long as the
7 applicant owner(s) occupied the subject unit as his/her principal place of residence for no less
8 than one year prior to the time of application. Notwithstanding the occupancy requirements
9 set forth above, each building may have one unit where there is an interruption in occupancy
10 for no more than a three month period that is incident to the sale or transfer to a subsequent
11 owner of record who occupied the same unit. For any unit with an interruption of occupancy,
12 the applicant shall provide evidence to establish to the satisfaction of the Department that the
13 period did not exceed three months.

14 (9) An “Additionally Qualified Building” within the meaning of this Section is defined as
15 a building in which the initially eligible applicant owners of record have a fully executed written
16 agreement as of April 15, 2013 in which the owners each have an exclusive right of
17 occupancy to individual units in the building to the exclusion of the owners of the other units;
18 provided, however, that said agreement can be amended to include new applicant owner(s) of
19 record as long as the new owner(s) satisfy the requirements of Subsection (8) above. In
20 addition to the requirements listed in this Subsection (8), an Additionally Qualified Building
21 also includes a five or six unit building that: (A) on April 15, 2013, had 50 percent or more of
22 the units in escrow for sale as a tenancy-in-common where each buyer shall have an
23 exclusive right of occupancy to an individual unit in the building to the exclusion of the owners
24 of other units or (B) is subject to the requirements of Section 1396.2(f) and 50 percent or more

1 of the units have been occupied continuously by owners of record for no less than ten years
2 prior to the date of application as set forth in Subsections (3)-(7).

3 (6) (7) (8)(10) The In addition to all other provisions of this Section, the applicant(s)
4 must meet the following requirements applicable to Subdivision Code Article 9, Conversions:
5 Sections 1381, 1382, 1383, 1386, 1387, 1388, 1389, 1390, 1391(a) and (b),1392, 1393, 1394,
6 and 1395. In addition, the applicant(s) must certify that to the extent any tenant vacates his or
7 her unit after March 31, 2013 and before recordation of the final parcel or subdivision map,
8 such tenant did so voluntarily or if an eviction or eviction notice occurred it was not pursuant to
9 Administrative Code Sections 37.9(a)(8)-(14). If an eviction has taken placed under
10 37.9(a)(11) or 37.9(a)(14) then the applicant(s) shall certify that the original tenant reoccupied
11 the unit after the temporary eviction.

12 (11) If the Department finds that a violation of this Section occurred prior to recordation
13 of the final map or final parcel map, the Department shall disapprove the application or subject
14 map. If the Department finds that a violation of this Section occurred after recordation of the
15 final map or parcel map, the Department shall take such actions as are available and within its
16 authority to address the violation.

17 (c) Decisions and Hearing on the Application.

18 (1) The applicant shall obtain a final and effective tentative map or tentative
19 parcel map approval for the condominium subdivision or parcel map within one (1) year of
20 paying the fee specified in Subsection (e).

21 (2) No less than twenty (20) days prior to the Department's proposed decision
22 on a tentative map or tentative parcel map, the Department shall publish the addresses of
23 building being considered for approval and post such information on its website. During this
24 time, any interested party may file a written objection to an application and submit information
25 to DPWthe Department contesting the eligibility of a building. In addition, the Department may

1 elect to hold a public hearing on said tentative map or tentative parcel map to consider the
2 information presented by the public, other City department, or an applicant. If the Department
3 elects to hold such a hearing it shall post notice of such hearing and provide written notice to
4 the applicant, all tenants of such building, any member of the public who submitted
5 information to the Department, and any interested party who has requested such notice. In
6 the event that an objection to the conversion application is filed in accordance with this
7 Subsection, and based upon all the facts available to the Department, the Department shall
8 approve, conditionally approve, or disapprove an application and state the reasons in support
9 of that decision.

10 (3) Any map application subject to a Departmental public hearing on the
11 subdivision or a subdivision appeal shall have the time limit set forth in this Subsection (c)(1)
12 extended for another six (6) months.

13 (4) The Director of the Department of Public Works is authorized to waive the
14 time limits set forth in this Subsection (c)(1) as it applies to a particular building due to
15 extenuating or unique circumstances. Such waiver may be granted only after a public hearing
16 and in no case shall the time limit extend beyond two (2) years after submission of the
17 application.

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

21 *(e) The fee amount is \$20,000.00 per unit for all buildings that participated in the lottery for*
22 *the first time in 2013 or seek to convert under Subsection (b)(1)-(6)(7). Said fee shall be*
23 *adjusted annual in accordance with the terms of Section 1315(f). Said fee is reduced for each*
24 *year the building has participated in the condominium conversion lottery up to and including the 2013*
25 *lottery in accordance with the following formula:*

1 (1) 2 years of participation, 20% fee reduction per unit;

2 (2) 3 years of participation, 40% fee reduction per unit;

3 (3) 4 years of participation, 60% fee reduction per unit; and

4 (4) 5 or more years of participation, 80% fee reduction per unit.

5 (f) For purposes of Section (e), a building's owner(s) shall get credit only for those years that
6 it he or she participated in the lottery even though such building could have qualified for and
7 participated in other condominium conversion lotteries.

8 (g) Life Time Lease for Non-purchasing Tenants.

9 (1) No subdivider or subsequent condominium unit owner shall refuse to renew a lease
10 or extend a rental agreement to any Any application for conversion under this Section shall
11 include a certification under penalty of perjury by the applicants that allany non-purchasing
12 tenant(s) in the building have been offeredhas been given a written offer to enter into a life
13 time lease in the form and with the provisions published and prescribed by DPWthe
14 Department in consultation with the Rent Board. Such written offer for a life time lease shall
15 be executed by the owners of the building(s) and recorded prior to at the time of Final Map or
16 Parcel Map approval. Any extended Any life time leases or rental agreements made pursuant
17 hereto shall expire only upon the death or demise of the last such life-tenant residing in the unit or
18 the last surviving member of the life-tenant's household, provided such surviving member is related to
19 the life- tenant by blood, marriage, or domestic partnership, and is either disabled, catastrophically
20 ill, or aged 62 or older at the time of death or demise of any such life-tenant, or at such time as the life-
21 tenant(s) in the unit voluntarily vacates the unit after giving due notice of such intent to vacate.

22 (2) (A) Each lease shall contain a provision allowing the tenant to terminate the lease and
23 vacate the unit upon 30 days' notice. Rent and a provision that rent charged during the term of any
24 extendedthe lease or rental agreement pursuant to the provisions of this Section shall not
25 exceed the rent charged at the time of filing of the application for conversion, plus any increases

1 proportionate to the increases in the residential rent component of the "Bay Area Cost of Living Index,
2 U.S. Dept. of Labor," provided that the rental increase provisions of this Section shall be operative only
3 in the absence of other applicable rent increase or arbitration laws. This Section

4 _____ (B) The lease also shall state that it shall not alter or abridge the rights or
5 obligations of the parties in performance of their covenants, including but not limited to the provision
6 of services, payment of rent or the obligations imposed by Sections 1941, 1941.1, and 1941.2, 1941.3,
7 and 1941.4 of the California Civil Code. There and that there shall be no decrease in dwelling unit
8 maintenance or other services historically provided to such units and such life-tenants. A binding and
9 recorded agreement The provision of a lifetime lease pursuant to this Subsection shall be a
10 condition imposed on each tentative parcel or tentative subdivision map subject to this
11 Subsection 1396.4(g). Binding and recorded agreements between the tenant(s) and the
12 property owner(s) and between the City and the property owner(s) concerning this
13 requirement shall be a tentative map condition imposed on each parcel or subdivision map
14 subject to this Subsection 1396.4(g).

15 _____ (C) The lease shall also include the following language:

16 Tenant agrees that this Lease shall be subject and subordinate at all times to (i) all
17 ground leases or underlying leases that may now exist or hereafter be executed affecting the
18 Real Property or any portion thereof; (ii) the lien of any mortgage, deed of trust, assignment of
19 rents and leases or other security instrument (and any advances thereunder) that may now
20 exist or hereafter be executed in any amount for which the Real Property or any portion
21 thereof, any ground leases or underlying leases or Landlord's interest or estate therein, is
22 specified as security; and (iii) all modifications, renewals, supplements, consolidations and
23 replacements thereof, provided in all cases the mortgagees or beneficiaries named in
24 mortgages or deeds of trust hereafter executed or the assignee of any assignment of rents
25 and leases hereafter executed to recognize the interest and not disturb the possession, use

1 and enjoyment of Tenant under this Lease, and, in the event of foreclosure or default, the
2 lease will continue in full force and effect by operation of San Francisco Administrative Code
3 Chapter 37, Section 37.9D, and the conditions imposed on each parcel or subdivision map
4 pursuant to Section 1396.4(g), as long as Tenant is not in default under the terms and
5 conditions of this Lease. Tenant agrees to execute and deliver, upon demand by Landlord and
6 in the form requested by Landlord, any additional reasonable documents evidencing the
7 priority or subordination of this Lease with respect to any such ground leases, underlying
8 leases, mortgages, deeds of trust, assignment of rents and leases or other security
9 instruments. Subject to the foregoing, Tenant agrees that Tenant shall be bound by, and
10 required to comply with, the provisions of any assignment of rents and leases with respect to
11 the Building.

12 (3) The Department shall impose the following tentative map conditions on each parcel
13 and subdivision map subject to this Subsection 1396.4(g) and require that the conditions be
14 satisfied prior to Final Subdivision Map or Parcel Map approval: (A) the property owner(s) of
15 the building provide a written offer for a life time lease pursuant to this Subsection to the
16 tenant(s) in the building and record such offer against the building's title, (B) at the time the
17 tenant(s) accepts the life time lease offer, and even if such acceptance occurs after map
18 approval, a binding agreement between the tenant(s) and the property owner(s) shall be
19 executed and recorded against the property's title, and (C) a binding agreement between the
20 City and the property owner(s) concerning the requirements of this Subsection be recorded
21 against the property's title. For purposes of this Subsection, the Board of Supervisors
22 delegates authority to the DPW Director, in consultation with the Mayor's Office of Housing, to
23 enter in said agreement on behalf of the City and County of San Francisco.

24 (2)(4) If the owner(s) of a building subject to the lifetime lease provisions of this
25 Section 1396.4(g) enters into any contract or option to sell or transfer any unit that would be

1 subject to the lifetime lease requirements or any interest in any unit in the building that would
2 be subject to the lifetime lease requirements at any time between the initial application and
3 recording of the final subdivision map or parcel map, said contract or option shall be subject to
4 the following conditions: (a) the contract or option shall include written notice that the unit shall
5 be subject to the lifetime lease requirements of Subdivision Code Section 1396.4(g), (b) prior
6 to final execution of any such contract or option, the owner(s) shall record a notice of
7 restrictions against the property that specifically identifies the unit potentially subject to the
8 lifetime lease requirements and specifies the requirements of the lifetime lease as set forth in
9 Section 1396.4(g)(1), and (c) the recorded notice of restrictions shall be included as a note on
10 the final subdivision map or parcel map. Prior to approval of a final subdivision map or parcel
11 map, the applicant(s) shall certify under penalty of perjury to the Department that he, she, or
12 they have complied with the terms of this Subsection as it applies to a building. Failure to
13 provide this certification from every current owner of a building shall result in disapproval of
14 the map. The content of the notices and certifications required by this Subsection shall
15 comply with the instructions and procedures developed by the Department.

16 (h) In recognition of the rental requirements of Section (g), the fee for each unit in which a
17 non-purchasing tenant resides at the time specified in Section (g) who is offered a life time lease
18 and is unrelated by blood, marriage, or domestic partnership to any owner of the building shall
19 be refunded to the subdivider under the following formula:

20 (1) One unit, 10% fee reduction for such unit;

21 (2) Two units, 20% fee reduction for each unit;

22 (3) Three units, 30% fee reduction for each unit.

23 (i) Upon confirmation of compliance with the rental requirement, DPW or the City
24 department in possession of the fee revenue shall refund the amount specified in Section (h) to the
25 subdivider and have all remaining fee revenues transferred to the ~~Citywide Affordable Housing Fund~~

1 ~~Mayor's Office Home Ownership Assistance Loan Fund~~City's Housing Stabilization Fund for
2 the purpose of creating or preserving housing affordable to low or moderate income
3 households in San Francisco.

4 (j) Waiver or reduction of fee based on absence of reasonable relationship or deferred
5 payment based upon limited means.

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

11 (2) Any appeal of ~~waiver~~ requests under this clause shall be made in writing and filed with the
12 Clerk of the Board no later than 15 days after the date the sponsor is required to pay and has paid to
13 the Treasurer the fee as required in this Section. The appeal shall set forth in detail the factual and
14 legal basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall consider
15 the appeal at the hearing within 60 days after the filing of the appeal. The appellant shall bear the
16 burden of presenting substantial evidence to support the appeal, including comparable technical
17 information to support appellant's position. If a reduction, adjustment, or waiver is granted, any
18 change of use or scope of the project shall invalidate the waiver, adjustment or reduction of the fee. If
19 the Board grants a reduction, adjustment or waiver, the Clerk of the Board shall promptly transmit the
20 nature and extent of the reduction, adjustment or waiver to the Treasurer and Department of Public
21 Works.

22 (3) A project applicant may apply to the Department of Public Works for a deferral of
23 payment of the fee described in Subsection (e) for the period that the Department completes
24 its review and until the application for expedited conversion is approved, provided that the
25 applicant satisfies each of the following requirements: (i) the applicant resided in his or her

1 unit in the subject property as his or her principle place of residence for not less than three
2 years and (ii) that for the twelve months prior to the application, the applicant resided in his or
3 her unit in the subject property as his or her principle place of residence and the applicant's
4 household income was less than 120% of median income of the City and County of San
5 Francisco as determined by the Mayor's office of Housing.

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

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

12 **SEC. 1396.5. SUSPENSION OF THE LOTTERY PENDING PRODUCTION OF**
13 **REPLACEMENT UNITS FOR EXPEDITED CONVERSION UNITS.**

14 (a) Within twelve months after issuing tentative or tentative parcel map approval for the
15 last conversion under Section 1396.4 or December 29, 2023, whichever is earlier, the
16 Department shall publish a report stating the total number of units converted under the
17 Expedited Conversion program and every twelve months thereafter until the Expedited
18 Conversion program is completed.

19 (b) No later than April 15 of each year until the termination of the suspension period,
20 the Mayor's Office of Housing shall publish a report stating the total number of permanently
21 affordable rental housing produced in San Francisco and the "Conversion Replacement Units"
22 produced in the previous calendar year and a cumulative total of such housing produced in
23 preceding years during the tracking period. For purposes of this Subsection, the Mayor's
24 Office of Housing shall have the authority to determine what type and form of housing
25 constitutes permanently affordable rental housing that has been produced.

1 (c) The Department shall not accept an application for the conversion of residential
2 units under Section 1396 nor conduct a lottery under this Article prior to January 1, 2024.
3 Thereafter, the lottery shall resume upon the earlier of the following: (1) until the first February
4 following the Mayor's Office of Housing report pursuant to Subsection (b) showing that the
5 total number of Conversion Replacement Units produced in the City of San Francisco
6 exceeded the total number of units converted as identified in the Department's report
7 prepared pursuant to Subsection (a); under Section 1396.4(b)(1)-(6) and in no event shall it
8 conduct a lottery prior to January 1, 2024; provided however, that the total period of
9 suspension of the lottery shall not exceed (2) completion of the "Maximum Suspension
10 Period" as defined below.

11 (d) "Conversion Replacement Units" in any year shall be determined by subtracting
12 300 from the total number of permanently affordable rental units that the City produced in that
13 year starting on January 1, 2014.

14 (e) The "Maximum Suspension Period" shall be the number of years calculated by
15 dividing the total number of units approved for conversion under Section 1396.4(b)(1)-(6)(7)
16 (the Expedited Conversion program) divided by 200 and rounded to the nearest whole
17 number with the year 2014 as the starting point. For example, if 2400 units have been
18 converted under Section 1396.4(b)(1)-(6)(7), then the maximum suspension period would be
19 12 years and run until 2026 expire on December 31, 2025.

20 Section 3. The San Francisco Subdivision Code is hereby amended by amending
21 Section 1396, to read as follows:

22 **SEC. 1396. ANNUAL CONVERSION LIMITATION.**

23 (a) This Section governing annual limitation shall apply only to conversation of
24 residential units. This Section also is subject to the limitations established by Section
25 1396.5's suspension of the lottery.

1 **(b)** Applications for conversion of residential units, whether vacant or occupied, shall
2 not be accepted by the Department of Public Works, except that a maximum of 200 units as
3 selected yearly by lottery by the Department of Public Works from all eligible applicants, may
4 be approved for conversion per year for the following categories of buildings:

5 ~~(a)~~ **(1)** Buildings consisting of four units ~~or less~~ in which ~~one~~ at least three of the units
6 ~~has~~ have been occupied continuously by ~~one of~~ the applicant owners of record as their
7 principle place of residence for three years prior to the date of registration for the lottery as
8 selected by the Director.;

9 **(2)** Buildings consisting of three units in which at least two of the units have been
10 occupied continuously by the applicant owners of record as their principle place of residence
11 for three years prior to the date of registration for the lottery as selected by the Director;

12 **(3)** Buildings consisting of two units in which at least one unit has been occupied
13 continuously by the applicant owner of record as his or her principle place of residence for
14 three years prior to the date of registration for the lottery as selected by the Director; or

15 ~~(b)~~ Buildings consisting of six units or less in which 50 percent or more of the units
16 have been occupied continuously by the applicant owners of record for three years prior to the
17 date of registration for the lottery as selected by the Director; or

18 ~~(e)~~ **(4)** Buildings consisting of five or six units that were subject to the requirements of
19 Section 1396.2(f) on or before April 15, 2013 where (A) no further evictions as set forth in
20 Section 1396.2 have occurred in the building after April 15, 2013, (B) the building and all
21 applicants first satisfied all the requirements for conversion under Section 1396.2(f) after
22 January 24, 2020 and before resumption of the lottery under in accordance with the terms of
23 Section 1396.5; and (C) 50 percent or more of the units have been occupied continuously by
24 owners of record as their principle place of residence for ten years prior to the date of
25 registration for the lottery as selected by the Director. Applicants for such buildings must

1 apply for the lottery within five years of the resumption of the lottery under Section 1396.5(c)
2 and remain eligible until selected; or

3 (5) Community apartments as defined in Section 1308 of this Code, which, on or
4 before December 31, 1982, met the criteria for community apartments in Section 1308 of this
5 Code and which were approved as a subdivision by the Department of Public Works on or
6 before December 31, 1982, and where 75 percent of the units have been occupied
7 continuously by the applicant owners of record for three years prior to the date of registration
8 for the lottery as selected by the Director.

9 (c) The conversion of a stock cooperative as defined in Section 1308 of this Code to
10 condominiums shall be exempt from the annual limitation imposed on the number of
11 conversions in this Section and from the requirement to be selected by lottery where 75
12 percent of the units have been occupied for the lottery as selected by the Director.

13 (d) No application for conversion of a residential building submitted by a registrant
14 shall be approved by the Department of Public Works to fill the unused portion of the 200-unit
15 annual limitation for the previous year.

16 (e)(f) (1) Any applicant application for a condominium conversion submitted after being
17 selected in the lottery must meet the following requirements applicable to Subdivision Code
18 Article 9, Conversions: Sections 1381, 1382, 1383, 1386, 1387, 1388, 1389, 1390, 1391(a)
19 and (b), 1392, 1393, 1394, and 1395.

20 (2) Any building subject to Section 1396.2 shall have all applicant(s) satisfy all the
21 requirements for conversion under Section 1396.2(f) in order be eligible to convert pursuant to
22 this Section 1396; provided, however, that any building subject to the prohibition on
23 conversion under Section 1396.2, in particular a property with the eviction(s) set forth in
24 Section 1396.2(b), is ineligible for conversion.

1 (3)(A) In addition, the applicant(s) must shall certify that to the extent any tenant
2 vacated his or her unit after March 31, 2013 within the seven years prior to the date of
3 selection in registration for the lottery as selected by the Director and before recordation of the
4 final parcel or subdivision map, such tenant did so voluntarily or if an eviction or eviction
5 notice occurred it was not pursuant to Administrative Code Sections 37.9(a)(8)-(14) unless
6 such eviction or eviction notice complied with the requirements of Subsections (B)-(D) below.

7 _____ (B) If an eviction has taken place the evicting owner(s) recovered possession
8 of the unit under Administrative Code Sections 37.9(a)(11) or 37.9(a)(14), then the
9 applicant(s) shall certify that the original tenant reoccupied or was given an opportunity to
10 reoccupy the unit after the temporary eviction.

11 _____ (C) If the evicting owner(s) recovered possession of the unit under
12 Administrative Code Section 37.9(a)(10), then the applicant(s) shall certify that the
13 Department of Building Inspection required the unit be demolished or permanently removed
14 from housing use pursuant to a Notice of Violation or Emergency Order or similar notice,
15 order, or act; all the necessary permits for demolition or removal were obtained; that the
16 evicting owner(s) complied in full with Administrative Code Section 37.9(a)(10) and (c); and
17 that an additional unit or replacement unit was not constructed in the building after the
18 demolition or removal of the unit previously occupied by the evicted tenant.

19 _____ (D) If the evicting owner(s) recovered possession of a unit under Administrative
20 Code Section 37.9(a)(8), then the applicants shall certify that: (i) only one unit in the building
21 was the subject of such eviction during the seven year period. (ii) any surviving owner or
22 relative named as the intended resident of the unit in the Section 37.9(a)(8) eviction notice
23 also is presently an owner applying for the conversion of the same unit, and (iii) the subject
24 applicant owner has occupied the unit continuously as his or her principle residence for three
25 years prior to the date of registration for the lottery as selected by the Director.

1 (f) The Department shall review all available records, including eviction notices and
2 records maintained by the Rent Board for compliance with Subsection (e). If the Department
3 finds that a violation of Subsection (e) occurred prior to recordation of the final map or final
4 parcel map, the Department shall disapprove the application or subject map. If the
5 Department finds that a violation of Subsection (e) occurred after recordation of the final map
6 or parcel map, the Department shall take such actions as are available and within its authority
7 to address the violation.

8 (g) For purposes of this Section, a unit that is “occupied continuously” shall be defined
9 as a unit occupied continuously by an owner of record for the three year period without an
10 interruption of occupancy and so long as the applicant owner(s) occupied the subject unit as
11 his/her principal place of residence for no less than one year prior to the time of application.
12 In addition to the other requirements of this Subsection, each unit occupied continuously by
13 an owner of record may be conveyed to a new owner of record; provided, however, that the
14 change in ownership for such unit occurs no more than once every three years.

15 Section 4. Uncodified. Notwithstanding the condominium conversion lottery selection
16 provisions of Subdivision Code Section 1396 and 1396.3 or the other terms of this legislation,
17 the most senior class of buildings participating but not being selected in the 2013
18 condominium lottery may apply for a condominium conversion subdivision on or after January
19 1, 2014 but before December 31, 2014 subject to the following: (1) the buildings and
20 applicants shall satisfy all of the eligibility requirements necessary to participate in the lottery
21 as set forth in Sections 1396 and 1396.3 in effect immediately prior to the effective date of this
22 legislation and (2) the applicants shall satisfy all other applicable terms of Subdivision Code
23 Article 9 (Conversions). Any buildings that apply under the process set forth in this uncodified
24 Section are explicitly exempt from the requirements of Sections 1396.4, 1396.5, and 1396 as
25 set forth in this legislation. Any building eligible to convert to condominiums: (a) under this

1 Section 4, (b) after being selected for conversion in the 2013 condominium conversion lottery,
2 or (c) that satisfies the requirements of Section 1359, is excluded from any of the terms of
3 Section 7 below, specifically any limitation or prohibition of any kind concerning application
4 submission, review, and approval.

5 Section 5. Effective Date. This ordinance shall become effective 30 days from the
6 date of passage.

7 Section 456. This section is uncodified. In enacting this Ordinance, the Board intends
8 to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
9 punctuation, charts, diagrams, or any other constituent part of the Subdivision Code that are
10 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
11 Board amendment deletions in accordance with the "Note" that appears under the official title
12 of the legislation.

13 Section 67. ~~Suspension of this Ordinance~~Effect of Litigation. (a) In the event that there
14 is a lawsuit against the City and County of San Francisco filed in any court challenging any
15 part of this legislation or the validity of any lifetime lease entered into pursuant to this
16 legislationSubsection 1396.4(g) or Section 1396.5, then upon the service of such lawsuit upon
17 the City and County of San Francisco, the Expedited Conversion program described in
18 Section 1396.4 will be suspended as set forth below unless and until either (1) there is a final
19 judgment in the lawsuit in all courts and the validity of this legislation in its entiretythe
20 challenged provision(s) specified above is upheld or (2) the suspension of the lottery through
21 January 1, 2024 as mandated by Section 1396.5 is completed.

22 (b) During any such suspension of the Expedited Conversion program, anythe
23 Department, upon service of the lawsuit, shall not accept or approve any application for
24 conversion under the program. After 180 days following service of the lawsuit, the
25 Department shall not issue any tentative parcel map or tentative map approval for conversion

1 and shall deny any application that has not obtained such approval. If an owner(s) obtained a
2 final and effective tentative parcel map or tentative map approval on or prior to the 180th day
3 following service of the lawsuit, then that applicant may proceed to final parcel map or final
4 subdivision map approval and recordation of the subdivision map. At any time during a
5 suspension of the Expedited Conversion program, any applicant may seek a refund of the
6 condominium conversion application and condominium conversion impact fees and the
7 provisions of Section 1396 in effect on April 15, 2015 shall be operative. Upon a request for
8 an application fee refund, the reviewing City Departments shall deduct incurred costs based
9 on time and materials expended and shall refund any remaining portion of the application
10 fee(s).

11 (c) Upon the completion of the suspension of the Expedited Conversion period the
12 suspended Expedited Conversion program described in Section 1396.4 shall resume as if no
13 suspension had occurred. Applicants with suspended applications may resubmit their
14 applications along with all required fees and shall be considered in the same position as they
15 had at the time of the suspension. The Department shall treat the time periods described in
16 Section 1396.4(b)(1)-(7) as having been tolled during the time of suspension of the Expedited
17 Conversion program.

18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By: _____
21 John D. Malamut
22 Deputy City Attorney

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