

LEGISLATIVE DIGEST

[Planning Code - Establishing a New Citywide Transportation Sustainability Fee]

Ordinance amending the Planning Code by establishing a new citywide Transportation Sustainability Fee and suspending application of the existing Transit Impact Development Fee, with some exceptions, as long as the Transportation Sustainability Fee remains operative; amending Section 401 to add definitions reflecting these changes; amending Section 406 to clarify affordable housing and homeless shelter exemptions from the Transportation Sustainability Fee; making conforming amendments to the Area Plan fees in Planning Code, Article 4; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including general findings, findings of public necessity, convenience and welfare, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

The City imposes several development fees on new development to alleviate the impacts that such development imposes on City services and infrastructure. Some of these fees have Citywide application, such as the Transit Impact Development Fee, or TIDF (codified in Section 411 of the Planning Code), or the Inclusionary Housing Program (codified in Section 415.) Others apply to specific areas of the City, such as the Market and Octavia Community Improvements Fund, the Balboa Park Community Improvements Fund, or the Eastern Neighborhoods Impact Fees and Public Benefit Fund (located at Sections 421, 422 and 423, respectively.)

Amendments to Current Law

This Ordinance would create a new Citywide transportation impact fee, the Transportation Sustainability Fee, or TSF. The TSF would replace the TIDF, with some exceptions. While the TIDF applies to commercial development, the TSF would apply to both residential and non-residential developments in the City.

The Ordinance contains extensive findings setting forth the need and justification for the TSF. The findings explain that the City prepared a study (the TSF Nexus Study) to ensure the imposition of the TSF complies with the Mitigation Fee Act, California Government Code Section 66001 et seq.

The Ordinance establishes the applicability of the TSF as follows:

- The TSF applies to any development project in the City which results in:

- more than twenty new dwelling units;
 - new group housing facilities, or additions of 800 gross square feet or more to an existing group housing facility;
 - new construction of a non-residential or production, distribution and repair (PDR) use in excess of 800 gross square feet, or additions of 800 square feet or more to an existing non-residential or PDR use; or
 - change or replacement of use of a lower fee category to a higher fee category, regardless of whether the existing use previously paid the TSF or TIDF.
- Some projects are exempt from the Ordinance, such as City projects, state or federal projects, affordable housing projects, small businesses, and certain nonprofit projects.
 - The Ordinance also establishes the relationship between the TSF and Area Plan fees. In essence, the Ordinance provides that non-residential portions of developments shall pay both the TSF and the Area Plan Impact Fee; and that residential portions of developments shall pay the TSF in full, but may receive a fee reduction for the transit component of the Area Plan Fee, up to the full amount of the of the TSF.
 - The Ordinance suspends the application of the TIDF for as long as the TSF remains operative, with some exceptions, and provides that if by any reasons the TSF is determined to be invalid, in whole or in part, the TIDF shall no longer be suspended and shall become immediately operative.
 - The Ordinance provides for the grandfathering of some projects currently in the development pipeline. More specifically, it requires that:
 - projects that have a development application approved before the effective date of the Ordinance shall not pay the TSF, but shall be subject to the TIDF and any other applicable fees;
 - projects that have filed a development application before the effective date of the Ordinance, but have not received approval of any such application, shall pay the TSF as follows: residential uses shall pay 50% of the applicable residential TSF rate; and non-residential uses shall pay the applicable TIDF rate – as well as any other applicable fees.

The Ordinance establishes the TSF Schedule, stating how much money the different land use categories must pay, per gross square foot of development. Residential projects shall pay \$ 7.74; non-residential projects shall pay \$ 18.04; and PDR projects shall pay \$ 7.61. These rates are to be adjusted on an annual basis every January 1, based on the Annual Infrastructure Construction Cost Inflation Estimate, as described in Section 409(b).

The Ordinance also sets forth an Expenditure Plan, with five broad expense categories of projects among which the TSF funds must be allocated, while giving priority to specific projects identified in the different Area Plans. These categories are Transit Capital

Maintenance; Transit Service Expansion and Reliability Improvements (both for San Francisco and Regional Providers); Complete Streets (Bicycle and Pedestrian) Improvements; and Program Administration. The Ordinance specifies what percentage of the TSF funds must go to each category.

The Ordinance mandates that every five years, or sooner if requested by the Mayor or the Board of Supervisors, the SFMTA shall update the TSF Economic Feasibility Study that was prepared as part of the TSF effort.

The Ordinance also makes clean-up and conforming amendments to several sections of the Municipal Codes, including changes to some of the Area Plans sections.

Background Information

This Ordinance is the culmination of several years of study and outreach undertaken by City agencies, together with the County Transportation Authority. As part of that effort, and to comply with the requirements of the Mitigation Fee Act, the City prepared the TSF Nexus Study. The City also prepared a TSF Economic Feasibility Study. Both these documents support the TSF. They are incorporated by reference in the Ordinance, and can be found in the Board of Supervisors File for the Ordinance.

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