

1 [Administrative, Planning, Subdivision Codes - Citywide Affordable Housing Fund, Mayor's Housing Programs Fees Fund]

2

3 **Ordinance amending the Administrative Code to add the Citywide Affordable Housing Fund as a**
4 **Category Eight self-appropriating fund; amending the Planning and Subdivision Codes to make**
5 **corresponding changes to affordable housing fee provisions related to the Citywide Affordable Housing**
6 **Fund; revising the Mayor's Housing Programs Fees Fund to change it to a Category Eight self-**
7 **appropriating fund; ~~affirming the Planning Department's determination under the California~~**
8 **~~Environmental Quality Act~~; and making findings of consistency with the General Plan and the eight**
9 **priority policies of Planning Code Section 101.1.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or parts of tables.

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

17 Section 1. Findings.

18 (a) ~~The Planning Department has determined that the actions contemplated in this ordinance comply~~
19 ~~with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said~~
20 ~~determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by~~
21 ~~reference. The Board of Supervisors hereby affirms this determination.~~

22 (b) ~~On _____, the Planning Commission, in Resolution No. _____, adopted findings that the~~
23 Board of Supervisors finds that the actions contemplated in this ordinance are consistent, on balance, with the
24 City's General Plan and eight priority policies of Planning Code Section 101.1 because, although it will have little
25 effect on the General Plan and Priority Policies, these minor changes will clarify and streamline how funds are to

1 ~~be used for provision of affordable housing.~~ The Board adopts these findings as its own. A copy of said
2 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein
3 by reference.

4 (eb) Pursuant to Planning Code Section 302, this Board finds that ~~this~~ the Planning Code Amendment
5 will serve the public necessity, convenience, and welfare because it will clarify and streamline how funds are to
6 be used for provision of affordable housing. ~~for the reasons set forth in Planning Commission Resolution No.~~
7 ~~_____~~, and the Board incorporates such reasons herein by reference.

8
9 Section 2. The Administrative Code is hereby amended by adding Section 10.100-49 and revising
10 Section 10.100-117, to read as follows:

11 **SEC. 10.100-49. CITYWIDE AFFORDABLE HOUSING FUND.**

12 (a) Establishment of Fund. The Citywide Affordable Housing Fund is established as a category eight fund to
13 receive fee revenue dedicated to affordable housing and other contributions to the fund. The fund receives money from,
14 among other sources:

- 15 (1) The Jobs Housing Linkage Program, Planning Code Section 413 et seq.;
- 16 (2) The Inclusionary Affordable Housing Program, Planning Code Section 415 et seq.;
- 17 (3) The Market and Octavia Affordable Housing Program, Planning Code Section 416.5;
- 18 (4) The Eastern Neighborhoods Housing Fund, Planning Code Section 423.5;
- 19 (5) The Expedited Condominium Conversion Program, Subdivision Code Section 1396.4; and,
- 20 (6) Repayments of loans and other program income associated with investments initially made with
21 monies from the fund.

22 (b) Use of Fund. The fund is to be used exclusively by the Mayor's Office of Housing and Community
23 Development, or its successor, for the purpose of supporting affordable housing in San Francisco. Specific eligible uses of
24 the fund are delineated for each fee in the code where the fee is established. Within the fund, all fees, repayments, and
25 program income shall be separately accounted for as required by each fee.

1 (c) Exceptions to Fund Category. The Director of the Mayor's Office of Housing and Community Development
2 shall approve all expenditures from the fund.

3 (d) Administration of Fund. The Mayor's Office of Housing and Community Development, or its successor, shall
4 administer the fund and shall report annually to the Board of Supervisors on the current status of the fund, the amounts
5 approved for disbursement, and the number and types of housing units or households assisted. The Mayor's Office of
6 Housing and Community Development shall have the authority to prescribe rules and regulations governing the Fund.

7
8 **SEC. 10.100-117. MAYOR'S ~~OFFICE OF~~ HOUSING PROGRAMS FEES FUND.**

9 (a) Establishment of Fund. The Mayor's Housing Programs Fees Fund is established as a category ~~new~~
10 eight fund to receive monies from fees earned by the Mayor's Office of Housing and Community Development in
11 connection with the administration of affordable housing. Such fees shall include, but are not be limited to, fees
12 from single-family and multifamily housing mortgage revenue bonds as issuer or as administrator, fees from the
13 California Natural Disaster Assistance Program, and fees from similar housing programs in which the city earns
14 fees for services provided by the Mayor's Office of Housing and Community Development. This Section 10.100-117
15 shall not authorize the levy of fees except as otherwise provided by ordinance or resolution of the Board of
16 Supervisors.

17 (b) Use of Fund. The fund shall be used for the purpose of supporting the City's efforts to provide
18 affordable housing for persons and households of low and moderate income in the City. For the purposes of this
19 Fund, "low and moderate income" shall mean incomes which are not greater than 120 percent of median for San
20 Francisco, as defined by the United States Department of Housing and Urban Development. Monies from the
21 Fund may be used for the following purposes:

22 (1-) To pay the costs of the Mayor's Office of Housing and Community Development for administering
23 housing programs for which administrative funding is not otherwise available from the City's General Fund,
24 federal or state grants, or other sources of administrative funding. Such programs shall include the City's single-
25

1 family and multifamily housing mortgage revenue bond programs, the first time homebuyer programs, rental
2 housing development programs, and the monitoring of units to ensure their continued affordability.

3 ~~(2-)~~ To the extent that monies are available and not needed to cover current and anticipated future
4 administrative costs described in Subparagraph (1), ~~and with the approval of the Board of Supervisors, to the Mayor's~~
5 ~~Office of Housing and Community Development may~~ transfer said monies to the Citywide Affordable Housing Fund,
6 Administrative Code Section 10.100-49, to make loans or grants for the development of affordable housing in the
7 City.

8 (c) Exceptions to Fund Category. The Director of the Mayor's Office of Housing and Community
9 Development shall approve expenditures from the fund.

10 (d) Administration of Fund. The Mayor's Office of Housing and Community Development shall administer
11 the fund, and in such capacity shall review the needs of the administration of affordable housing programs and
12 the availability of monies from the fund for other eligible purposes. ~~Funds for administration of affordable housing~~
13 ~~programs shall be appropriated through the annual budget process or by supplemental appropriation for the Mayor's Office~~
14 ~~of Housing.~~ The Mayor's Office of Housing and Community Development shall report annually to the Board of
15 Supervisors on the current status of the Mayor's Housing Program Fees Fund as a part of the its Annual
16 Report~~annual budget process for the Mayor's Office of Housing,~~ including the amounts of fees received and to be
17 budgeted for administrative funding, and any recommendations deemed necessary to improve effectiveness of
18 the Mayor's Housing Program Fees Fund in achieving its purpose.

19 Section 3. The Planning Code is hereby amended by revising Sections 413.10, 415.5, 416.5, and 423.5
20 to read as follows:

21 **SEC. 413.10. CITYWIDE AFFORDABLE HOUSING FUND.**

22 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to Section 413.9 shall
23 be deposited in the ~~special fund maintained by the Controller called the~~ Citywide Affordable Housing Fund ("Fund"),
24 established in Administrative Code Section 10.100-49. The receipts in the Fund collected under Section 413 et seq. shall
25 be are hereby appropriated in accordance with law to be used solely to increase the supply of housing affordable to

1 qualifying households subject to the conditions of this Section. *The fees collected under this Section may not be used,*
2 *by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any entity.* The Mayor's
3 Office of Housing and Community Development ("MOHCD") shall develop procedures such that, for all projects
4 funded by the Citywide Affordable Housing Fund, MOHCD requires the project sponsor or its successor in
5 interest to give preference in occupying units first to Residential Certificate of Preference Holders under the San
6 Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted
7 September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board *of Supervisors* in File
8 No. 080521, who meet all of the qualifications for the unit; and second to any Displaced Tenant, as defined in
9 Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the
10 following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the
11 preference to existing, currently-occupied developments only for three years from the date the landlord filed with
12 the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's
13 unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the
14 corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"),
15 Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new
16 developments going through the initial occupancy process only for six years from the date the landlord filed with
17 the Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act,
18 cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new residential
19 development going through the initial occupancy process, the Displaced Tenant preference shall apply only to
20 twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still apply even
21 if such Displaced Tenant declines a unit offered through application of the preference, but upon accepting and
22 occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.

23 MOHCD shall implement the Certificate of Preference Holder requirements of this Section 413.10 by
24 developing procedures and amending its applicable regulations within 90 days of the effective date of Ordinance
25 No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of this Section by

1 developing procedures and amending its applicable regulations within 90 days of the effective date of the
2 ordinance creating the Displaced Tenant preference. Said procedures and regulations shall be subject to
3 approval by Resolution of the Board of Supervisors. The requirements of this paragraph are directory rather than
4 mandatory.

5 ~~The Fund shall be administered and expended by the Director of MOHCD, who shall have the authority to~~
6 ~~prescribe rules and regulations governing the Fund which are consistent with Section 413.1et seq. No portion of the Fund~~
7 ~~may be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any entity.~~

8 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

9 * * * *

10 (f) Use of Fees. All monies contributed pursuant to ~~the this Section~~ Inclusionary Affordable Housing
11 Program shall be deposited in the ~~special fund maintained by the Controller called the~~ Citywide Affordable Housing
12 Fund ("the Fund"), ~~established in Administrative Code Section 10.100-49.~~ The Mayor's Office of Housing and
13 Community Development ("MOHCD") shall use the funds collected under this Section in the following manner:

14 (1) Except as provided in subsection (2) below, ~~the funds collected under this Section shall the receipts in~~
15 ~~the Fund are hereby appropriated in accordance with law to~~ be used to:

16 (A) increase the supply of housing affordable to qualifying households subject to the conditions of
17 this Section; and

18 (B) provide assistance to low and moderate income homebuyers; and

19 (C) pay the expenses of MOHCD in connection with monitoring and administering compliance
20 with the requirements of the Program. MOHCD is authorized to use funds in an amount not to exceed \$200,000
21 every 5 years to conduct follow-up studies under Section 415.9(e) and to update the affordable housing fee
22 amounts as described above in Section 415.5(b). All other monitoring and administrative expenses shall be
23 appropriated through the annual budget process or supplemental appropriation for MOHCD. ~~The fund shall be~~
24 ~~administered and expended by MOHCD, which shall have the authority to prescribe rules and regulations governing the~~
25 ~~Fund which are consistent with this Section.~~

1 (2) "Small Sites Funds."

2 (A) Designation of Funds. MOHCD shall designate and separately account for 10% percent of all
3 fees that it receives under Section 415.1 et seq. that are deposited into the Citywide Affordable Housing Fund,
4 established in Administrative Code Section 10.100-49, excluding fees that are geographically targeted such as those
5 referred to in Sections 415.5 (b)(1)6(a)(1) and 827(b)(1)(C), to support acquisition and rehabilitation of Small Sites
6 ("Small Sites Funds"). MOHCD shall continue to divert 10 percent of all fees for this purpose until the Small Sites
7 Funds reach a total of \$15 million at which point, MOHCD will stop designating funds for this purpose. At such
8 time as designated Small Sites Funds are expended and dip below \$15 million, MOHCD shall start designating
9 funds again for this purpose, such that at no time the Small Sites Funds shall exceed \$15 million. When the total
10 amount of fees paid to the City under Section 415.1 et seq. totals less than \$10 million over the preceding 12
11 month period, MOHCD is authorized to temporarily divert funds from the Small Sites Fund for other purposes.
12 MOHCD must keep track of the diverted funds, however, such that when the amount of fees paid to the City
13 under Section 415.1 et seq. meets or exceeds \$10 million over the preceding 12 month period, MOHCD shall
14 commit all of the previously diverted funds and 10 percent of any new funds, subject to the cap above, to the
15 Small Sites Fund.

16 (B) Use of Small Sites Funds. The funds shall be used exclusively to acquire or rehabilitate "Small
17 Sites" defined as properties consisting of less than 25 units. Units supported by monies from the fund shall be
18 designated as housing affordable to qualifying households as defined in Section 415.1 for no less than 55 years.
19 Properties supported by the Small Sites Funds must be either

- 20 (i) rental properties that will be maintained as rental properties;
- 21 (ii) vacant properties that were formerly rental properties as long as those properties have been
22 vacant for a minimum of two years prior to the effective date of this legislation,
- 23 (iii) properties that have been the subject of foreclosure or
- 24 (iv) a Limited Equity Housing Cooperative as defined in Subdivision Code Sections 1399.1 et
25 seq. or a property owned or leased by a non-profit entity modeled as a Community Land Trust.

1 (C) Initial Funds. If, within 18 months from the date of adoption of this ordinance, MOHCD
2 dedicates an initial one-time contribution of other eligible funds to be used initially as Small Sites Funds, MOHCD
3 may use the equivalent amount of Small Sites Funds received from fees for other purposes permitted by the
4 Citywide Affordable Housing Fund until the amount of the initial one-time contribution is reached.

5 (D) Annual Report. At the end of each fiscal year, MOHCD shall issue a report to the Board of
6 Supervisors regarding the amount of Small Sites Funds received from fees under this legislation, and a report of
7 how those funds were used.

8 (E) Intent. In adopting this ordinance regarding Small Sites Funds, the Board of Supervisors does
9 not intend to preclude MOHCD from expending other eligible sources of funding on Small Sites as described in
10 this Section, or from allocating or expending more than \$15 million of other eligible funds on Small Sites.

11 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD requires the project
12 sponsor or its successor in interest to give preference in occupying units first to Residential Certificate of
13 Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant
14 Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of
15 the Board in File No. 080521, who otherwise meet all of the requirements for a unit; and second to any Displaced
16 Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or
17 assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced
18 Tenant may apply the preference to existing, currently-occupied developments only for three years from the date
19 the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to
20 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section
21 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance
22 ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the
23 preference to new developments going through the initial occupancy process only for six years from the date the
24 landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant
25 to the Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new

1 residential development going through the initial occupancy process, the Displaced Tenant preference shall
2 apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall
3 still apply even if such Displaced Tenant declines a unit offered through application of the preference, but upon
4 accepting and occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.
5 Otherwise, it is the policy of the City to treat all households equally in allocating affordable units under this
6 Program.

7 * * * *

8 **SEC. 416.5. USE OF FUNDS.**

9 The additional affordable housing requirement specified in this Section for the Market and Octavia Plan
10 Area and the Upper Market NCD shall be paid into the Citywide Affordable Housing Fund, *established in*
11 *Administrative Code Section 10.100-49*, but the funds shall be separately accounted for. MOHCD shall expend the
12 funds according to the following priorities: First, to increase the supply of housing affordable to qualifying
13 households in the Market and Octavia Plan Area and the Upper Market NCD; second, to increase the supply of
14 housing affordable to qualifying households within 1 mile of the boundaries of the Plan Area and the Upper
15 Market NCD; third, to increase the supply of housing affordable to qualifying households in the City and County
16 of San Francisco. The funds may also be used for monitoring and administrative expenses subject to the
17 process described in Section *415.5(f)415.7(e)*.

18 **SEC. 423.5. THE EASTERN NEIGHBORHOODS COMMUNITY IMPROVEMENTS FUND.**

19 (a) **Purpose.** There is hereby established a separate fund set aside for a special purpose entitled the
20 Eastern Neighborhoods Community Improvements Fund ("Fund"). All monies collected by the Development Fee
21 Collection Unit at DBI pursuant to Section 423.3(e) shall be deposited in the Fund maintained by the Controller.
22 The receipts in the Fund shall be appropriated in accordance with the normal budgetary process to fund
23 Community Improvements subject to the conditions of this Section. Monies collected by the Development Fee
24 Collection Unit at DBI pursuant to 423.3 shall be deposited as follows:

25

1 (1) For projects located in any zoning districts in the Eastern Neighborhoods Program Area,
2 excluding Designated Affordable Housing Zones, DBI shall deposit 100% of the funds in the Eastern
3 Neighborhoods Community Improvements Fund maintained by the Controller.

4 (2) For projects located in Designated Affordable Housing Zones, DBI shall deposit 25% of
5 the funds in the Eastern Neighborhoods Community Improvement Fund and 75% in the Citywide Affordable
6 Housing Fund, established in Administrative Code Section 10.100-49, but the funds shall be separately accounted for
7 and expended as provided in this Section.

8 * * * *

9
10 Section 4. The Subdivision Code is hereby amended by revising Section 1396.4 to read as follows:

11 **SEC. 1396.4. CONDOMINIUM CONVERSION FEE AND EXPEDITED CONVERSION PROGRAM.**

12 * * * *

13 (i) Upon confirmation of compliance with the rental requirement, DPW or the City department in
14 possession of the fee revenue shall refund the amount specified in Section (h) to the subdivider and have all
15 remaining fee revenues transferred to the Citywide Affordable Housing Fund, established in Administrative Code
16 Section 10.100-49, in the following percentage allocations:

17 _____ (1) _____ 25% to the Mayor's Office of Housing and Community Development's program for small
18 site acquisition to purchase market rate housing and convert it to affordable housing; and

19 _____ (2) _____ 75% ~~to the Citywide Affordable Housing Fund~~ for the purpose of expanding affordable
20 housing opportunities for low or moderate income households in San Francisco, including, but not limited to,
21 expanding public housing opportunities.

22 * * * *

1 Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment
2 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the
3 ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

4
5 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend
6 only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts,
7 diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as
8 additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note"
9 that appears under the official title of the ordinance.

10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: _____
14 SUSAN CLEVELAND-KNOWLES
15 Deputy City Attorney

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