

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

December 5, 2018

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On November 27, 2018, Supervisor Peskin introduced the following legislation:

**File No. 181154**

**Ordinance amending the Planning Code to require all projects using the State Density Bonus law, regardless of environmental evaluation application date, to pay the inclusionary fee on any additional units or square footage allowed by the state law; and affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

c: John Rahaim, Director of Planning  
Dan Sider, Director of Executive Programs  
Aaron Starr, Manager of Legislative Affairs  
AnMarie Rodgers, Director of Citywide Planning  
Scott Sanchez, Zoning Administrator  
Lisa Gibson, Environmental Review Officer  
Joy Navarrete, Environmental Planning  
Laura Lynch, Environmental Planning

1 [Planning Code - Inclusionary Housing Fee]

2  
3 **Ordinance amending the Planning Code to require all projects using the State Density**  
4 **Bonus law, regardless of environmental evaluation application date, to pay the**  
5 **inclusionary fee on any additional units or square footage allowed by the state law; and**  
6 **affirming the Planning Department's determination under the California Environmental**  
7 **Quality Act; making findings of consistency with the General Plan, and the eight**  
8 **priority policies of Planning Code, Section 101.1; and making findings of public**  
9 **convenience, necessity, and welfare under Planning Code, Section 302.**

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  
16 subsections or parts of tables.

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

18 Section 1. Environmental and Land Use Findings.

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

24 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
25 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
2 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board finds that the actions  
4 contemplated in this ordinance will serve the public necessity, convenience, and welfare for  
5 the reasons set forth in Planning Commission Resolution No. \_\_\_\_\_ and the Board  
6 incorporates such reasons herein by reference. A copy of the Planning Commission  
7 Resolution No. \_\_\_\_\_ is on file with the Clerk of the Board of Supervisors in File  
8 No. \_\_\_\_\_.

9  
10 Section 2. Article 4 of the Planning Code is hereby amended by revising Section 415.5  
11 and 415.6, to read as follows:

12  
13 **415.5 AFFORDABLE HOUSING FEE**

14 The fees set forth in this Section 415.5 will be reviewed when the City completes an  
15 Economic Feasibility Study. Except as provided in Section 415.5(g), all development projects  
16 subject to this Program shall be required to pay an Affordable Housing Fee subject to the  
17 following requirements:

18 \* \* \* \*

19 (b) Amount of Fee. The amount of the fee that may be paid by the project sponsor  
20 subject to this Program shall be determined by MOHCD utilizing the following factors:

21 \* \* \* \*

22  
23 (6) The fee shall be imposed on any additional units or square footage  
24 authorized and developed under California Government Code Sections 65915 et seq. *This*  
25

1 ~~subsection 415.5(b)(6) shall not apply to development projects that have submitted a complete~~  
2 ~~Environmental Evaluation application on or before January 1, 2016.~~

3  
4 \* \* \* \*

5 (g) Alternatives to Payment of Affordable Housing Fee.

6 (1) Eligibility: A project sponsor must pay the Affordable Housing Fee unless it  
7 chooses to meet the requirements of the Program through an Alternative provided in this  
8 subsection (g). The project sponsor may choose one of the following Alternatives:

9 (A) Alternative #1: On-Site Units. Project sponsors may elect to construct  
10 units affordable to qualifying households on-site of the principal project pursuant to the  
11 requirements of Section 415.6.

12 (B) Alternative #2: Off-Site Units. Project sponsors may elect to construct  
13 units affordable to qualifying households at an alternative site within the City and County of  
14 San Francisco pursuant to the requirements of Section 415.7.

15 (C) Alternative #3: Small Sites. Qualifying project sponsors may elect to  
16 fund buildings as set forth in Section 415.7-1.

17 (D) Alternative #4: Combination. Project sponsors may elect any  
18 combination of payment of the Affordable Housing Fee as provided in Section 415.5,  
19 construction of on-site units as provided in Section 415.6, or construction of off-site units as  
20 provided in Section 415.7, provided that the project applicant constructs or pays the fee at the  
21 appropriate percentage or fee level required for that option. Development Projects ~~that have~~  
22 ~~submitted a complete Environmental Evaluation application after January 12, 2016~~ that are providing  
23 on-site units under Section 415.6 and that qualify for and receive additional density under  
24 California Government Code Sections 65915 et seq. shall use Alternative #4 to pay the  
25

1 Affordable Housing Fee on any additional units or square footage authorized under Section  
2 65915.

3  
4 \* \* \* \*

5 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

6 If a project sponsor elects to provide on-site units pursuant to Section 415.5(g), the  
7 development project shall meet the following requirements:

8  
9 \* \* \* \*

10 (d) ~~Unless otherwise specified in this Section 415.1 et seq., in~~ In the event the project  
11 sponsor is eligible for and elects to receive additional density under California Government  
12 Code Section 65915, the Sponsor shall pay the Affordable Housing Fee on any additional  
13 units or square footage authorized under that section in accordance with the provisions in  
14 Section 415.5(g)(1)(D).

15  
16 \* \* \* \*


17  
18 Section 3. Effective Date. This ordinance shall become effective 30 days after  
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
20 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
21 of Supervisors overrides the Mayor's veto of the ordinance.

22  
23 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By:   
AUDREY WILLIAMS PEARSON  
Deputy City Attorney

n:\legana\as2018\1900244\01320241.docx

**LEGISLATIVE DIGEST**

[Planning Code - Inclusionary Housing Fee]

**Ordinance amending the Planning Code to require all projects using the State Density Bonus law, regardless of environmental evaluation application date, to pay the inclusionary fee on any additional units or square footage allowed by the state law; and affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

Existing Law

Currently, residential projects of 10 or more units must comply with the Inclusionary Housing Ordinance. Projects may pay a fee, or provide units on-site or off-site. Projects must pay the fee on the entire project, including any additional units or square footage provided under the State Density Bonus Law if the project's environmental evaluation application was filed on or after January 12, 2016.

Amendments to Current Law

This Ordinance would require all projects, regardless of environmental evaluation application date, to pay the fee on the entire project, including additional units or square footage provided under the State Density Bonus Law.

Background Information

Projects that comply with the Inclusionary Housing Ordinance by providing affordable units on-site may also elect to proceed under the State Density Bonus Law, Government Code section 65915. That law requires cities to allow additional density (up to 35%) and other development bonuses if the project includes on-site affordable housing.

n:\legana\as2018\1900244\01319325.docx