

BOARD of SUPERVISORS



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March 6, 2019

**File No. 190214**

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On February 26, 2019, Mayor Breed introduced the following proposed legislation:

**File No. 190214**

**Ordinance amending the Building Code to waive specified fees for 100% affordable housing projects, as defined herein, and accessory dwelling unit projects for an approximately one-year pilot program; and affirming the Planning Department's determination under the California Environmental Quality Act.**

This legislation is being transmitted to you for environmental review.

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

Attachment

c: Joy Navarrete, Environmental Planning  
Laura Lynch, Environmental Planning

1 [Building Code - Fee Waiver for 100% Affordable Housing and Accessory Dwelling Units]

2  
3 **Ordinance amending the Building Code to waive specified fees for 100% affordable**  
4 **housing projects, as defined herein, and accessory dwelling unit projects for an**  
5 **approximately one-year pilot program; and affirming the Planning Department's**  
6 **determination under the California Environmental Quality Act.**

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

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

15 Section 1.

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

21 (b) On \_\_\_\_\_, 2019, at a duly noticed public hearing, the Building  
22 Inspection Commission considered this ordinance in accordance with Charter Section D3.750-  
23 5 and Building Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the  
24 Building Inspection Commission regarding the Commission's recommendation is on file with  
25 the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

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1 Section 2. The San Francisco Building Code is hereby amended by adding Section  
2 107A.15, to read as follows:

3  
4 107A.15 Building Code fee waivers for 100% affordable housing projects and accessory  
5 dwelling unit projects. Notwithstanding any fee provision of the Building Code to the contrary, the  
6 following provisions shall apply to 100% affordable housing projects and accessory dwelling unit  
7 projects.

8 (a) Building inspection fees, plan review fees, records retention fees, and site surcharge fees  
9 shall be waived. For purposes of this subsection (a), building inspection fees do not include electrical  
10 and plumbing fees.

11 (b) For purposes of this Section 107A.15, affordable housing shall mean a multi-family  
12 residential building, including any ancillary commercial space, where 100% of the residential units  
13 (not including a manager's unit) will be subject to a recorded regulatory restriction to ensure  
14 affordability based on income, or where 100% of the residential units (not including a manager's unit)  
15 are funded by a nonprofit charitable organization and will provide permanent housing for homeless or  
16 formerly homeless persons.

17 (c) For purposes of this Section 107A.15, accessory dwelling unit shall have the meaning set  
18 forth in Planning Code Section 102. The applicant for the accessory dwelling unit is eligible for a fee  
19 waiver (or proportionate fee waiver) solely for the establishment or modification of the accessory  
20 dwelling unit and no other work on the applicant's property that is subject to the Building Code.

21 (d) Upon the effective date of the ordinance establishing Section 107A.15, which is on file with  
22 the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, the fee waiver shall apply as of the  
23 date of retroactivity stated in the ordinance establishing this Section.

24 (e) The fee waiver provisions also shall apply to 100% affordable housing projects and  
25 accessory dwelling unit projects that have applied for building permits on or before the date of

1 retroactivity as stated in the ordinance identified in subsection (d) but have yet to receive a final  
2 certificate of occupancy on the date of retroactivity; provided however, that the fee waiver shall apply  
3 only to applicable Building Code fees that have not been paid as of the date of retroactivity. The  
4 Department of Building Inspection shall not refund any fees paid for such projects prior to the date of  
5 retroactivity.

6 (f) Subject to the exception in subsection (g), the fee waiver provisions shall apply for one year  
7 from the effective date of the ordinance on file with the Clerk of the Board of Supervisors in File No.  
8 \_\_\_\_\_ . One year from the effective date of the aforementioned ordinance, this Section  
9 107A.15 shall expire by operation of law, except as stated in subsection (g).

10 (g) Any 100% affordable housing projects and accessory dwelling unit projects that apply for a  
11 building permit on or after the date of retroactivity as stated in the ordinance identified in subsection  
12 (d) are eligible for all applicable fee waivers even if such fees are due after this Section 107A.15  
13 expires as set forth in subsection (f).

14 (h) To the extent the Department is aware that a project qualifies for a fee waiver under this  
15 Section 107A.15, the Department shall inform the applicant about the fee waiver. The Department also  
16 shall post notice of the fee waiver program on its website and at various locations in its offices where  
17 the notice will be visible to applicants.

18  
19 Section 3. Department of Building Inspection Report. Ninety days prior to the  
20 expiration date of Building Code Section 107A.15, the Department of Building Inspection shall  
21 submit a report to the Board of Supervisors and the Building Inspection Commission on the  
22 pilot program for fee waivers for 100% affordable housing projects and accessory dwelling  
23 unit projects. The report shall include, but not be limited to, the number of projects taking  
24 advantage of the fee waiver, the type and location of such projects, the total amount of fees

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1 waived or projected to be waived during the term of the pilot program, and any administrative  
2 impacts associated with the Department's processing of such waivers.

3  
4 Section 4. Effective Date; Retroactivity.

5 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs  
6 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not  
7 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the  
8 Mayor's veto of the ordinance.

9 (b) This ordinance shall be retroactive to February 26, 2019, the date of introduction of  
10 this ordinance. The Board of Supervisors intends that the Department of Building Inspection  
11 exercise administrative discretion to waive the fees that are the subject of this ordinance  
12 during the period before the effective date of this ordinance. Otherwise, in light of this  
13 retroactivity provision, upon the effective date of this ordinance, the Department of Building  
14 Inspection shall be obligated to refund any excess fees collected during that time period.

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

19 By: \_\_\_\_\_  
20 JOHN D. MALAMUT  
21 Deputy City Attorney

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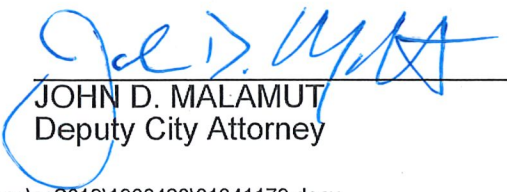
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20 JOHN D. MALAMUT  
21 Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Building Code - Fee Waiver for 100% Affordable Housing and Accessory Dwelling Units]

**Ordinance amending the Building Code to waive specified fees for 100% affordable housing projects, as defined herein, and accessory dwelling unit projects for an approximately one-year pilot program; and affirming the Planning Department's determination under the California Environmental Quality Act.**

Existing Law

The Building Code establishes a variety of fees for building permit applications, inspections, and other actions under the Building Code.

Amendments to Current Law

This ordinance would establish a one-year pilot program to waive certain Building Code fees for 100% affordable housing project and accessory dwelling unit projects, both as defined in the legislation, beginning on February 26, 2019, which is the date of introduction. The fee waiver program would apply to building inspection, plan review, records retention, and site surcharge fees. The legislation would require the Department of Building Inspection to prepare a report on fee waiver pilot program. The ordinance also would make environmental findings.

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