

1 [Planning – C-3 Development Impact Fee.]

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3 **Ordinance amending the Planning Code to require the City Controller to study the**
4 **impacts of new development in the C-3 zoning districts, requiring the Board of**
5 **Supervisors to amend City codes to establish new development impact fees and/or to**
6 **change the amounts of existing fees for development in the C-3 zoning districts,**
7 **depending on the results of the study, and making environmental findings, general**
8 **plan findings, and other required findings.**

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Note: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strikethrough italics Times New Roman*~~.
Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

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Section 1. Findings. The Board of Supervisors of the City and County of San
Francisco incorporates herein the findings set forth in Section 3 below and adopts hereby
adopts said findings.

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Section 2. Environmental Findings, General Plan Findings, and Other Required
Findings.

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

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(b) On _____, 2007, the Planning Commission, in Resolution No.
_____ approved and recommended for adoption by the Board this legislation and
adopted findings that it is consistent, on balance, with the City's General Plan and eight

1 priority policies of Planning Code Section 101.1 The Board adopts these findings as its own.
 2 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.
 3 _____, and is incorporated by reference herein.

4 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that
 5 this legislation will serve the public necessity, convenience, and welfare for the reasons set
 6 forth in Planning Commission Resolution No. _____, and incorporates such
 7 reasons by reference herein.

8 Section 3. The San Francisco Planning Code is hereby amended by adding a new
 9 Section 326 to read as follows:

10 **SEC. 326 C-3 DISTRICT DEVELOPMENT IMPACT FEE AND FUND**

11 *(a) Findings:*

12 *(1) New development in San Francisco's C-3 districts has the potential to significantly*
 13 *increase demand for personnel, infrastructure, amenities, and community facilities in C-3 districts, the*
 14 *surrounding neighborhoods and citywide. In order to efficiently meet this demand it is necessary to*
 15 *accurately identify the impacts of such development and to establish new or update existing funding*
 16 *mechanisms for corresponding improvement measures.*

17 *(2) In order to enable the City to create coherent, attractive, and safe communities in the C-*
 18 *3 district and surrounding areas, and to increase property values and investment in C-3 districts, it is*
 19 *necessary to provide commercial support services, upgrade existing streets and streetscaping, and to*
 20 *acquire and develop neighborhood parks, recreation facilities, child care, and other community*
 21 *services to serve the new population that will occur as a result of the development in C-3 districts.*
 22 *While the development fees already imposed on individual developments start to address minimum*
 23 *needs created by the new development, the existing development impact fees do not adequately address*
 24 *the full range of impacts created by development in C-3 districts.*

1 (3) In order for the City to support development in C-3 districts, it is necessary to identify
2 and update the City's assessment of impacts to commercial support services, open space, street
3 improvements and streetscapes, including bicycle lanes and pedestrian improvements, transit and
4 transit support facilities, recreation and parks, community facilities, libraries, childcare, affordable
5 housing and other City assets that provide for sustainable and resource-sufficient districts.

6 (4) To fund such infrastructure, amenities, and community services, new development in C-3
7 districts shall be assessed a development impact fee proportionate to the increased demand for such
8 infrastructure and amenities created by the new development. The City will use the proceeds of the C-3
9 development impact fee to address new development's impacts both inside and outside the C-3 district.

10 (5) Development impact fees are a practical way to implement improvement measures in
11 areas associated with a particular development proposal's impacts. Furthermore, the infrastructure,
12 amenities, and service improvements funded by impact fees result in direct benefits to those
13 development projects that pay into the development impact fund.

14 (6) In order to ensure that C-3 development impact fees are reasonably related to
15 development impacts and do not constitute an undue or prohibitive economic burden on development in
16 C-3 districts, all such fees must be analyzed and assessed by a C-3 development impact study. The
17 study shall analyze the impacts of new development and establish corresponding, equitable fee levels.
18 In no circumstance shall any impact fee exceed the levels justified by the C-3 development impact
19 study.

20 (b) Definitions

21 (1) "C-3 development impact fee" shall mean the impact fee or fees for development projects
22 in any C-3 district as determined by the C-3 development impact study.

23 (2) "Citywide" shall mean that something is applied, expended, or evaluated throughout the
24 jurisdiction of the City and County of San Francisco without geographic limitation to a particular area
25 or district, using uniform and objective criteria or classifications.

1 (3) "Community facilities" shall mean all uses as defined under Planning Code Section
2 209.4(a).

3 (4) "C-3 development impact study" shall be a study that, at a minimum, does all of the
4 following:

5 (A) Identifies the types of development in C-3 districts that will be subject to the C-3
6 development impact fee including, but not limited to, residential, commercial, institutional, and retail
7 development;

8 (B) Identifies the impacts, including the physical impacts, of such types of
9 development that warrant an impact fee;

10 (C) Identifies the geographical scope of the impacts including impacts to the C-3
11 District, impacts to areas surrounding the C-3 District, and City-wide impacts;

12 (D) Identifies the purposes of the C-3 development impact fee and the use to which
13 the fee will be put;

14 (E) Develops a methodology for establishing the cost of mitigating the identified
15 impacts;

16 (F) Demonstrates a reasonable relationship in nature and amount between the
17 impact that the type of development will cause and the mitigation measures that the C-3 development
18 impact fee proceeds will enable the City to implement, using standard methodology;

19 (G) Demonstrates a reasonable relationship between the C-3 development impact
20 fee's use and the type of development project on which the fee is to be imposed;

21 (H) Develops a methodology for fairly allocating the cost of the mitigation among a
22 reasonably broad class of development projects that will be subject to the C-3 development impact fee,
23 using a unit of measurement for which reasonably reliable data is available to the City (e.g. square
24 footage, number of dwelling units, etc.);

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1 (I) Demonstrates that each type of fee payer will be required to pay no more than
2 its proportionate share resulting from the impact it creates;

3 (J) Demonstrates that the C-3 development impact fee finances the costs of only the
4 incremental impacts caused by proposed new development;

5 (K) Demonstrates that there is no duplication between the proposed fee and any
6 existing fees or, where there is duplication, incorporates existing fees into the C-3 development impact
7 fee; and

8 (L) Evaluates the impact of the proposed C-3 development impact fee on the
9 financial feasibility of affected projects taking into account all existing City fees and exactions,
10 demonstrating that private development is still financially feasible after taking into account the
11 proposed fee and existing fees; and identifying the level at which, if any, the impact fee would
12 discourage development of the type or types subject to the proposed fee and existing fees; and

13 (M) Documents the above elements in a written impact study to demonstrate the
14 derivation of the proposed C-3 development impact fee.

15 (c) Within sixty (60) days of the effective date of this initiative, the City Controller's Office
16 shall undertake all actions necessary to contract with an independent firm to conduct the C-3
17 development impact study. The study shall meet the requirements set forth above and, at a minimum,
18 shall contain an analysis of the impacts of development in all C-3 zoning districts, including but not
19 limited to the following kinds of potential impacts: (1) the demand for commercial support services,
20 including small business support, job training and placement services for employees, which services
21 will be necessary to support development in the C-3 zoning districts, (2) open space, (3) streetscapes,
22 including bicycle lanes and pedestrian improvements, (4) community facilities, (5) childcare, (6) fire
23 protection services, (7) affordable housing, (8) transit, (9) transit support facilities, (10) traffic, (11)
24 wastewater, (12) libraries, (13) recreation and parks, and (14) climate change, including but not
25 limited to greenhouse gas emissions. The C-3 development impact study shall identify impacts within

1 the C-3 zoning district, citywide impacts and impacts on the surrounding neighborhoods. The C-3
2 development impact study shall also examine whether there are any other impacts from the
3 development and explain the nature and amount of those impacts. The C-3 development impact study
4 should utilize data and findings from existing City impact studies where appropriate, including but not
5 limited to the 2007 City-Wide Development Impact Fee Study, and any other updated studies of existing
6 City fees applicable in the C-3 zoning districts. The Planning Department, the City Attorney, the
7 Mayor's Office of Housing, the Mayor's Office of Economic and Workforce Development, the Mayor's
8 Office of Community Development and any other City departments requested by the Controller shall
9 assist in undertaking and directing the C-3 development impact study.

10 (d) Within thirty (30) days following the Controller's presentation of the C-3 development
11 impact study, the Board of Supervisors shall commence action to amend City codes to (1) change the
12 amount of existing impact fees, if necessary, and (2) impose the new C-3 development impact fee or fees
13 consistent with the findings of the C-3 development impact study.

14 (e) If the C-3 development impact study has not been presented to the Board of Supervisors
15 within twenty-four (24) months of the effective date of this initiative ordinance, the City shall not issue
16 any building or site permit for any development in any C-3 zoning district until the C-3 development
17 impact study is complete.

18 (f) Upon adoption by the Board of Supervisors of the C-3 development impact fee, such fee
19 shall be due and payable to the Treasurer prior to issuance of the first certificate of occupancy or
20 certificate of final completion for a development project. The C-3 development impact fee shall apply
21 to all development in a C-3 district that has not obtained its first site or building permit as of the
22 effective date of the Board of Supervisors' adoption of the C-3 development impact fee ordinances.

23 (g) Establishment of a Fund or Special Account.

24 (1) Fund or Special Account: All C-3 development impact fees shall be collected by the
25 Treasurer and shall be deposited in a special fund or special account maintained by the Controller

1 ("Fund"). The receipts in the Fund collected under this Section, subject to the budgetary and fiscal
2 provisions of the Charter, are to be used solely as provided in subsection (2) below. The Controller
3 shall separately account for the receipts in the Fund.

4 (2) Authorized Uses: The City departments authorized to expend monies from the Fund
5 may expend monies from the Fund only to the extent necessary to address impacts of development
6 identified and supported in the C-3 development impact study and to reimburse the City for the
7 administrative costs associated with preparing the C-3 development impact study.

8 (h) The Controller's Office shall file an annual report with the Board of Supervisors beginning
9 one year after the effective date of the ordinances implementing the C-3 development impact fee, which
10 report shall set forth the amount of money collected in the Fund and the purposes for which it has been
11 spent.

12 (i) This ordinance is not intended to preclude the Board of Supervisors from adopting other
13 development impact fees for the C-3 zoning districts or any other zoning district.

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

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18 By: _____
19 Andrew W. Garth
20 Deputy City Attorney