File	No.	190214

Committee Iter	n No.	4	
<b>Board Item No</b>	*	17	

## **COMMITTEE/BOARD OF SUPERVISORS**

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[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.

NOTE: Unchanged Code text and uncodified text are in plain Arial font.

Additions to Codes are in <u>single-underline italics Times New Roman font</u>.

Deletions to Codes are in <u>strikethrough italics Times New Roman font</u>.

Board amendment additions are in <u>double-underlined Arial font</u>.

Board amendment deletions are in <u>strikethrough Arial font</u>.

Asterisks (\* \* \* \*) indicate the omission of unchanged Code subsections or parts of tables.

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

#### Section 1.

- (a) The Planning Department has determined that the actions contemplated in this ordinance comply 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. 190214 and is incorporated herein by reference. The Board affirms this determination.
- (b) On March 20, 2019, at a duly noticed public hearing, the Building Inspection Commission considered this ordinance in accordance with Charter Section D3.750-5 and Building Code Section 104A.2.11.1.1. A copy of a letter from the Secretary of the Building Inspection Commission regarding the Commission's recommendation is on file with the Clerk of the Board of Supervisors in File No. 190214.

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

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

- (a) Building inspection fees, plan review fees, records retention fees, and site surcharge fees shall be waived. For purposes of this subsection (a), building inspection fees do not include electrical and plumbing fees.
- (b) For purposes of this Section 107A.15, affordable housing shall mean a multi-family residential building, including any ancillary commercial space, where 100% of the residential units (not including a manager's unit) will be subject to a recorded regulatory restriction to ensure affordability based on income, or where 100% of the residential units (not including a manager's unit) are funded by a nonprofit charitable organization and will provide permanent housing for homeless or formerly homeless persons.
- (c) For purposes of this Section 107A.15, accessory dwelling unit shall have the meaning set forth in Planning Code Section 102. The applicant for the accessory dwelling unit is eligible for a fee waiver (or proportionate fee waiver) solely for the establishment or modification of the accessory dwelling unit and no other work on the applicant's property that is subject to the Building Code.
- (d) Upon the effective date of the ordinance establishing Section 107A.15, which is on file with the Clerk of the Board of Supervisors in File No. 190214, the fee waiver shall apply as of the date of retroactivity stated in the ordinance establishing this Section.
- (e) The fee waiver provisions also shall apply to 100% affordable housing projects and accessory dwelling unit projects that have applied for building permits on or before the date of

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

(f) Subject to the exception in subsection (g), the fee waiver provisions shall apply for one year from the effective date of the ordinance on file with the Clerk of the Board of Supervisors in File

No. 190214. One year from the effective date of the aforementioned ordinance, this Section 107A.15

shall expire by operation of law, except as stated in subsection (g).

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

(h) To the extent the Department is aware that a project qualifies for a fee waiver under this

Section 107A.15, the Department shall inform the applicant about the fee waiver. The Department also

shall post notice of the fee waiver program on its website and at various locations in its offices where
the notice will be visible to applicants.

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

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

Section 4. Effective Date; Retroactivity.

- (a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.
- (b) This ordinance shall be retroactive to February 26, 2019, the date of introduction of this ordinance. The Board of Supervisors intends that the Department of Building Inspection exercise administrative discretion to waive the fees that are the subject of this ordinance during the period before the effective date of this ordinance. Otherwise, in light of this retroactivity provision, upon the effective date of this ordinance, the Department of Building Inspection shall be obligated to refund any excess fees collected during that time period.

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:

JOHN D. MALAMUT/ 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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Item 4	Department:
File 19-0214	Mayor's Office

#### **EXECUTIVE SUMMARY**

#### Legislative Objectives

- The proposed ordinance would amend San Francisco's Building Code to waive specified fees for 100 percent affordable housing projects and accessory dwelling unit (ADU) projects for an approximately one-year pilot program.
- The specific fees to be waived are: building inspection fees (excluding electrical and plumbing fees); plan review fees; records retention fees; and site surcharge fees. All fees included in the proposed waiver are assessed by the Department of Building Inspection.

#### **Key Points**

- DBI assesses building inspection fees, plan review fees, records retention fees, and site surcharge fees to recover the costs to the Department of monitoring permitted projects. Waiving these fees would prevent the Department from recovering those costs.
- An accessory dwelling unit (ADU), also known as an in-law unit, granny flat, or secondary unit, is a residential unit that is added to an existing housing lot.

#### Fiscal Impact

- According to DBI, for a typical ADU project the average dollar value of these fees is \$3,200. For affordable housing projects, fees average \$150,000 for new construction and \$15,000 for "small site" small/alteration projects.
- Using these numbers, we estimate that the proposed ordinance will cause a reduction in DBI permit fee revenue of approximately \$2 million.
- The reduction in permit fee revenue will likely be spread over several fiscal years due to the timing of the pilot program and depending upon the length of each project's permit application process.
- If the number of ADU and affordable housing projects increases, either as a result of the fee waiver program or other external factors, the fee revenue loss will be higher.

#### **Policy Consideration**

 The use of a pilot program would allow the Board of Supervisors to assess the impacts of the pilot program, including any increases in ADU and affordable housing construction, and the actual revenue reduction at DBI.

#### Recommendation

Approval of the proposed ordinance is a policy decision for the Board of Supervisors.

#### **MANDATE STATEMENT**

Charter Section 2.105 states that the Board of Supervisors shall act only by written ordinance or resolution.

#### **BACKGROUND**

An accessory dwelling unit (ADU), also known as an in-law unit, granny flat, or secondary unit, is a residential unit that is added to an existing housing lot. ADUs may be constructed within the existing building, as an extension to the existing building, or as a separate structure, and are typically developed using underutilized spaces within lots, such as garages, storage areas, rear yards, or attics. ADUs are independent living units with their own kitchens, bathrooms, and living areas. Ordinance 162-16 (File 16-0657), adopted by the Board of Supervisors on July 26, 2016, amended San Francisco's Planning Code to allow the construction of ADUs on all lots in the City that allow for residential use.

City departments such as the Department of Building Inspection (DBI), the Planning Department, and the Fire Department, among others, assess fees on construction projects in San Francisco, including ADU projects and affordable housing projects. Types of fees assessed include 1) permit fees, which are fees imposed by a Department to compensate for the cost of reviewing applications, issuing permits, and inspecting permitted work; 2) service fees or charges, such as water and wastewater capacity charges, record retention fees, and other fees or charges; and 3) development impact fees, which are fees imposed on development projects to mitigate the impacts on public services, infrastructure, and facilities. These fees are paid by the property owner or developer on top of the cost of the construction project itself.

#### **DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance would amend San Francisco's Building Code to waive specified fees for 100 percent affordable housing projects and ADU projects for an approximately one-year pilot program. The specific fees to be waived are: building inspection fees (excluding electrical and plumbing fees); plan review fees; records retention fees; and site surcharge fees. All fees included in the proposed waiver are assessed by DBI.

The proposed ordinance defines "100 percent affordable housing" as a multi-family residential building, including any ancillary commercial space, where either:

- 100 percent of the residential units, excluding a manager's unit, are subject to a recorded regulatory restriction to ensure affordability based on income; or
- 100 percent of the residential units, excluding a manager's unit, are funded by a nonprofit charitable organization and will provide permanent housing for homeless or formerly homeless people.

The proposed ordinance would become effective 30 days after enactment and would be retroactive to February 26, 2019, when the proposed ordinance was introduced. The fee waiver provisions would apply for one year from the effective date of the ordinance. The proposed

ordinance would also require DBI to submit a report to the Board of Supervisors three months before the expiration of the fee waiver program. The report would include the number of projects that have taken advantage of the fee waiver, the type and location of the projects, the total amount of fees waived or projected to be waived during the pilot program, and any administrative impacts associated with the fee waiver program.

According to the Planning Department, the proposed ordinance is not defined as a project under the California Environmental Quality Act (CEQA) because it would not result in a direct or indirect physical change in the environment.

#### FISCAL IMPACT

DBI assesses building inspection fees, plan review fees, records retention fees, and site surcharge fees to recover the costs to the Department of monitoring permitted projects. Waiving these fees would prevent the Department from recovering those costs.

According to DBI, for a typical ADU project the average dollar value of these fees is \$3,200. For affordable housing projects, fees average \$150,000 for new construction and \$15,000 for "small site" small/alteration projects. Using these numbers, Exhibit 1 below summarizes our estimate of the fiscal impact of the proposed one-year fee waiver program. In total, the proposed ordinance will cause a reduction in DBI permit fee revenue of approximately \$2 million. The reduction in permit fee revenue will likely be spread over several fiscal years due to the timing of the pilot program and depending upon the length of each project's permit application process.

The estimates for each project type are discussed in more detail below. If the number of ADU and affordable housing projects increases, either as a result of the fee waiver program or other external factors, the fee revenue loss will be higher.

Exhibit 1: Estimation of fiscal impact of one-year fee waiver program

	Average fee per project*	Projects during one-year pilot	Total cost
Accessory dwelling unit	\$3,200	200	\$640,000
Affordable housing new construction	\$150,000	. 6	900,000
HOPE SF-Sunnydale, Block 6	\$150,000+	1	150,000+
Affordable housing alteration/small construction	\$15,000	18	270,000
Total cost – all projects			\$1,960,000+

<sup>\*</sup>Only fees specified in the proposed ordinance

We estimate that approximately 200 ADU projects would be subject to a one-year fee waiver program, based on the 92 ADU project permits issued for the first six months of FY 2018-19 (if total permits issued in FY 2018-19 are 184, or two times the permits issued in the first six months of the fiscal year).

The Mayor's Office of Housing and Community Development (MOHCD) projects that there will be six 100 percent affordable housing projects during FY 2019-20 that would be subject to a one-year fee waiver program. MOHCD also believes that the HOPE SF-Sunnydale, Block 6

project will likely be subject to this fee waiver, and that the fees waived for this project will likely be higher than DBI's average estimate of \$150,000 in fees due to its size.

MOHCD has estimated that 17 to 18 "small site" projects would be subject to this fee waiver during FY 2019-20: 15 known small sites that are expected to be assessed DBI fees in FY 2019-20, as well as 2-3 potential new projects that MOHCD staff believe may be created in FY 2019-20 due to new Educational Revenue Augmentation Fund (ERAF) funding.

#### POLICY CONSIDERATION

The use of a pilot program and the Department of Building Inspection's report to the Board of Supervisors would allow the Board to assess the impacts of the pilot program, including any increases in ADU and affordable housing construction, and the actual revenue reduction at DBI.

#### RECOMMENDATION

Approval of the proposed ordinance is a policy decision for the Board of Supervisors.

**BUILDING INSPECTION COMMISSION (BIC)** 

Department of Building Inspection Voice (415) 558-6164 - Fax (415) 558-6509 1660 Mission Street, San Francisco, California 94103-2414

London N. Breed Mayor

COMMISSION

Angus McCarthy President

Debra Walker Vice President

Kevin Clinch John Konstin Frank Lee Sam Moss James Warshell

Sonya Harris Secretary

Shirley Wong Assistant Secretary

Tom C. Hui S.E., C.B.O., Director Ms. Angela Calvillo Clerk of the Board Board of Supervisors, City Hall

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102-4694

Dear Ms. Calvillo:

March 21, 2019

RE: 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 amendment was heard at the Code Advisory Committee (CAC) meeting on March 13, 2019. The CAC recommended the adoption of ordinance File No. 190214 as written with the added conditions that all fees be waived including but not limited to Planning Department, Fire Department, Mayor's Office on Disability, and the Public Utilities Commission so the project sponsors are not mislead as to what the fee waiver entails. The CAC also requested a provision be added that the fee waiver would not apply to Accessory Dwelling Units created in existing multi-family dwellings unless they are 100% affordable units.

The Building Inspection Commission met and held a public hearing on March 20, 2019 regarding the proposed amendment to the San Francisco Building Code referenced above. The Commissioners voted unanimously to **recommend approval** of the proposed Ordinance.

Commissioners also discussed the following items:

- 1) Commissioners did not necessarily agree with all of the CAC's comments, but they did agree that project sponsors shouldn't be mislead and think that all fees are waived, when it's really only DBI fees.
- 2) Several Commissioners expressed that they thought fee deferrals for all Departments may be a more effective way to assist with building 100% affordable housing projects.
- 3) There was concern that fee waivers at DBI may negatively affect the budget,

- and Commissioners don't want staff to potentially be faced with layoffs down the road.
- 4) Commissioners were in support of the legislation, but were happy to hear that after a year there would be an analysis done regarding the success of the pilot-program.

President McCarthy	Yes	Vice-President Walker	Yes
Commissioner Clinch	Yes	Commissioner Konstin	Yes
Commissioner Lee	Yes	Commissioner Moss	Yes
Commissioner Warshell	Vac	•	

Should you have any questions, please do not hesitate to call me at 558-6164.

Sincerely,

Sonya Harris

Commission Secretary

Sophas

cc: Tom C. Hui, S.E., C.B.O., Director Mayor London N. Breed Supervisor Vallie Brown Supervisor Gordon Mar Board of Supervisors

#### **BOARD of SUPERVISORS**



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

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

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

Attachment

C: Laura Lynch, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not Joy Navarrete, Environmental Planning result in a direct or indirect physical change in the environment. It is a temporary fee waiver.

> Joy. Navarrete -- US -- C-- US -- US

Digitally signed by Joy Navarrete DN: cn=Joy Navarrete, o=Planning, ou=Environmental Planning, email=joy.navarrete@sfgov.org,

#### BOARD of SUPERVISORS



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

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

By: Erica Major, Assistant Clerk

Land Use and Transportation Committee

#### Attachment

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

#### 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

### MEMORANDUM

TO:

Tom Hui, Director, Department of Building Inspection

Sonya Harris, Secretary, Building Inspection Commission

FROM:

Erica Major, Assistant Clerk

Land Use and Transportation Committee

DATE:

March 6, 2019

SUBJECT:

LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Mayor Breed on February 26, 2019:

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.

The proposed ordinance is being transmitted pursuant to Charter, Section D3.750-5, for public hearing and recommendation. It is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Please forward me the Commission's recommendation and reports at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: <a href="mailto:Erica.Major@sfgov.org"><u>Erica.Major@sfgov.org</u></a>.

c: William Strawn, Department of Building Inspection Carolyn Jayin, Department of Building Inspection

GA ink, Dep. City Atty

## President, District 7 BOARD of SUPERVISORS



# City Hall 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, CA 94102-4689

Tel. No. 554-6516 Fax No. 554-7674 TDD/TTY No. 544-6546

#### Norman Yee

	α.		CC:
PRESIDENTIAL ACTION		C. 5. 5.	5 E
Date: 3/25/2019	and the state of t	, E	Service Control
To: Angela Calvillo, Clerk of the Board of Supervisors	المراجع		
Madam Clerk, Pursuant to Board Rules, I am hereby:		00 00 00	
☐ Waiving 30-Day Rule (Board Rule No. 3.23)	1		`
File No.	•		
(Primary Sponsor) Title.		*	
☐ Transferring (Board Rule No 3.3)			
File No. 190214 Mayor			,
Title. Building Code - Fee Waiver for 100% Affordable Ho Accessory Dwelling Units	using and	1	#14 8.8
From: Land Use & Transportation	Commi	ttee	
To: Government Audit & Oversight	Commi		
☐ Assigning Temporary Committee Appointment (Board Rule No. 3.1)			
Supervisor			
Replacing Supervisor			
For:		Mee	eting
(Date) (Committee)  Norman Yee Presiden			-

Norman Yee, President Board of Supervisors

1029

## Office of the Mayor san francisco



#### LONDON N. BREED MAYOR

TO:

Angela Calvillo, Clerk of the Board of Supervisors

FROM:

Kanishka Karunaratne Cheng 64

RE:

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

Dwelling Units]

DATE:

February 26, 2019

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

Please note that Supervisors Brown and Mar are co-sponsors of this legislation.

Should you have any questions, please contact Kanishka Karunaratne Cheng at 415-554-6696.

