



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JUNE 13, 2019
90-DAY DEADLINE: AUGUST 5, 2019

Project Name: North of Market Affordable Housing Fund
Case Number: 2019-006418PCA [Board File No. 190458]
Initiated by: Mayor Breed / Introduced April 30, 2019
Staff Contact: Veronica Flores, Legislative Affairs
Veronica.Flores@sfgov.org, 415-575-9173
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code and the Administrative Code to abolish the North of Market Affordable Housing Fund and instead have certain fees collected in conjunction with North of Market affordable housing deposited in the Citywide Affordable Housing Fund.

The Way It Is Now:

1. North of Market Affordable Housing Fees are deposited into the North of Market Affordable Housing Fund. The collected fees are earmarked to stabilize, rehabilitate, and retain affordable housing the North of Market Residential Special Use District (SUD).
2. The Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee is established per Planning Code Section 417, but not listed under the Citywide Affordable Housing Fund in the Administrative Code.

The Way It Would Be:

1. The North of Market Affordable Housing Fund would be abolished. The North of Market Affordable Housing Fee would instead be deposited into and administered by the Citywide Affordable Housing Fund. The fees would still be allocated towards the same purpose.
2. The Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee would be deposited into and administered by the Citywide Affordable Housing Fund.

BACKGROUND

The North of Market Residential Special Use District (SUD) was established in response to the 1985 Downtown Plan's concerns regarding preserving affordable housing surrounding downtown. The SUD established the North of Market Affordable Housing Fund, which set aside money to stabilize, rehabilitate, and retain affordable housing in the North of Market Residential SUD. This Ordinance will

abolish the North of Market Affordable Housing Fund and deposit all the collected North of Market Fees into the Citywide Affordable Housing Fund in the Administrative Code. This code clean-up is to make the collection of North of Market Fees consistent with all other affordable housing fees.

ISSUES AND CONSIDERATIONS

Preserving Affordable Housing

The 1985 Downtown Plan identified areas surrounding downtown, where housing was most at risk of being demolished or converted to non-residential uses. North of Market/Tenderloin was one of these identified locations. The Downtown Plan called for a rezoning of North of Market/Tenderloin area to protect existing housing from encroachment by hotels and office buildings. This resulted in the North of Market Residential Special Use District (SUD) (see Figure A). The SUD requires Conditional Use Authorization for any proposed buildings taller than 80 feet to provide a transition between the higher downtown heights to the surrounding residential neighborhoods. It was anticipated that any buildings greater than 80 feet in height would create pressures on the existing affordable housing stock.

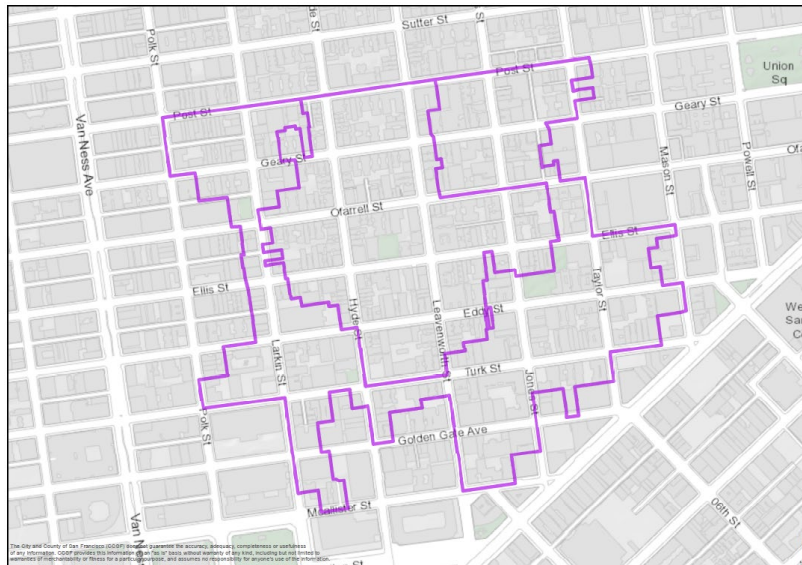


Figure A: North of Market Residential Special Use District boundaries

To relieve some of these pressures, the North of Market Residential SUD requires an affordable housing fee for any square footage greater than 80 feet tall. The collected funds are deposited into the North of Market Affordable Housing Fund and dedicated towards stabilizing, rehabilitating, and retaining affordable housing in the North of Market Residential SUD. The purpose of the fees remains the same; the Ordinance seeks to include this fee in the Citywide Affordable Housing Fund alongside all other affordable housing fees.

Annual Infrastructure Construction Cost Inflation Estimate

The original fee, established in 1985, was \$5 per square foot for square footage above 80 feet; however, this figure does not reflect today's economy or factor in any inflation since the original fee inception.

The Office of Resilience and Capital Planning (ORCP) forecasts the Annual Infrastructure Construction Cost Inflation Estimate (AICCIE) using inflation data, market trend analyses, employment data, and a variety of national, state, and local commercial and institutional construction cost inflation. This figure informs the way ORCP calculates and indexes impact fees. ORCP’s research shows that the AICCIE has steadily increased each year since 2011 (see Figure B), even during some economic downturn. The Mayor’s Office of Housing and Community Development (MOHCD), the agency that administers the North of Market Affordable Housing Fund and all other affordable housing fees, would index the North of Market Affordable Housing Fee based on ORCP’s AICCIE figures, which are available from 2011 moving forward. For the years prior beginning in 1986 until 2010, the fee would be indexed 5% a year, which is ORCP’s estimated average historical AICCIE. This approach uses more precise figures using the available data from ORCP.

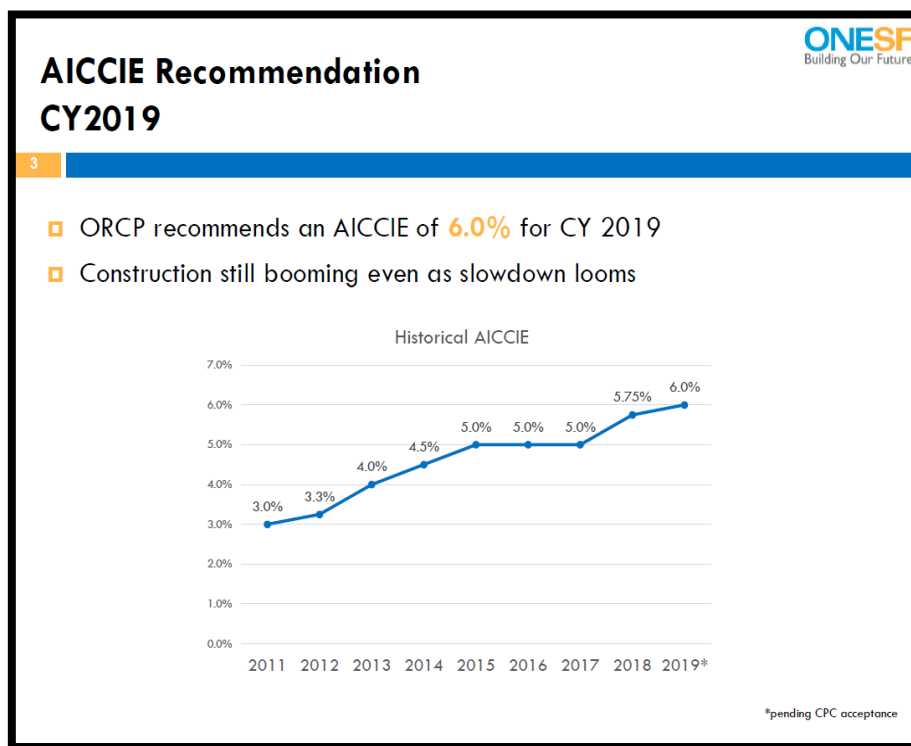


Figure B: Office of Resilience and Capital Planning Data on Annual Infrastructure Construction Cost Inflation Estimate

General Plan Compliance

The Downtown Plan identifies the North of Market Residential Special Use District (SUD) as one of the surrounding downtown locations where existing housing should be protected. The Ordinance relates to the North of Market Affordable Housing Fee that stabilizes, rehabilitates, and retains affordable housing in the SUD. The only change is that the collected fees will be deposited into and administered by the Citywide Affordable Housing Fund. The North of Market Affordable Housing Fees within the Citywide Affordable Housing Fund will still be earmarked for the North of Market Residential SUD. The Ordinance supports the preservation of existing housing by retaining the North of Market Affordable Housing Fee.

Racial and Social Equity Analysis

The Department determined that this Ordinance does not present any new burdens to developers or applicants. The North of Market Affordable Housing Fee is an existing fee that helps the City meet its affordable housing goals, and this Ordinance will simply move it from one fund to another.

Implementation

The Department has determined that this Ordinance will not impact our current implementation procedures.

RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendation is as follows:

1. Increase the North of Market Housing Fee from \$5.00 per square foot to \$25.41 per square foot.

BASIS FOR RECOMMENDATION

The Department supports the proposed Ordinance because it supports the Housing Element's goals to preserve and retain affordable housing for current and future San Franciscans. Additionally, the Ordinance specifically supports the North of Market Residential SUD's goals to preserve and retain affordable housing in the SUD. The Ordinance will move the North of Market Housing Fees into the Citywide Affordable Housing Fund and still be dedicated towards the same purposes.

Recommendation 1: Increase the North of Market Housing Fee from \$5.00 per square foot to \$25.41 per square foot.

The original \$5 fee per square foot above 80 feet was established in 1985. Staff recommends updating the fee because this has not been assessed since its original introduction. MOHCD would index the fee based on ORCP's AICCIE figures from 2011 moving forward. For the years prior beginning in 1986 until 2010, the fee would be indexed 5% a year, which is ORCP's estimated the average historical AICCIE. This approach results in a new fee to \$25.41 per square foot.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

Attachments:

- Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 190458



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution HEARING DATE JUNE 13, 2019

Project Name: North of Market Affordable Housing Fund
Case Number: 2019-006418PCA [Board File No. 190458]
Initiated by: Mayor Breed / Introduced April 30, 2019
Staff Contact: Veronica Flores, Legislative Affairs
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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE AND THE ADMINISTRATIVE CODE TO ABOLISH THE NORTH OF MARKET AFFORDABLE HOUSING FUND AND HAVE CERTAIN FEES COLLECTED IN CONJUNCTION WITH NORTH OF MARKET AFFORDABLE HOUSING DEPOSITED IN THE CITYWIDE AFFORDABLE HOUSING FUND; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1, AND FINDINGS OF PUBLIC CONVENIENCE, NECESSITY, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on April 30, 2019 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 190458, which would amend the Planning Code and the Administrative Code to abolish the North of Market Affordable Housing Fund and have certain fees collected in conjunction with North of Market affordable housing deposited in the Citywide Affordable Housing Fund;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 13, 2019; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds the Ordinance supports the Housing Element's goal to ensure preserve and retain and retain affordable housing for current and future San Franciscans.
2. The Commission finds the Ordinance supports the North of Market Residential Special Use District's (SUD) goals to preserve and retain affordable housing in the SUD.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

DOWNTOWN PLAN

OBJECTIVE: SPACE FOR HOUSING

Policy 7

Expand the supply of housing in and adjacent to downtown.

Policy 8

Protect residential uses in and adjacent to downtown from encroachment by commercial uses.

The Downtown Plan identifies the North of Market Residential Special Use District (SUD) as one of the surrounding downtown locations where existing housing should be protected. The Ordinance relates to the North of Market Affordable Housing Fee that will stabilize, rehabilitate, and retain affordable housing in the SUD.

HOUSING ELEMENT

OBJECTIVE 2

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.4

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

The Ordinance retains the North of Market Affordable Housing Fee. The only change is that the collected fees will be deposited into and administered by the Citywide Affordable Housing Fund.

OBJECTIVE 3

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.1

Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

Policy 3.5

Retain permanently affordable residential hotels and single room occupancy (SRO) units.

The Ordinance retains the North of Market Affordable Housing Fee. The only change is that the collected fees will be deposited into and administered by the Citywide Affordable Housing Fund. The funds may be used to rehabilitate SRO units, which are predominant in the Tenderloin area.

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Policy 7.1

Expand the financial resources available for permanently affordable housing, especially permanent sources.

Policy 7.6

Acquire and rehabilitate existing housing to maximize effective use of affordable housing resources.

The Ordinance retains the North of Market Affordable Housing Fee. The only change is that the collected fees will be deposited into and administered by the Citywide Affordable Housing Fund.

OBJECTIVE 8

BUILD PUBLIC AND PRIVATE SECTOR CAPACITY TO SUPPORT, FACILITATE, PROVIDE AND MAINTAIN AFFORDABLE HOUSING.

Policy 8.1

Support the production and management of permanently affordable housing.

The Ordinance retains the North of Market Affordable Housing Fee. The only change is that the collected fees will be deposited into and administered by the Citywide Affordable Housing Fund.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character. The Ordinance will help preserve the existing housing stock in the North of Market Residential Special Use District.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing. The Ordinance will help preserve and rehabilitate existing affordable housing in the North of Market Residential Special Use District.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

5. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 13, 2019.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: June 13, 2019

1 [Planning, Administrative Codes - North of Market Affordable Housing Fees and Citywide
2 Affordable Housing Fund]

3 **Ordinance amending the Planning Code and the Administrative Code to abolish the**
4 **North of Market Affordable Housing Fund and have certain fees collected in**
5 **conjunction with North of Market affordable housing deposited in the Citywide**
6 **Affordable Housing Fund; and making findings of consistency with the General Plan,**
7 **and the eight priority policies of Planning Code, Section 101.1, and findings of public**
8 **convenience, necessity, and welfare under Planning Code, Section 302.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 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) On _____, the Planning Commission, in Resolution No. _____,
19 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
20 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
21 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
22 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

23 (b) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
24 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in
25 Planning Commission Resolution No. _____, and incorporates such reasons by this
reference thereto. A copy of said resolution is on file with the Clerk of the Board of
Supervisors in File No. _____.

1 Section 2. Article 2 of the Planning Code is hereby amended by revising Section
2 263.7, to read as follows:

3 **SEC. 263.7. SPECIAL HEIGHT EXCEPTIONS: NORTH OF MARKET RESIDENTIAL**
4 **SPECIAL USE DISTRICT.**

5 * * * *

6 (d) **Conditions.** The ~~City~~ Planning Commission shall impose conditions on the
7 approval of applications for conditional use authorization, required pursuant to Section 253 for
8 buildings which exceed 40 feet in height in an R District, if such authorization includes a grant
9 of an exception to the 80-foot base height limit, in order to mitigate the impact that such height
10 exception is likely to have on the existing supply of affordable housing in the area. The
11 condition shall require that the applicant pay a fee to the ~~City~~ Controller which shall be
12 deposited in the Citywide North of Market Affordable Housing Fund established in Administrative
13 Code Section 10.100-49 (the "Fund").

14 (e) **Fee.** The fee required pursuant to ~~S~~ subsection (d) above shall be equal to the sum
15 of \$5 times the total gross square footage of floor space located above 80 feet in height as
16 determined by the Zoning Administrator, as shown on the building plans. The fee shall be due
17 and payable prior to the issuance of a temporary certificate of occupancy, unless the project
18 sponsor agrees to and qualifies for participation in an amortized payment program, to be
19 established by the Director of the Mayor's Office of Housing and Community Economic
20 Development (MOHCED) and the Director of City Planning, such program to be subject to
21 subsequent review and approval by the City Planning Commission and the Board of
22 Supervisors, which program would result in the City receiving an amount equivalent to the
23 value of the contribution at the time the temporary certificate of occupancy is issued.

24 * * * *

25 ///

1 (g) **North of Market Citywide Affordable Housing Fund.** ~~There is hereby established a~~
2 ~~separate fund set aside for a special purpose called the "North of Market Affordable Housing Fund~~
3 ~~('Fund')."~~ All fees monies collected by the Controller pursuant to this Section 263.7 shall be
4 deposited in the Fund, but the fees shall be separately accounted for and expended by MOHCD as
5 provided in this Section. All ~~monies fees collected under this Section and~~ deposited in the Fund shall
6 be used solely to stabilize, rehabilitate, and retain affordable housing in the North of Market
7 Residential Special Use District. No fees collected under this Section ~~portion of the Fund~~ may be
8 used, by way of loan or otherwise, to pay any administrative, general overhead, or similar
9 expense of any entity except for servicing cost related to participation in the amortized
10 payment program. ~~The Fund shall be administered by the Director of the Mayor's Office of Housing~~
11 ~~and Economic Community Development (MOHECD).~~

12 (h) **Rules and Regulations for Implementation.** The Director of MOHCED and the
13 Director of City Planning shall prepare and submit to the ~~City~~ Planning Commission and the
14 Board of Supervisors for review and approval such rules and regulations as may be
15 necessary for the implementation of this Section. The Director of MOHCED and the Director of
16 City Planning shall further propose such amendments or additions to the rules and regulations
17 that he or she determines to be necessary. Such amendments and additions shall include
18 periodic revision of the fee to reflect current conditions.

19 Section 3. Chapter 10 of the Administrative Code is hereby amended by revising
20 Section 10.100-49, to read as follows:

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

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

25 (1) The North of Market Residential Special Use District, Planning Code Section 263.7;

1 ~~(1)~~(2) The Jobs Housing Linkage Program, Planning Code Section 413 et seq.;
2 ~~(2)~~(3) The Inclusionary Affordable Housing Program, Planning Code Section 415
3 et seq.;

4 ~~(3)~~(4) The Market and Octavia Affordable Housing Program, Planning Code
5 Section 416.5;

6 ~~(5)~~ The Eastern Neighborhoods Area Plan Alternate Affordable Housing Fee, Planning
7 Code Section 417.5;

8 ~~(4)~~(6) The Eastern Neighborhoods Housing Fund, Planning Code Section 423.5;

9 ~~(5)~~(7) The Expedited Condominium Conversion Program, Subdivision Code
10 Section 1396.4; and,

11 ~~(6)~~(8) Repayments of loans and other program income associated with
12 investments initially made with monies from the fund.

13 * * * *

14 Section 4. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor’s veto of the ordinance.

18 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
22 additions, and Board amendment deletions in accordance with the “Note” that appears under

23 ///

24 ///

25 ///

1 the official title of the ordinance.

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

4

5 By: _____
6 KEITH NAGAYAMA
7 Deputy City Attorney
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