



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JULY 19, 2018

90-DAY DEADLINE: AUGUST 30, 2018

Project Name: Fees for Certain Permits and Transportation Analysis
Case Number: 2017-014010CRV [Board File Nos. 180584]
Initiated by: Mayor Farrell/ Introduced June 1, 2018
Staff Contact: Deborah Landis, Administration
Deborah.Landis@sfgov.org, 415-575-9118
Reviewed by: Thomas DiSanto, Chief Administrative Officer
Thomas.Disanto@sfgov.org, 415-575-9113
Recommendation: **Approval**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING CODE AMENDMENT

The proposed Resolution would amend the Planning Code and the fees set forth in Ordinance Number 149-16 to: 1) clarify the fees applicable to projects with no or very low construction cost and 2) change the fees for transportation analysis.

The Way It Is Now:

Currently, Section 350 of the Planning Code references Ordinance 149-16 for Planning Department fees. The Code also states that certain fees “place a limit on the fee based on its not exceeding a specified percentage of construction cost.” Ordinance 149-16 includes a list of fees, some of which have fee amounts for zero dollar (\$0) construction cost projects. It also states that fees are not to exceed 50% of construction cost. 50% of a construction cost of \$0 would be \$0; however, there are specific fees listed for some \$0 construction cost projects. Ordinance 149-16 also lists one single transportation review fee of \$25,504. Finally, Ordinance 149-16 lists one San Francisco Municipal Transportation Agency (SFMTA) fee for review of transportation impact study.

The Way It Would Be:

The proposed amendment and Ordinance would add a sentence to the Planning Code stating that the limit shall apply to certain fees as set forth in both Ordinance 149-16 and the proposed Ordinance (number TBD) that will amend Ordinance 149-16. The amendment and Ordinance will clarify that no or low cost projects will be subject to the published fees as they have been applied in the past. The proposed Ordinance also adds a second, lower-cost transportation review fee for Site Circulation Review of \$9,560 for projects that typically require a limited, localized analysis of a few transportation topics. This two-tier fee more accurately reflects the cost of the appropriate kind of study. The proposed Ordinance would remove the SFMTA fee from the Planning Code.

BACKGROUND

The proposed Resolution details the fee legislation that was considered as part of the Planning Department's Fiscal Years 2018-19 and 2019-20 budget. The legislation was discussed and recommended for approval by the Planning Commission as part of the budget in Resolution 20103. However, due to a procedural error, Resolution 20103 did not include Findings of Consistency with the General Plan, Planning Code Section 302 Findings, and the Eight Priority Policies of Planning Code Section 101.1 necessary to amend the Planning Code. This is an action for the Commission to pass a Resolution with Findings on the budget and fee legislation that the Commission already considered in February 2018.

ISSUES AND CONSIDERATIONS

The proposed Resolution contains the Findings needed to move the Planning Code amendment through the Board of Supervisors. There are no changes to the fee legislation that was previously discussed at the Commission. The SFMTA fee that is proposed to be removed from Ordinance 149-16 has been added to the Transportation Code.

General Plan Compliance

No goals or policies directly address the proposed Ordinance in the General Plan, nor does the proposed Ordinance affect any policies in the General Plan. This proposed Ordinance does not have a direct physical impact on the City.

Implementation

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

RECOMMENDATION

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The Department supports the Ordinance because it was the original intent of the Planning Commission to move this legislation forward with the Department's Budget. The proposed legislation will clarify the fees applicable to projects with no or very low construction cost in accordance with existing fee tables, which will make the fee provisions clearer for the public. Secondly, the legislation will change the fees for transportation analysis by adding one lower-cost fee for site circulation analysis, which is a benefit to project sponsors with simpler transportation review needs.

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: Planning Commission Draft Resolution
- Exhibit B: Board of Supervisors File No. 180584 Legislative Digest
- Exhibit C: Board of Supervisors File No. 180584



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE: JULY 19, 2018

Project Name: Fees for Certain Permits and Transportation Analysis
Case Number: 2017-014010CRV [Board File No. 180584]
Initiated By: Mayor Mark Farrell / Introduced June 1, 2018
Staff Contact: Deborah Landis – 415-575-9118
Deborah.Landis@sfgov.org
Reviewed by: Thomas DiSanto, Chief Administrative Officer
Thomas.Disanto@sfgov.org, 415-575-9113

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE AND THE FEES SET FORTH IN ORDINANCE NUMBER 149-16 TO CLARIFY THE FEES APPLICABLE TO PROJECTS WITH NO OR VERY LOW CONSTRUCTION COST AND TO CHANGE THE FEES FOR TRANSPORTATION ANALYSIS; 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 ADOPTING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND WELFARE UNDER PLANNING CODE, SECTION 302.

WHEREAS, on June 1, 2018, Mayor Farrell introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180584, which would amend the Planning Code and the fees set forth in Ordinance No. 149-16 to clarify the fees applicable to projects with no or very low construction cost and to change the fees for transportation analysis; and

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on July 19, 2018; and,

WHEREAS, 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; 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** 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 intent of the Planning Commission was to move this legislation forward with the Department's Fiscal years 2018-19 and 2019-20 budget as heard and recommended in Resolution 20103.
2. The proposed Ordinance will clarify the Planning Code so that it is clear that low and no cost construction projects may be charged Planning fees in accordance with existing fee tables.
3. The proposed Ordinance will change the fees for transportation analysis by adding one lower-cost fee for site circulation analysis and removing a San Francisco Metropolitan Transportation Agency (SFMTA) fee, which has been added to the Transportation Code.
4. **General Plan Compliance.** While there are no Goals or Policies that directly address the proposed Ordinance in the General Plan, the proposed Ordinance is not inconsistent with the General Plan. The proposed Ordinance does not change any policies with an effect on the General Plan and does not change planning, zoning, or other physical aspects of the City. The proposed Ordinance does not have a direct physical impact on the City.
5. **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:
 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 an adverse effect on housing or neighborhood character.
 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.
 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.

6. **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. The amendments would clarify how Planning fees are charged, and would ensure that transportation study fees are assessed fairly and equitably.

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

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on July 19, 2018

Jonas P. Ionin
Commission Secretary

AYES:

Draft Resolution
July 19, 2018

**CASE NO. 2017-014010CRV
Fees for Certain Permits and Transportation Analysis**

NOES:

ABSENT:

ADOPTED: July 19, 2018

LEGISLATIVE DIGEST

[Planning Code - Fees for Certain Permits and Transportation Analysis]

Ordinance amending the Planning Code and the fees set forth in Ordinance No. 149-16 to clarify the fees applicable to projects with no or very low construction cost and to change the fees for transportation analysis; 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 adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

The Board of Supervisors enacted Ordinance No. 149-16 establishing certain administrative fees to pay for the cost of processing Planning permit applications. Ordinance No. 149-16 also authorized the Controller to adjust the fees each year to reflect changes in the two-year average Consumer Price Index (CPI) change for the San Francisco/San Jose Primary Metropolitan Area (PMSA). The Planning Department publishes the Fee Schedule showing the current fee amounts inclusive of annual adjustments in an Appendix to the Planning Code, and posts it on the Planning Department's website. Among other things, Ordinance No. 149-16 provides a baseline fee for a Transportation Study, plus time and materials. A fee is also charged for SFMTA review of the Study.

The Ordinance also includes a number of fees for conditional use permits, variances, Downtown District and Coastal Zone permit review, Preservation application fees and Building permit application fees, where the text of Ordinance No. 149-16 provides that the amount of the fee shall not exceed 50% of the cost of construction, but the fee amount itself that is shown may exceed the stated cost of construction.

Amendments to Current Law

This legislation would provide 2 different fees for 2 kinds of Transportation Studies. First, a Transportation Study fee is established for a study that would address more complicated transportation analyses, including several transportation topics within a geographic area that extends beyond the project block. Second, a site circulation review fee is established for less complex studies that would address more limited, localized analysis of a few transportation topics. There would be no separate fee for SFMTA review of a transportation study.

The proposed legislation also clarifies that in most cases fees would not exceed 50% of the cost of construction, except that the fee could exceed 50% of construction costs for certain enumerated permits that may have lower construction costs. This change does not alter the amount of the fee, but addresses an apparent inconsistency between the text and the table setting forth the actual fees.

1 [Planning Code - Fees for Certain Permits and Transportation Analysis]

2

3 **Ordinance amending the Planning Code and the fees set forth in Ordinance No. 149-16**
 4 **to clarify the fees applicable to projects with no or very low construction cost and to**
 5 **change the fees for transportation analysis; and affirming the Planning Department's**
 6 **determination under the California Environmental Quality Act, making findings of**
 7 **consistency with the General Plan, and the eight priority policies of Planning Code,**
 8 **Section 101.1, and adopting findings of public necessity, convenience, and welfare**
 9 **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.

14

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

16

17 Section 1. Findings.

18 (a) The Planning Department has determined that the actions contemplated in this
 19 ordinance comply with the California Environmental Quality Act (California Public Resources
 20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
 21 Supervisors in File No. 180584 and is incorporated herein by reference. The Board affirms
 22 this determination.

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

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

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

8 (d) In 2016, the Board adopted Ordinance No. 149-16 to establish initial fees and to
9 authorize the Controller to adjust the fees each year to reflect changes in the two-year
10 average Consumer Price Index (CPI) change for the San Francisco/San Jose Primary
11 Metropolitan Area (PMSA). The Planning Department publishes the Fee Schedule showing
12 the current fee amounts inclusive of annual adjustments in an Appendix to the Planning Code,
13 and posts it on the Planning Department’s website. The Fee Schedule must be made
14 available upon request at the main office of the Department.

15 (e) The Planning Department has recommended a change to the fee charged for
16 Transportation Review Associated with Project Applications, and a clarification to the fees to
17 be charged for review of projects with a low construction cost.

18
19 Section 2. The Planning Code is hereby amended by revising Section 350, to read as
20 follows:

21 **SEC. 350. FEES.**

22 * * * *

23 (e) **Estimated Construction Costs.** Estimated construction costs are as defined by
24 the San Francisco Building Code. Certain of the fees specified in Section 4 of Ordinance No.
25 149-16 in Board of Supervisors File No. 160632 place a limit on the fee based on its not

1 exceeding a specified percentage of construction cost. This limit shall apply to certain fees, as
2 set forth in Ordinance No. 149-16 and Ordinance No. _____, amending Ordinance No. 149-16, in
3 Board of Supervisors File No. _____.

4 * * * *

5 Section 3. This section is uncodified. It amends the Transportation Review Fees
6 established in Ordinance No. 149-16 in Board of Supervisors File No. 160632 as follows.

7
8 **TRANSPORTATION REVIEW ASSOCIATED WITH PROJECT APPLICATIONS.**

9 (a) Transportation Study: ~~\$23,977~~ \$25,504 plus time and materials as set forth in
10 Planning Code Section 350(e). ~~Extremely complex transportation studies will be charged a higher~~
11 ~~initial fee based on the specifics of the project, which will be outlined in an Agreement between the~~
12 ~~Department and the project sponsor. Projects that require a transportation study typically require~~
13 ~~analysis of several transportation topics within a geographic area that extends beyond the project~~
14 ~~block. These projects may also be complex because they are multi-phased, require a large~~
15 ~~infrastructure investment, or are of statewide, regional, or area-wide significance as defined in CEQA,~~
16 ~~or the analysis may include both programmatic and project-level review.~~

17 (b) ~~Municipal Transportation Agency review of transportation impact study: \$4,612 per~~
18 ~~study. Site Circulation Review: \$9,560 plus time and materials as set forth in Planning Code Section~~
19 ~~350(e). Projects that require site circulation review typically require analysis of a limited, localized~~
20 ~~analysis of a few transportation topics.~~

21
22 Section 4. This section is uncodified. It amends the limits on certain fees established
23 in Ordinance No. 149-16 in Board of Supervisors File No. 160632 as follows.

24
25 **COMMISSION AND ZONING ADMINISTRATOR HEARING APPLICATIONS.**

1 (a) **Conditional Use (Planning Code Section 303), Planned Unit Development**
2 **(Planning Code Section 304):** The initial fee amount is not to exceed 50% of the
3 construction cost, provided that the fees set forth in the table below shall apply to construction with
4 no construction costs, Wireless Telecommunications Services, and to construction with an estimated
5 cost of \$0 to \$9,999, notwithstanding that any such fees may exceed 50% of the construction cost. A
6 \$120 surcharge shall be added to the fees for a conditional use or planned unit development
7 to compensate the City for the costs of appeals to the Board of Supervisors.

8 * * * *

9 (b) **Variance (Planning Code Section 305):** Variance fees are subject to additional
10 time and material charges, as set forth in Planning Code Section 350(e). The initial fee
11 amount is not to exceed 50% of the construction cost, provided that the fees set forth in the table
12 below shall apply to construction with an estimated cost of \$0 to \$9,999, notwithstanding that such fees
13 may exceed 50% of the construction cost. A \$25 surcharge shall be added to the fees to
14 compensate the City for the costs of appeals to the Board of Appeals.

15 * * * *

16 (c) **Downtown (C-3) District Review (Planning Code Section 309) and Coastal**
17 **Zone Permit (Planning Code Section 330) Applications Commission Hearing Fee**
18 **Schedule:** The initial fee amount is not to exceed 50% of the construction cost, provided that
19 the fees set forth in the table below shall apply to construction with an estimated cost of \$0 to \$9,999,
20 notwithstanding that such fees may exceed 50% of the construction cost. A \$25 surcharge shall be
21 added to the fees to compensate the City for the costs of appeals to the Board of Appeals.

22 * * * *

23 **PERMIT APPLICATIONS.**

24 (a) Building permit applications for a change in use or alteration of an existing
25 building, to be collected by Central Permit Bureau; provided, however, that the fees charged

1 for Planning Department approval over-the-counter for the replacement of windows, roofs,
2 siding, and doors shall be reduced to $\frac{1}{2}$ one-half the fee set forth below. The Planning
3 Department initial fee amount shall not exceed 50% of the construction cost, notwithstanding
4 the foregoing, and provided further that the fees set forth in the table below shall apply to construction
5 with an estimated cost of \$0 to \$9,999, notwithstanding that such fees may exceed 50% of the
6 construction cost. Applications for permit revisions are excluded from this limitation.

7 * * * *

8 (b) **Building Permit Applications for a New Building:** The Planning Department
9 initial fee amount is not to exceed 50% of the construction cost, provided that the fees set forth in
10 the table below shall apply to construction with an estimated cost of \$0 to \$99,999, notwithstanding
11 that such fees may exceed 50% of the construction cost; notwithstanding the foregoing, applications
12 for permit revisions are excluded from this limitation.

13 * * * *

14 **PRESERVATION APPLICATIONS. (Planning Code Article 10).**

15 * * * *

16 (c) **Certificate of Appropriateness:** \$346 for applications with an estimated
17 construction cost less than \$1,000; \$1,380 for applications with an estimated construction cost
18 less than \$20,000, \$6,384 for applications with an estimated construction cost \$20,000 and
19 more, plus in all cases time and materials in excess of the initial fee as set forth in Planning
20 Code Section 350(e). The initial fee amount is not to exceed 50% of the construction cost,
21 provided that the fees shall apply to construction with an estimated cost of \$0 to \$20,000,
22 notwithstanding that such fees may exceed 50% of the construction cost. A \$25 surcharge shall be
23 added to the fees to compensate the City for the costs of appeals to the Board of Appeals.

24 * * * *

1 Section 5. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the "Note" that appears under
11 the official title of the ordinance. In addition, amendments herein to Ordinance No. 149-16, an
12 uncodified ordinance, are indicated in the same manner as amendments to the Municipal
13 Code.

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By: _____
18 KATE H. STACY
19 Deputy City Attorney

20 n:\legana\as2018\1800559\01272176.docx