

1 [Administrative, Planning, Subdivision Codes - Citywide Affordable Housing Fund, Mayor's
2 Housing Programs Fees Fund]

3 **Ordinance amending the Administrative Code to add the Citywide Affordable Housing**
4 **Fund as a Category Eight self-appropriating fund; amending the Planning and**
5 **Subdivision Codes to make corresponding changes to affordable housing fee**
6 **provisions related to the Citywide Affordable Housing Fund; revising the Mayor's**
7 **Housing Programs Fees Fund to change it to a Category Eight self-appropriating fund;**
8 ~~**affirming the Planning Department's determination under the California Environmental**~~
9 ~~**Quality Act;**~~ and making findings of consistency with the General Plan, and the eight
10 priority policies of Planning Code, Section 101.1.

11 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
12 **Additions to Codes** are in *single-underline italics Times New Roman font*.
13 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
14 **Board amendment additions** are in double-underlined Arial font.
15 **Board amendment deletions** are in ~~Arial font~~.
16 **Asterisks (* * * *)** indicate the omission of unchanged Code
17 subsections or parts of tables.

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

19 Section 1. Findings.

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

25 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
findings that the The Board of Supervisors finds that the actions contemplated in this

1 ordinance are consistent, on balance, with the City's General Plan and eight priority policies of
2 Planning Code Section 101.1 because, although it will have little effect on the General Plan
3 and Priority Policies, these minor changes will clarify and streamline how funds are to be used
4 for provision of affordable housing. ~~The Board adopts these findings as its own. A copy of~~
5 ~~said Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and~~
6 ~~is incorporated herein by reference.~~

7 (eb) Pursuant to Planning Code Section 302, this Board finds that ~~this~~ the Planning
8 Code Amendment will serve the public necessity, convenience, and welfare because it will
9 clarify and streamline how funds are to be used for provision of affordable housing. ~~for the~~
10 ~~reasons set forth in Planning Commission Resolution No. _____, and the Board incorporates~~
11 ~~such reasons herein by reference.~~

12
13 Section 2. The Administrative Code is hereby amended by adding Section 10.100-49
14 and revising Section 10.100-117, to read as follows:

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

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

19 (1) The Jobs Housing Linkage Program, Planning Code Section 413 et seq.;

20 (2) The Inclusionary Affordable Housing Program, Planning Code Section 415 et
21 seq.;

22 (3) The Market and Octavia Affordable Housing Program, Planning Code Section
23 416.5;

24 (4) The Eastern Neighborhoods Housing Fund, Planning Code Section 423.5;
25

1 (5) The Expedited Condominium Conversion Program, Subdivision Code Section
2 1396.4; and.

3 (6) Repayments of loans and other program income associated with investments
4 initially made with monies from the fund.

5 (b) Use of Fund. The fund is to be used exclusively by the Mayor's Office of Housing and
6 Community Development, or its successor, for the purpose of supporting affordable housing in San
7 Francisco. Specific eligible uses of the fund are delineated for each fee in the code where the fee is
8 established. Within the fund, all fees, repayments, and program income shall be separately accounted
9 for as required by each fee.

10 (c) Exceptions to Fund Category. The Director of the Mayor's Office of Housing and
11 Community Development shall approve all expenditures from the fund.

12 (d) Administration of Fund. The Mayor's Office of Housing and Community Development, or
13 its successor, shall administer the fund and shall report annually to the Board of Supervisors on the
14 current status of the fund, the amounts approved for disbursement, and the number and types of
15 housing units or households assisted. The Mayor's Office of Housing and Community Development
16 shall have the authority to prescribe rules and regulations governing the Fund.

17
18 **SEC. 10.100-117. MAYOR'S ~~OFFICE OF~~ HOUSING PROGRAMS FEES FUND.**

19 (a) Establishment of Fund. The Mayor's Housing Programs Fees Fund is established
20 as a category ~~two~~ eight fund to receive monies from fees earned by the Mayor's Office of
21 Housing and Community Development in connection with the administration of affordable
22 housing. Such fees shall include, but are not be limited to, fees from single-family and
23 multifamily housing mortgage revenue bonds as issuer or as administrator, fees from the
24 California Natural Disaster Assistance Program, and fees from similar housing programs in
25 which the city earns fees for services provided by the Mayor's Office of Housing and

1 Community Development. This Section 10.100-117 shall not authorize the levy of fees except as
2 otherwise provided by ordinance or resolution of the Board of Supervisors.

3 (b) Use of Fund. The fund shall be used for the purpose of supporting the City's
4 efforts to provide affordable housing for persons and households of low and moderate income
5 in the City. For the purposes of this Fund, "low and moderate income" shall mean incomes
6 which are not greater than 120 percent of median for San Francisco, as defined by the United
7 States Department of Housing and Urban Development. Monies from the Fund may be used
8 for the following purposes:

9 (1-) To pay the costs of the Mayor's Office of Housing and Community Development
10 for administering housing programs for which administrative funding is not otherwise available
11 from the City's General Fund, federal or state grants, or other sources of administrative
12 funding. Such programs shall include the City's single-family and multifamily housing
13 mortgage revenue bond programs, the first time homebuyer programs, rental housing
14 development programs, and the monitoring of units to ensure their continued affordability.

15 (2-) To the extent that monies are available and not needed to cover current and
16 anticipated future administrative costs described in Subparagraph (1), ~~and with the approval of~~
17 ~~the Board of Supervisors, to the Mayor's Office of Housing and Community Development may~~ transfer
18 said monies to the Citywide Affordable Housing Fund, Administrative Code Section 10.100-49, to
19 make loans or grants for the development of affordable housing in the City.

20 (c) Exceptions to Fund Category. The Director of the Mayor's Office of Housing and
21 Community Development shall approve expenditures from the fund.

22 (d) Administration of Fund. The Mayor's Office of Housing and Community Development
23 shall administer the fund, and in such capacity shall review the needs of the administration of
24 affordable housing programs and the availability of monies from the fund for other eligible
25 purposes. ~~Funds for administration of affordable housing programs shall be appropriated through the~~

1 ~~annual budget process or by supplemental appropriation for the Mayor's Office of Housing.~~ The
2 Mayor's Office of Housing and Community Development shall report annually to the Board of
3 Supervisors on the current status of the Mayor's Housing Program Fees Fund as a part of the
4 ~~its Annual Report~~annual budget process for the Mayor's Office of Housing, including the amounts of
5 fees received and to be budgeted for administrative funding, and any recommendations
6 deemed necessary to improve effectiveness of the Mayor's Housing Program Fees Fund in
7 achieving its purpose.

8 Section 3. The Planning Code is hereby amended by revising Sections 413.10, 415.5,
9 416.5, and 423.5 to read as follows:

10 **SEC. 413.10. CITYWIDE AFFORDABLE HOUSING FUND.**

11 All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to
12 Section 413.9 shall be deposited in the ~~special fund maintained by the Controller called the~~
13 Citywide Affordable Housing Fund ("Fund"), established in Administrative Code Section 10.100-49.
14 The receipts in the Fund ~~collected under Section 413 et seq. shall be~~ are hereby appropriated in
15 ~~accordance with law to be~~ used solely to increase the supply of housing affordable to qualifying
16 households subject to the conditions of this Section. The fees collected under this Section may not
17 be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense
18 of any entity. The Mayor's Office of Housing and Community Development ("MOHCD") shall
19 develop procedures such that, for all projects funded by the Citywide Affordable Housing
20 Fund, MOHCD requires the project sponsor or its successor in interest to give preference in
21 occupying units first to Residential Certificate of Preference Holders under the San Francisco
22 Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted
23 September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board of
24 Supervisors in File No. 080521, who meet all of the qualifications for the unit; and second to
25 any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the

1 qualifications for the unit or assistance, provided that the following limitations shall apply to the
2 Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing,
3 currently-occupied developments only for three years from the date the landlord filed with the
4 Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to
5 withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California
6 Government Code Section 7060 et seq. and the corresponding provisions of the San
7 Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative
8 Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to
9 new developments going through the initial occupancy process only for six years from the
10 date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from
11 the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of
12 the Rent Ordinance; and (iii) for any new residential development going through the initial
13 occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%)
14 of the units in such development. The Displaced Tenant's preference shall still apply even if
15 such Displaced Tenant declines a unit offered through application of the preference, but upon
16 accepting and occupying a unit obtained using the preference, such Displaced Tenant's
17 preference terminates.

18 MOHCD shall implement the Certificate of Preference Holder requirements of this
19 Section 413.10 by developing procedures and amending its applicable regulations within 90
20 days of the effective date of Ordinance No. 232-08, and MOHCD shall implement the
21 Displaced Tenant preference requirements of this Section by developing procedures and
22 amending its applicable regulations within 90 days of the effective date of the ordinance
23 creating the Displaced Tenant preference. Said procedures and regulations shall be subject to
24 approval by Resolution of the Board of Supervisors. The requirements of this paragraph are
25 directory rather than mandatory.

1 ~~The Fund shall be administered and expended by the Director of MOHCD, who shall have the~~
2 ~~authority to prescribe rules and regulations governing the Fund which are consistent with Section~~
3 ~~413.1et seq. No portion of the Fund may be used, by way of loan or otherwise, to pay any~~
4 ~~administrative, general overhead, or similar expense of any entity.~~

5 **SEC. 415.5. AFFORDABLE HOUSING FEE.**

6 * * * *

7 (f) Use of Fees. All monies contributed pursuant to ~~the this Section~~ Inclusionary
8 Affordable Housing Program shall be deposited in the ~~special fund maintained by the Controller~~
9 ~~called the~~ Citywide Affordable Housing Fund ("the Fund"), ~~established in Administrative Code~~
10 Section 10.100-49. The Mayor's Office of Housing and Community Development ("MOHCD")
11 shall use the funds collected under this Section in the following manner:

12 (1) Except as provided in subsection (2) below, ~~the funds collected under this Section~~
13 ~~shall the receipts in the Fund are hereby appropriated in accordance with law to~~ be used to:

14 (A) increase the supply of housing affordable to qualifying households subject to
15 the conditions of this Section; and

16 (B) provide assistance to low and moderate income homebuyers; and

17 (C) pay the expenses of MOHCD in connection with monitoring and
18 administering compliance with the requirements of the Program. MOHCD is authorized to use
19 funds in an amount not to exceed \$200,000 every 5 years to conduct follow-up studies under
20 Section 415.9(e) and to update the affordable housing fee amounts as described above in
21 Section 415.5(b). All other monitoring and administrative expenses shall be appropriated
22 through the annual budget process or supplemental appropriation for MOHCD. ~~The fund shall~~
23 ~~be administered and expended by MOHCD, which shall have the authority to prescribe rules and~~
24 ~~regulations governing the Fund which are consistent with this Section.~~

25 (2) "Small Sites Funds."

1 (A) Designation of Funds. MOHCD shall designate and separately account for
2 10% percent of all fees that it receives under Section 415.1et seq. *that are deposited into the*
3 *Citywide Affordable Housing Fund, established in Administrative Code Section 10.100-49*, excluding
4 fees that are geographically targeted such as those *referred to* in Sections 415.5 (b)(1)6(a)(1)
5 and 827(b)(1)(C), to support acquisition and rehabilitation of Small Sites ("Small Sites Funds").
6 MOHCD shall continue to divert 10 percent of all fees for this purpose until the Small Sites
7 Funds reach a total of \$15 million at which point, MOHCD will stop designating funds for this
8 purpose. At such time as designated Small Sites Funds are expended and dip below \$15
9 million, MOHCD shall start designating funds again for this purpose, such that at no time the
10 Small Sites Funds shall exceed \$15 million. When the total amount of fees paid to the City
11 under Section 415.1et seq. totals less than \$10 million over the preceding 12 month period,
12 MOHCD is authorized to temporarily divert funds from the Small Sites Fund for other
13 purposes. MOHCD must keep track of the diverted funds, however, such that when the
14 amount of fees paid to the City under Section 415.1et seq. meets or exceeds \$10 million over
15 the preceding 12 month period, MOHCD shall commit all of the previously diverted funds and
16 10 percent of any new funds, subject to the cap above, to the Small Sites Fund.

17 (B) Use of Small Sites Funds. The funds shall be used exclusively to acquire or
18 rehabilitate "Small Sites" defined as properties consisting of less than 25 units. Units
19 supported by monies from the fund shall be designated as housing affordable to qualifying
20 households as defined in Section 415.1 for no less than 55 years. Properties supported by the
21 Small Sites Funds must be either

- 22 (i) rental properties that will be maintained as rental properties;
23 (ii) vacant properties that were formerly rental properties as long as those
24 properties have been vacant for a minimum of two years prior to the effective date of this
25 legislation,

1 (iii) properties that have been the subject of foreclosure or

2 (iv) a Limited Equity Housing Cooperative as defined in Subdivision Code
3 Sections 1399.1 et seq. or a property owned or leased by a non-profit entity modeled as a
4 Community Land Trust.

5 (C) Initial Funds. If, within 18 months from the date of adoption of this ordinance,
6 MOHCD dedicates an initial one-time contribution of other eligible funds to be used initially as
7 Small Sites Funds, MOHCD may use the equivalent amount of Small Sites Funds received
8 from fees for other purposes permitted by the Citywide Affordable Housing Fund until the
9 amount of the initial one-time contribution is reached.

10 (D) Annual Report. At the end of each fiscal year, MOHCD shall issue a report
11 to the Board of Supervisors regarding the amount of Small Sites Funds received from fees
12 under this legislation, and a report of how those funds were used.

13 (E) Intent. In adopting this ordinance regarding Small Sites Funds, the Board of
14 Supervisors does not intend to preclude MOHCD from expending other eligible sources of
15 funding on Small Sites as described in this Section, or from allocating or expending more than
16 \$15 million of other eligible funds on Small Sites.

17 (3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD
18 requires the project sponsor or its successor in interest to give preference in occupying units
19 first to Residential Certificate of Preference Holders under the San Francisco Redevelopment
20 Agency's Property Owner and Occupant Preference Program, as reprinted September 11,
21 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521,
22 who otherwise meet all of the requirements for a unit; and second to any Displaced Tenant, as
23 defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or
24 assistance, provided that the following limitations shall apply to the Displaced Tenant
25 preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied

1 developments only for three years from the date the landlord filed with the Residential Rent
2 Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's
3 unit from the rental market pursuant to the Ellis Act, California Government Code Section
4 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and
5 Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and
6 37.9A; (ii) a Displaced Tenant may apply the preference to new developments going through
7 the initial occupancy process only for six years from the date the landlord filed with the Rent
8 Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the
9 Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for
10 any new residential development going through the initial occupancy process, the Displaced
11 Tenant preference shall apply only to twenty percent (20%) of the units in such development.
12 The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a
13 unit offered through application of the preference, but upon accepting and occupying a unit
14 obtained using the preference, such Displaced Tenant's preference terminates. Otherwise, it
15 is the policy of the City to treat all households equally in allocating affordable units under this
16 Program.

17 * * * *

18 **SEC. 416.5. USE OF FUNDS.**

19 The additional affordable housing requirement specified in this Section for the Market
20 and Octavia Plan Area and the Upper Market NCD shall be paid into the Citywide Affordable
21 Housing Fund, *established in Administrative Code Section 10.100-49*, but the funds shall be
22 separately accounted for. MOHCD shall expend the funds according to the following priorities:
23 First, to increase the supply of housing affordable to qualifying households in the Market and
24 Octavia Plan Area and the Upper Market NCD; second, to increase the supply of housing
25 affordable to qualifying households within 1 mile of the boundaries of the Plan Area and the

1 Upper Market NCD; third, to increase the supply of housing affordable to qualifying
2 households in the City and County of San Francisco. The funds may also be used for
3 monitoring and administrative expenses subject to the process described in Section
4 415.5(f)~~415.7(e)~~.

5 **SEC. 423.5. THE EASTERN NEIGHBORHOODS COMMUNITY IMPROVEMENTS**
6 **FUND.**

7 (a) Purpose. There is hereby established a separate fund set aside for a special
8 purpose entitled the Eastern Neighborhoods Community Improvements Fund ("Fund"). All
9 monies collected by the Development Fee Collection Unit at DBI pursuant to Section 423.3(e)
10 shall be deposited in the Fund maintained by the Controller. The receipts in the Fund shall be
11 appropriated in accordance with the normal budgetary process to fund Community
12 Improvements subject to the conditions of this Section. Monies collected by the Development
13 Fee Collection Unit at DBI pursuant to 423.3 shall be deposited as follows:

14 (1) For projects located in any zoning districts in the Eastern Neighborhoods
15 Program Area, excluding Designated Affordable Housing Zones, DBI shall deposit 100% of
16 the funds in the Eastern Neighborhoods Community Improvements Fund maintained by the
17 Controller.

18 (2) For projects located in Designated Affordable Housing Zones, DBI shall
19 deposit 25% of the funds in the Eastern Neighborhoods Community Improvement Fund and
20 75% in the Citywide Affordable Housing Fund, established in Administrative Code Section 10.100-
21 49, but the funds shall be separately accounted for and expended as provided in this Section.

22 * * * *

23
24 Section 4. The Subdivision Code is hereby amended by revising Section 1396.4 to
25 read as follows:

1 **SEC. 1396.4. CONDOMINIUM CONVERSION FEE AND EXPEDITED CONVERSION**
2 **PROGRAM.**

3 * * * *

4 (i) Upon confirmation of compliance with the rental requirement, DPW or the City
5 department in possession of the fee revenue shall refund the amount specified in Section (h)
6 to the subdivider and have all remaining fee revenues transferred to the Citywide Affordable
7 Housing Fund, established in Administrative Code Section 10.100-49, in the following percentage
8 allocations:

9 _____ (1) 25% to the Mayor's Office of Housing and Community Development's
10 program for small site acquisition to purchase market rate housing and convert it to affordable
11 housing; and

12 _____ (2) 75% ~~to the Citywide Affordable Housing Fund~~ for the purpose of expanding
13 affordable housing opportunities for low or moderate income households in San Francisco,
14 including, but not limited to, expanding public housing opportunities.

15 * * * *

16
17 Section 5. Effective Date. This ordinance shall become effective 30 days after
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
20 of Supervisors overrides the Mayor's veto of the ordinance.

21
22 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

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

By: 
SUSAN CLEVELAND-KNOWLES
Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

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

File Number: 150568

Date Passed: July 28, 2015

Ordinance amending the Administrative Code to add the Citywide Affordable Housing Fund as a Category Eight self-appropriating fund; amending the Planning and Subdivision Codes to make corresponding changes to affordable housing fee provisions related to the Citywide Affordable Housing Fund; revising the Mayor's Housing Programs Fees Fund to change it to a Category Eight self-appropriating fund; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

June 22, 2015 Budget and Finance Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

June 22, 2015 Budget and Finance Committee - RECOMMENDED AS AMENDED

July 14, 2015 Board of Supervisors - CONTINUED ON FIRST READING

Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

July 21, 2015 Board of Supervisors - PASSED ON FIRST READING

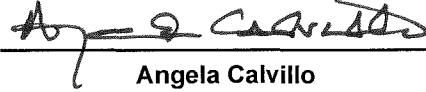
Ayes: 10 - Avalos, Breed, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee
Excused: 1 - Campos

July 28, 2015 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 150568

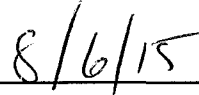
I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
7/28/2015 by the Board of Supervisors of
the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



Mayor



Date Approved