



SAN FRANCISCO PLANNING DEPARTMENT

New Planning Code Change Summary:

Area Plan Impact Fee and Jobs-Housing Linkage Program Modifications

Code Change:	Amending impact fees to increase consistency and ease of application, and to account for existing development
Case Number:	Board File No. 10-0917 (0270-10 adopted Ordinance)
Initiated By:	Planning Department, April 15, 2010
Effective Date:	December 5, 2010

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The following is a synopsis of the changes made by the Ordinance. See the Guide below for a description of changes made by section.

The Way It Was:

- The definitions and application of the Jobs-Housing Linkage Fee (Sec. 413) are difficult to comprehend, and thus subject to inconsistent interpretation and application.
- The four Area Plan Impact Fees (Rincon Hill, Market and Octavia, Eastern Neighborhoods, and Balboa Park) each have their own applications. In many instances, the differences are minor or subtle, yet the differences make these fee programs subject to inconsistent interpretation and application. These differences include variations in:
 - How the sections are organized,
 - Which projects are subject to the impact fees,
 - How the area subject to fees are measured.
- Different fee programs exempt certain uses from paying impact fees when new development occurs. When these uses convert to uses that are subject to impact fees, no credit mechanism exists to recognize the impact of the existing uses. These fee-exempt uses are PDR uses in all the Area Plan Impact Fees and the Jobs-Housing Linkage Fee, institutional uses in the Jobs-Housing Linkage Fee, and other non-residential uses in the Rincon Hill Impact Fee.
- Parcels in the Eastern Neighborhoods Plan Area are divided into three fee tiers, depending upon how much height limits were raised or lowered by the Eastern Neighborhoods Plan. Fee Tiers 2 and 3 are applied to development projects that

involve both new construction and when project are utilizing existing space in existing buildings.

- The language of the Eastern Neighborhoods Legitimization Program (Section 179.1) is unclear as to what fees would be applied to projects seeking entitlement through this program, and when such fees would be due, and thus subject to inconsistent interpretation and application.
- References are incorrect and/or outdated in several areas.

The Way It Is Now:

- For the Jobs-Housing Linkage Fee, the definitions and applications have been clarified and streamlined to facilitate ease and consistency in implementation.
- The application of the four Area Plan Impact Fees (Rincon Hill, Market and Octavia, Eastern Neighborhoods, and Balboa Park) has been standardized, wherever possible. This includes standardizing:
 - The way each section is organized, to make information easier to find. This includes creating a clear list of the projects to which the fee applies, and tables conveying the fee both for net additions of use and in instances where square footage is converting from one use to another,
 - The use of gross square feet (instead of net) to measure a project's impact,
 - Which residential projects are subject to the impact fees, including those that add one new unit and/or net additions over 800 gross square feet to an existing unit,
 - Which non-residential projects are subject to the impact fees, including net additions of gross square feet in new construction and over 800 gross square feet to an existing unit, and that all non-residential units that are not PDR are subject to impact fees. The exception to this standardization continues to be Rincon Hill, where non-residential square footage is not charged the impact fee.
- A credit mechanism has been developed to account for the impact of the existing uses on a development site. This includes specifying the credit for PDR uses in all the Area Plan Impact Fees and the Jobs-Housing Linkage Fee, specifying a credit for institutional uses in the Jobs-Housing Linkage Fee, and specifying a credit for other non-residential uses in the Rincon Hill Impact Fee. See the first section of this memo for more details.

- In the Eastern Neighborhoods Plan Area, the Fee Tiers have been revised such that all changes of use in existing buildings are charged the lowest (Tier 1) impact fees. See the first section of this memo for more details.
- For the Eastern Neighborhoods Legitimization Program (Section 179.1), the Code now specifies the amount of the Jobs-Housing Linkage Fee and Transit Impact Development Fee that would be applicable, and that the Eastern Neighborhoods Impact Fee is not applicable. Also, the language specifies that fees are due at first site or building permit, and that the fee deferral option requires at least 20% payment at the time of the first site or building permit. These are technical changes, as this program has already been implemented by the Planning Department in the manner that is now being codified.
- References have been corrected and/or updated as necessary.

Area Plan Impact Fee and Jobs

Board File 100917	Ord. No. 270-10	Zoning – Housing Linkage Program Modifications Full text available at: http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances10/o0270-10.pdf
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Guide to the Area Plan Impact Fee and Jobs-Housing Linkage Program Modifications

New Code Sec.	Old Code Sec.	Topic	How It Is	How It Would Be
179.1(g)	179.1(g)	Legitimization of uses in the Eastern Neighborhoods – fee amount	Says “shall pay all applicable fees” – too vague and subject to uneven interpretation.	<p>Specifies which fees, and how much would be owed. Numbers based on a July 2008 memo staff presented to the Planning Commission during the Eastern Neighborhoods hearings, which lays out the proposed legitimization fee. This fee has already been applied in the one legitimization case seeking entitlements in the Planning Department.</p> <p>The policy rationale detailed in that memo utilizes the same “credit for existing uses” mechanism detailed for Section 413.6 below. Additionally, the policy rationale behind the whole “legitimization” program is to allow uses to receive proper permits available</p>

New Code Sec.	Old Code Sec.	Topic	How It Is	How It Would Be
				to them until the implementation of Eastern Neighborhoods Plan – and thus the Eastern Neighborhoods Impact Fees are not applied.
179.1(h)	179.1(g)	Legitimization of uses in the Eastern Neighborhoods – fee payment	Does not specify when fee payment is due.	This makes it specific – at first construction permit, consistent with the changes made by Ordinance 108-10.
179.1(h)(1)	179.1(g)(1)	Legitimization of uses in the Eastern Neighborhoods – fee payment	Fee deferral process lacked clarity of how it should be implemented.	Adds clarity. Specifies that with the deferral option, 20% must be put down at the time of getting the permit.
401.17		Definition of “Change of use”	No definition exists.	Adds a definition. This is necessary to implement the credit for existing uses in the application sections of all the impact fees.
	401.20, .88, .89, .90, .91, .92, .93, .94, .95, .100, .101, .119, .120, .121	Space subject to fees	Definition exists that restate how the fees are to applied, often with minor differences than what is contained in the application section of each impact fee.	Definition deleted, as this language reflects the application of fees that is best handled in the application subsections of the individual impact fees.
401.37	401.21, .47, .54, .99, .104, .117, .123	Development projects	Definitions exist for each, although they are substantively the same for purposes of implementing the fees. Also, language included concepts best handled in the application section of each impact fee.	Definitions collapsed into a single concept of a “development project”. Definition revised to be clearer and more intuitive, and also align with current usage elsewhere in the Code.
	401.22	Commercial use	Defines a commercial use, which was utilized for the Market and Octavia Impact Fee.	Category merged with “non-residential” use, consistent with the other Area Plan Impact Fees.

New Code Sec.	Old Code Sec.	Topic	How It Is	How It Would Be
401.28, .40, .81, .82	401.29, .41, .83, .84	Agency names	Shows how agency name abbreviated	Technical addition to reflect that agencies are not always permanent, and that the responsibilities contained in the Code are conveyed to whatever agency succeeds the previous one.
401.46, .51, .91, .105, .106	401.48, .55, .105, .118, .125	Use categories	Language not written in the clearest fashion, or not relying on definitions elsewhere in the Code, thereby increasing confusion. For retail, definition incorporates many concepts that would be considered PDR, such as laundering, home and business services, automotive repair, animal services, and wholesaling.	Definitions revised to be consistent with existing definitions in the Code without changing substance. For retail, definition amended such that it no longer includes PDR uses.
401.50	401.52, .53	Gross square feet	Two very similar concepts with different definitions could lead to confusion if people view the wrong one.	Consolidated the two definitions to avoid confusion.
401.60	401.64	In-Kind Agreement	Definition included a lot of language about how to apply in-kind agreements. Not only is this an application issue, but it also conflicted with some of the content in the application sections of the various impact fees.	Definition shortened to focus on the concept, but not involve the application.
401.63		Institutional use	Definition did not exist.	Added definition so that it's clear which uses are absolved from the Jobs-Housing Linkage Fee.
401.64		Integrated PDR use	Definition did not exist.	Added definition to enable its implementation in the Jobs-Housing Linkage Fee.

New Code Sec.	Old Code Sec.	Topic	How It Is	How It Would Be
	401.82	MOCD	Definition exists for agency which no longer exists, and whose responsibilities have been subsumed into MOH.	Deleted definition. Made sure references elsewhere in Article 4 are updated.
401.85	401.87	Net addition	Definition includes unnecessary and confusing language around those uses which can receive credit against new impacts.	Deleted unnecessary language, increasing clarity.
401.89, .104	401.102, .122	Non-residential and residential use	Definition looks slightly different than others of its kind.	Revised language to increase consistency across definitions of use.
401.96	401.110	PDR use	Definition looks slightly different than others of its kind. Additionally, PDR definition doesn't include uses that are generally understood as PDR, such as arts activities and greenhouses.	Revised language to increase consistency across definitions of use. Revised definition to include uses generally understood as PDR.
401.112		Small Enterprise Workspace	Definition did not exist.	Added definition to enable its implementation in the Jobs-Housing Linkage Fee.
401.119	401.138	TIDF	Definition listed under Transit Impact Development Fee, although the Code always uses "TIDF", so you'd have to know what the acronym stands for to find the definition.	Revised and re-alphabetized such that the definition is listed under "TIDF".
413.3(a)	413.3(a)	Jobs-Housing Linkage – applicable projects	Many applications based on the same theme reduce clarity.	Collapsed unnecessary distinctions between types of development projects, relying on Section 413.5 to call out the different application to different uses. This change closes a loophole where projects could have 24,999 gross square

New Code Sec.	Old Code Sec.	Topic	How It Is	How It Would Be
				feet of several different uses and avoid the fee.
413.3(b)	413.3(b)	Jobs-Housing Linkage – exempt projects	Language in subsection (8) difficult to follow.	Revisions made to increase readability.
413.5 and 413.8	413.5 and 413.8	Jobs-Housing Linkage – alternative payment mechanisms	Sponsors could pay in-lieu fees directly to housing developers to build (either the total in 413.5 or partial in 413.8), even if this wasn't in the City's interest.	Gives MOH the right to reject such deals if they don't serve the City's interest.
413.6(a)	413.6(a)	Jobs-Housing Linkage – fee amount	Multiple fee tables exist for the same uses – confusing as to which apply.	<p>Re-organizes the fee application tables to be akin to those proposed for the Area Plan Impact Fees, and to include all the relevant and up-to-date fees.</p> <p>Adds a table to explicitly convey how development projects receive credit for existing uses (before this was quite buried in the Definitions, which created confusion and likely errors in fee calculation).</p> <p>Implemented a “credit for existing impact” for existing PDR and institutional uses, akin to those proposed for the Area Plan Impact Fees. This credit recognizes that, while for policy reasons we may not charge new PDR and new institutional uses, they still have an impact (as compared to instances where project creates a net addition of development). The credit for existing impact was created replicating the methodology used to develop the Jobs-Housing Linkage Fee, which assessed how much of a demand for affordable housing would be developed by new non-residential development. The parameters used to</p>

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				<p>measure this are job density (how many employees per square foot) and wages (how much each employee needs to afford housing). For PDR, the median wage is somewhat less than uses such as office, but the job density is the lowest of any industry. Using this methodology, the imputed Jobs-Housing Linkage Fee for PDR is calculated at \$14.09. The differential from \$14.09 to the other fees is what is charged for conversions of use. For institutions, the median wage is also somewhat less than uses such as office, but job density is quite high. Using this methodology, the imputed Jobs-Housing Linkage Fee for institutional uses is \$24.29. As this is higher than other fee categories, no Jobs-Housing Fee would be charged on conversions.</p> <p>To help implement and avoid misuse of this credit, a distinction is made between existing PDR and institutions and new ones. This prevents development from being permitted tomorrow as new PDR (and thus paying no fees) and the next day converting to office (and thus paying no fees). For new development, it is presumed that the price of conversion would be incorporated into the land value of any PDR or institutional use. This same presumption cannot be made for existing PDR and institutional uses, many of which were developed and have not changed hands since before the enactment of the Jobs-Housing Linkage Fee.</p>
416.3	416.3	Market and Octavia – Application of affordable housing requirement	<p>Fees were charged per net square foot.</p> <p>No credit given for existing development on</p>	<p>Changes to gross square feet (see explanation is Section 418.3(c)).</p> <p>Implemented “credit for existing impact” for PDR uses (see section 413.6</p>

New Code Sec.	Old Code Sec.	Topic	How It Is	How It Would Be
			site.	for policy rationale). As office uses are charged \$3.40, the imputed PDR fee is \$1.70. See Section 418.3(c) to see how this imputed fee is applied in Table 421.3B.
418	418	Rincon Hill and SoMa Stabilization – title	When Rincon was the first, it didn't need to specify which community improvements fund.	Now that there are several Area Plan Impact Fees, it's necessary to specify in the title and text which one this is.
418.2	418.2	Definitions	Some typos exist.	Cleaned up typos.
418.3(b)	418.3(b)	Rincon Hill – subject projects	In Rincon, only residential projects are subject to the fee. However, the types of residential projects subject to the fee was different from the other Area Plan Impact Fees.	Revision made to make consistent with other Area Plan Impact Fees. The revision allows projects with negligible impacts (i.e., additions of less than 800 square feet to existing units) to occur without being charged an impact fee.
418.3(c)	418.3(b)(1)	Rincon Hill – fee amount	<p>Fees were charged per net square foot.</p> <p>No credit was given for existing non-residential development.</p>	<p>Fees are charged based per gross square foot. This change is a recommendation from the Controller's Office as a best practice, because gross square feet are easier to measure. Because projects have more gross square feet than net square feet, the fee was adjusted downward such that the resulting fee should be approximately the same for development projects.</p> <p>Implemented a "credit for existing impact", as described for Section 413.6, and akin to those in the other Area Plan Impact Fees. In Rincon, impact fees are not levied on PDR or other non-residential uses. Thus, an imputed fee had to be created for both. To determine the imputed fee for non-residential uses, we took an average of the three other non-residential impact fees (Balboa, Eastern Neighborhoods, and Market and Octavia). The result (rounded) is an imputed non-</p>

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				residential impact of \$3.60/gross square foot. This credit of \$3.60 is therefore subtracted from any conversion of non-residential to residential, as shown in Table 418.3B (\$8.60 - \$3.60 = \$5.00). For PDR, the credit for existing impact for all the Area Plans was done by looking at the Eastern Neighborhoods Nexus Study, which shows the impact of PDR at approximately 50% of that of office. Therefore, the credit was set at 50% of \$3.60, i.e., \$1.80. If office is imputed for Rincon Hill at \$3.60/gross square foot, then PDR is imputed at \$1.80/gross square foot. This credit of \$1.80 is thus subtracted from any conversion of PDR to residential, as shown in Table 418.3B.
418.3(d)	418.3(b)(2)	SoMa Stabilization and fee revisions	SoMa Stabilization Fees were charged per net square foot. Both Rincon Hill and SoMa Stabilization fees were to be revised annually.	Fees are charged based per gross square foot (see explanation under 418.3(c)). Because projects have more gross square feet than net square feet, the fee was adjusted downward such that the resulting fee should be approximately the same for development projects. Ordinance 108-10 added a Sec. 409 that requires annual adjustment of fees. Therefore, it is no longer necessary to include this language in Sec. 418.
418.3(e)	418.3(c)	Rincon Hill – In-Kind Agreements	In-Kind Agreement language a little difficult to navigate, as it is one long paragraph. Some of the best practices subsequently included in the other Area Plan Impact Fees are not included here.	Reorganized this subsection to enhance readability, and make it the same as the other Area Plan Impact Fees. The goal is to make the process transparent for both project sponsors and City decision makers.
418.3(f)	418.3(d)	Rincon Hill – Community Facilities Districts	Existing language regarding Community Facilities Districts conflicts with other codified policy.	Language deleted that replicates existing City requirements for project applicants who create Community Facilities Districts.

New Code Sec.	Old Code Sec.	Topic	How It Is	How It Would Be
418.3(h)	418.3(e)	Rincon Hill and SoMa Stabilization – waivers	Language lacks clarity about the waiver process.	Minor edits made to direct the sponsor to the appropriate section if they are interested in seeking a waiver.
418.5(b)(1)	418.5(b)(1)	Rincon Hill – Improvements Fund	Funds could not be spent on library improvements, though in the Findings section (418.1) there is a discussion of library improvements as an acceptable community infrastructure investment.	Added that funds could be spent on library improvements.
418.5(b)(3)	418.5(b)(3)	Rincon Hill – Improvements Fund	Fund money couldn't be used for staffing to administer the fund itself.	Enables us to spend fund money to implement the fund.
418.6	418.6	Rincon Hill and SoMa Stabilization – evaluation	Outdated references	References updated
418.7	418.7	Rincon Hill and SoMa Stabilization – studies	Outdated references	References updated
421.1	421.1	Market and Octavia – findings	Outdated language	Technical corrections to update language and fill in blanks.
421.3(b)	421.3(b)	Market and Octavia – subject projects	Language for which projects are subject to the fee was difficult to comprehend, and necessitated looking in the definitions section.	Consolidated language for which projects are applicable. Made changes to reflect consistency across all the plans. For M&O, went from charging net addition of 20% for residential and non-residential to net addition of 800 gsf or more. This change is easier to implement and better captures the impact (since a 19% increase on a very large project would have lots of impact and not pay the fee, while a 20% increase in a little project would). Charges all net additions involving new non-residential construction, akin to

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				residential. Per changes in the definitions, the impact fee now applies to all non-residential projects that are not PDR, instead of just retail and office.
421.3(c)	421.3(b)	Market and Octavia – fee amount	Fees were charged per net square foot. Fees amounts not in a central place. No credit given for existing development on site.	Consolidated the fees into one place. Changes to gross square feet (see explanation is Section 418.3(c)). Implemented “credit for existing impact” for PDR uses (see section 413.6 for policy rationale). As office uses are charged \$3.40, the imputed PDR fee is \$1.70. See Section 418.3(c) to see how this imputed fee is applied in Table 421.3B. One notable policy change is that in the Market and Octavia Program Area, net additions of institutional and entertainment uses will become subject to the Market and Octavia Impact Fee.
	421.3(c)	Market and Octavia –fee adjustments	Discussed how annual a five-year fee adjustments were to occur (old section 421.3(c)).	As per the fee adjustments, Ordinance 108-10 standardized how annual fee adjustments are to occur in Sec. 409 and how five-year adjustments are to occur in Sec. 410. Therefore, this language was no longer necessary in Sec. 421.
421.3(d)	421.3(d)	Market and Octavia – In-Kind Agreements	In-Kind Agreement language a little difficult to navigate, as it is one long paragraph.	Reorganized this subsection to enhance readability, and make it the same as the other Area Plan Impact Fees. The goal is to make the process transparent for both project sponsors and City decision makers.
421.3(e)	421.3(e)	Market and Octavia – Community Facilities	Outdated references Existing language regarding Community	Updated references. Language deleted that replicates existing City requirements for project

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		Districts	Facilities Districts conflicts with other codified policy.	applicants who create Community Facilities Districts.
421.3(f)		Market and Octavia – timing of fee payments	Section missing, though existing in other Area Plan Impact Fee sections.	Added section to describe the fee payment process. Same as language in other Area Plan Impact Fee sections.
421.3(g)	421.3(g)	Market and Octavia – waivers	Language lacks clarity about the waiver process.	Minor edits made to direct the sponsor to the appropriate section if they are interested in seeking a waiver.
421.5(b)(1)	421.5(b)(1)	Market and Octavia – Community Improvements Fund	Table identifying how the Market and Octavia Community Benefits Fund inadvertently deleted from the Development Stimulus Legislation (BOS File 091275).	Table restored, as it is necessary to help administer this funding source.
421.7	421.7	Market and Octavia – studies	Refers to commercial projects	Updated that, for consistency, we refer to non-residential projects.
422.3(b)	422.3(b)	Balboa Park – subject projects	List of applicable projects somewhat unclear. Fees applied to projects with new residential units, net additions of new construction of non-residential, and increases in existing non-residential by 20% or more.	Consolidated language for which projects are applicable. Made changes to reflect consistency across all the plans. For Balboa, went from charging net addition of 20% for non-residential to net addition of 800 gsf or more. This change is easier to implement and better captures the impact. Charges large expansion of residential units as well.
422.3(c)	422.3(b)	Balboa Park – fee amount	No credit given for existing development on site.	Implemented “credit for existing impact” for PDR uses (see section 413.6 for policy rationale). As office uses are charged \$1.50, the imputed PDR fee is \$0.75. See Section 418.3(c) to see how this imputed fee is applied in Table 422.3B.
422.3(d)	422.3(c)	Balboa Park – In-Kind Agreement	In-Kind Agreement language a little difficult to navigate, as a couple	Reorganized this subsection to enhance readability, and make it the same as the other Area Plan Impact Fees. The goal is to make the process transparent for

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			of long paragraphs.	both project sponsors and City decision makers.
	422.3(d)	Balboa Park – conditions of approval	Conditions of approval (old Sec. 422.3(d)) was extraneous and redundant language.	Conditions of approval language deleted from the text. The language that had been in this section articulates a standardized and understood process, and this additional language, which does not appear in other similar sections, had proven unnecessary and redundant.
422.3(e)	422.3(d)	Balboa Park – timing of fee payments	Section lacking clarity	Technical corrections made to increase clarity and make it the same as other Area Plan Impact Fee sections.
422.3(f)		Balboa Park – waivers	Section lacks language about the waiver process.	Section added to direct the sponsor to the appropriate section if they are interested in seeking a waiver.
423.2	423.2	Eastern Neighborhoods – definitions	Explanation of Tiers difficult to implement, as it refers to height increases by stories (which is an unclear measure), and list is hard to parse due to unclear punctuation. Charged new construction and change of use in the same manner.	Formatted into outline form. Changed from stories to feet, which is a clearer measure. Puts into Tier 1 all changes of use. This is an effort to support adaptive re-use of existing buildings, which are an important resource of affordable non-residential space, and from an environmental standpoint do not require new materials.
423.3(b)	423.3(b)	Eastern Neighborhoods – subject projects	List of applicable projects somewhat unclear. Fees applied to projects with new residential units, net additions of new construction of non-residential, and increases in existing non-residential by 20% or	Consolidated language for which projects are applicable. Made changes to reflect consistency across all the plans. For EN, went from charging net addition of 20% for non-residential to net addition of 800 gsf or more. This change is easier to implement and better captures the impact. Charges large expansion of residential units as

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			more.	well.
423.3(c)	423.3(b)	Eastern Neighborhoods – fee amount	No credit given for existing development on site.	Implemented “credit for existing impact” for PDR uses (see section 413.6 for policy rationale). As office uses are charged \$6.00, the imputed PDR fee is \$3.00. See Section 418.3(c) to see how this imputed fee is applied in Table 423.3B.
423.3(d)	423.3(c)	Eastern Neighborhoods – In-Kind Agreement	In-Kind Agreement language a little difficult to navigate, as a couple of long paragraphs.	Reorganized this subsection to enhance readability, and make it the same as the other Area Plan Impact Fees. The goal is to make the process transparent for both project sponsors and City decision makers.
423.3(e)		Eastern Neighborhoods – timing of fee payments	Section missing, though existing in other Area Plan Impact Fee sections.	Added section to describe the fee payment process. Same as language in other Area Plan Impact Fee sections.
423.3(f)	423.3(d)	Eastern Neighborhoods – waivers	Language lacks clarity about the waiver process.	Minor edits made to direct the sponsor to the appropriate section if they are interested in seeking a waiver.
423.5	423.5	Eastern Neighborhoods – fund	Outdated references	Technical corrections
428	328	Integrated PDR Fee Discount Program	Section is one of the only that deal with fees left in Article 3	Moves section over to Article 4.