



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Code Text Change

HEARING DATE: DECEMBER 7, 2011

*Project Name:* Amendments relating to:  
Parking, Awning, Signs, Exposure, Open Space, and Limited  
Conforming Uses.

*Case Number:* 2011.0532T [Board File No. 11-0548]

*Initiated by:* Supervisor Chiu / Introduced May 3, 2011

*Staff Contact:* Aaron Starr, Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* **Approval w/ modifications**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Planning Code (herein after "Code") by repealing Sections 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3 and 607.4 and amending various other Code sections to (1) increase the amount of principally permitted parking spaces for dwellings in RC-4 and C-3 Districts, (2) make off-street parking requirements in the Van Ness Special Use District and RC-3 Districts consistent with those of RC-4 Districts, (3) eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts, (4) allow exceptions from required parking under specified circumstances, (5) amend the restrictions on off-street parking rates and extend them to additional zoning districts, (6) revise sign, awning, canopy and marquee controls in specified zoning districts, (7) increase the permitted use size for limited corner commercial uses in RTO and RM districts, and allow reactivation of lapsed limited commercial uses in R districts, (8) revise the boundaries of and modify parking and screening requirements in the Washington-Broadway and Waterfront Special Use Districts, (9) modify controls for uses and accessory uses in Commercial and Residential-Commercial Districts, (10) permit certain exceptions from exposure and open space requirements for historic buildings, and (11) modify conformity requirements in various use districts; adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Code Section 101.1.

#### Summary of Proposed Changes:

The proposed ordinance aims to advance several goals of the City's General Plan and the Priority Policies of Code Section 101.1, as follows:

**Reduce off-street parking requirements in dense, mixed-use neighborhoods located near transit.** San Francisco's Code has provided for reduced parking requirements in dense and transit-rich neighborhoods since the 1960s, as a way of reducing traffic congestion, encouraging walking, cycling, and public transit, and making efficient use of scarce land. Code changes in the past decade have eliminated minimum parking requirements in many transit-rich areas of the City, including Rincon Hill (2005), Downtown (2006), The Market & Octavia Plan area (2008), Eastern Neighborhoods (2008), Balboa

Park (2009) and for residential uses in Chinatown, North Beach, and Telegraph Hill (2010). This proposed ordinance removes the remaining parking requirements in Chinatown, North Beach, and lower Broadway areas, and reduces residential parking requirements in the Van Ness corridor, which Proposition K (2003) designated as a bus rapid transit corridor. The proposed ordinance would also permit administrative exceptions from minimum parking requirements in the Fisherman's Wharf area (Waterfront SUD #2), and facilitates conversion of automobile service stations located on transit and pedestrian streets to other compatible uses.

**Encourage the preservation and reuse of existing buildings.** San Francisco's existing buildings contribute to the unique character of San Francisco. Reusing buildings, rather than demolishing and rebuilding them, can preserve the built character of neighborhoods, as well as foster sustainability by conserving the energy and materials embodied in these buildings. Certain provisions of the Code can be difficult for existing buildings to comply with, which limits their potential uses, or can entail a costly and time-consuming variance process for the building owner. This ordinance would permit the conversion of non-conforming uses to residential uses, without regard to density limits or parking requirements, in all districts where residential uses are principally permitted. It establishes an administrative exception process from open space and dwelling unit exposure requirements for historic buildings, and permits dwellings to front onto alleys of 20' or more in width.

**Encourage small, neighborhood-serving commercial uses in residential areas.** For decades, the Code has recognized that small commercial uses, although often nonconforming, "tend to provide convenience goods and services on a retail basis to meet the frequent and recurring needs of neighborhood residents within a short distance of their homes". Older storefronts are common in residential districts, and can be difficult to convert to residential uses because of lack of privacy and open space. This proposed ordinance would permit storefronts that were in active commercial use before 1960 to be reactivated with conditional use authorization. It also increases the maximum size of new street-corner commercial uses permitted in RTO, RM-3, and RM-4 to 2500 square feet, the size of a typical residential lot, to extend further than 50' from a corner. These changes, if adopted, would make more existing corner retail uses conforming, and to discourage inactive street fronting uses like storage or garage doors on prominent corner lots. This proposed ordinance would also establish an appropriate set of signage standards that takes into account the essentially residential nature of the neighborhoods where these uses are found, with limitations on the size of signs and sign illumination outside of business hours.

**Encourage small business formation and retention by increasing flexibility for accessory uses in Commercial, Industrial, and Residential-Commercial Districts.** Small businesses that combine office, production, retail, and even residential uses are increasingly common in San Francisco, but frequently do not fit into traditional zoning categories. This proposed ordinance would create more flexibility in zoning around accessory uses, by increasing the maximum square footage for accessory uses in Commercial, Industrial, and Residential-Commercial Districts from one-quarter to one-third of available square footage, and replacing limitations on the horsepower of machines and number of employees in Commercial Districts with a 'good neighbor' performance standard.

**Reduce Variances from the Code and Conditional Use Authorizations and increase code compliance.** The proposed ordinance seeks to decrease the number of Planning Code variances and conditional use authorizations, by providing administrative process for certain exceptions which are otherwise desirable (appropriate reuse of historic buildings, or ensuring the earthquake safety of buildings) and making certain projects or features which conform to general plan and area plan goals (dense residential projects in C-3 districts, and residential projects with less than one space for every two units in C-3 and RC

districts) principally permitted. The ordinance also provides more flexibility in converting non-conforming uses to residences where residences are principally permitted.

**Allow TDRs to be swapped throughout the C-3.** The TDR market is largely at a standstill, allowing transfer of TDRs across C-3 districts will provide further incentives to preserve existing buildings.

**Code Simplification:** The proposed ordinance seeks to simplify the Code by removing obsolete sections, consolidating controls for a single use or feature into a single code sections, and harmonizing similar definitions and controls across use districts.

## PROPOSED CHANGES CONCERNING THE HISTORIC PRESERVATION COMMISSION

The following are changes in the proposed legislation that either impact Article 10 or 11 buildings, or which could have an impact on historic resources.

### Limited Commercial Uses<sup>1</sup> (LCUs):

The Code does not currently allow lapsed LCUs to be reactivated once that use has been abandoned.

*The proposed legislation would allow lapsed LCUs to be reinstated with Conditional Use Authorization so long as the space is located on or below the ground floor and was in commercial or industrial use prior to January 1, 1960; the subject space has not been converted to a dwelling unit; and the proposed commercial use meets all other requirements in the Code.*

*This change will help provide greater convenience for residents by placing more goods and services closer to where they live, which is a hallmark and benefit of living in a dense urban environment. The Department recommends removing the prohibition on reinstating LCUs that have been converted to residential units. Often, these spaces are not very well suited for residential units since they were originally designed as commercial spaces. Allowing ones that have been converted to residential units would allow the Commission to determine whether or not the conversion is appropriate on a case by case basis, rather than making a blanket prohibition.*

*This pertains to the HPC because LCUs are often located in buildings that are historic resources or are potential historic resources. Allowing an expired commercial use to be reinstated in these structures is consistent with Rehabilitation Standard 1 "A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment."*

### Transfer of Development Rights (TDRs):

1. Among other restrictions, TDRs are permitted when the Transfer lot and the Development lot are located in the same C-3 District.

*The proposed legislation would allow TDRs to be transferred to and from any C-3 District. The original restriction, which only allowed TDRs within the same C-3 District, was done to ensure that development wasn't concentrated in any one C-3 District. Since the program was enacted, a large percentage of TDRs have been transferred within the same C-3 Districts. Now that the program has been in place for 25 years*

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<sup>1</sup> "Limited Commercial Uses" are defined in Code § 186 as nonconforming uses and can be beneficial to or accommodated in Residential Districts. They are not permitted uses, but typically existed prior to changes in the Code that made them noncomplying.

*and many districts in downtown have been built out, it's necessary to liberalize the controls in order to equalize the supply and demand ratio and keep the program alive.*

*This item is of concern to the HPC because TDRs concern Articles 11 and 10 buildings*

### **Non Conforming Uses<sup>2</sup>:**

1. A nonconforming use in an R District may be converted to a dwelling unit without regard to the requirements of this Code with respect to dwelling unit density under Article 2, dimensions, areas and open space under Article 1.2, or off-street parking under Article 1.5.

*The proposed legislation adds group housing to this section in addition to dwelling units, and allows the ZA greater flexibility on what provisions of the Code can be waived when replacing a nonconforming use with housing per Code Section 307(h). This provision helps meet the City's current and future demand for affordable housing, special population housing, and housing in general. It also encourages the reuse of existing building stock.*

*This item pertains to the HPC because it encourages the reuse of historic building, although not exclusively. The greater flexibility given to the ZA will make it easier for buildings to be converted to housing while minimizing or eliminating the need to alter the exterior features of the building.*

### **Historic Signs**

1. Section 602.25 and Section 602.26 contain provisions for Historic Movie Theater Signs and Marquees respectively. Section 188(e) contains provisions that allow Historic Movie Theater Signs and marquees to be preserved and enhanced. Section 602.9 contains provisions for Vintage Signs.

*The proposed ordinance deletes sections 602.25 and 602.26 and consolidates those controls under Section 602.9, the recently revised Vintage Sign controls. While the Department supports the consolidation, the proposed legislation should be amended to reflect the recent change to Section 602.9, keeping a clear distinction between Vintage Signs and Historic Movie Theater Signs and Marquees. Also, the process for preserving and enhancing Historic Movie Theater Signs and Marquees is different than establishing a Vintage Sign and this distinction should be made clear in this section by adding a subsection titled "Application for Historic Movie Theater Signs and Marquees" that details the current process for designating Historic Movie Theater Signs and Marquees.*

*The Department would like the prohibition on logos stricken from the proposed text for Section 602.9(e)(5)(B)(ii). Often signs and marquees are restored with the help of businesses or corporations and in return a small logo of that business is placed on the marquee or sign. As written the controls require that new lettering be in character with the lettering on the movie theater signboard and staff has what is appropriate on these signs. The Department believes that these controls are sufficient enough to stop any egregious logos from appearing on historic movie theater sign boards.*

**Powers of the ZA:** The proposed Ordinance would expand the powers of the ZA but only when specific parameters are met.

1. The Code currently allows the ZA to waive certain Code requirements under certain circumstances such as parking, exposure requirements and open space requirements.

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<sup>2</sup> A "Nonconforming Use" is a use which was legally permitted at the time it was established, but which currently fails to conform to one or more of the use limitations in the Code.

*The proposed legislation would expand the ZA's authority by allowing him to waive Dwelling Unit Exposure requirements for Article 11 buildings, consistent with the ZA's current authority to waive Dwelling Unit Exposure requirements for Article 10 buildings. For Article 10 and 11 buildings it would also permit the ZA to allow off-site publicly accessible open space to be credited toward the residential open space requirements. The proposed legislation would also permit the ZA to waive or modify exposure requirements, rear yard requirements and open space requirements when converting a non-conforming use to a residential use, with certain restrictions and criteria.*

*This item pertains to the Historic Preservation Commission because it affects Articles 10 and 11 buildings.*

## **REQUESTED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

## **ENVIRONMENTAL REVIEW**

The proposal to amend the Code by repealing Sections 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3 and 607.4 and amending various other Code sections would result in no physical impact on the environment. The proposed legislation was determined to be exempt from environmental review under the General Rule Exclusion (Section 15061(b)(3) of the CEQA Guidelines).

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has received comments and questions on the proposed legislation from various members of the public, including the Port of San Francisco, the law firm Ruben and Junius, and Steven L. Vettel.

Ruben and Junius is concerned about the legislation's changes to the parking requirements in the C-3 Zoning district, specifically the provision that would require CU for any parking beyond the 2 to 1 ratio. They felt that this added process without any clear benefit. They also expressed concern over the changes to Section 184 that would require surface parking lots to be removed after 5 years. Their concern is that it would make the operators cease operation immediately upon the adoption of the proposed ordinance. Staff's understanding is that they would have 5 years unit they ceased operation. Also, they expressed concern that several entitled projects that are currently on-hold would be required to go back through the entitlement process when they came to get their building permit if they did not meet the current Code requirements. As a remedy to this they wanted to see a grandfathering clause added to the legislation.

Steven L. Vettel, an Attorney with Farella Braun + Martel LLP expressed concern that the legislation would exempt any project with affordable housing units from the FAR calculations. In response Staff has clarified this section so that only units that are designated as Affordable are exempt from FAR calculations.

The Port of San Francisco contacted the Department about how the proposed project would affect their properties. The Port has concerns about how some of the proposed amendments would apply to land under the jurisdiction of the Port Commission, especially in the context of the Port Commission's duties and responsibilities under the San Francisco Charter and Burton Act. The Burton Act is the state

legislation which promulgated the transfer of former State tidelands to the City and County of San Francisco. A more detailed response to the legislation will be coming from the Port in a separate letter.

**Attachments:**

Exhibit A: Draft Resolution

Exhibit B: Excerpts from Board of Supervisors File No. 11-0548

Please note, a full copy of Board File No. 11-0548 can be found by following this link:  
<http://commissions.sfplanning.org/cpcpackets/2011.0532T.pdf>



# SAN FRANCISCO PLANNING DEPARTMENT

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## Historic Preservation Commission Draft Motion

HEARING DATE: DECEMBER 7, 2011

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*Project Name:* Amendments relating to:  
Parking, Awning, Signs, Exposure, Open Space, and Limited  
Conforming Uses.

*Case Number:* 2011.0532T [Board File No. 11-0548]

*Initiated by:* Supervisor Chiu / Introduced May 3, 2011

*Staff Contact:* Aaron Starr, Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

*Reviewed by:* Tim Frye, Preservation Coordinator  
tim.frye@sfgov.org, 415-558-6395

*Recommendation:* **Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE WITH MODIFICATIONS THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE BY REPEALING SECTIONS 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3 AND 607.4 AND AMENDING VARIOUS OTHER CODE SECTIONS TO (1) INCREASE THE AMOUNT OF PRINCIPALLY PERMITTED PARKING SPACES FOR DWELLINGS IN RC-4 AND C-3 DISTRICTS, (2) MAKE OFF-STREET PARKING REQUIREMENTS IN THE VAN NESS SPECIAL USE DISTRICT AND RC-3 DISTRICTS CONSISTENT WITH THOSE OF RC-4 DISTRICTS, (3) ELIMINATE MINIMUM PARKING REQUIREMENTS FOR THE CHINATOWN MIXED USE DISTRICTS AND NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICTS, (4) ALLOW EXCEPTIONS FROM REQUIRED PARKING UNDER SPECIFIED CIRCUMSTANCES, (5) AMEND THE RESTRICTIONS ON OFF-STREET PARKING RATES AND EXTEND THEM TO ADDITIONAL ZONING DISTRICTS, (6) REVISE SIGN, AWNING, CANOPY AND MARQUEE CONTROLS IN SPECIFIED ZONING DISTRICTS, (7) INCREASE THE PERMITTED USE SIZE FOR LIMITED CORNER COMMERCIAL USES IN RTO AND RM DISTRICTS, AND ALLOW REACTIVATION OF LAPSED LIMITED COMMERCIAL USES IN R DISTRICTS, (8) REVISE THE BOUNDARIES OF AND MODIFY PARKING AND SCREENING REQUIREMENTS IN THE WASHINGTON-BROADWAY AND WATERFRONT SPECIAL USE DISTRICTS, (9) MODIFY CONTROLS FOR USES AND ACCESSORY USES IN COMMERCIAL AND RESIDENTIAL-COMMERCIAL DISTRICTS, (10) PERMIT CERTAIN EXCEPTIONS FROM EXPOSURE AND OPEN SPACE REQUIREMENTS FOR HISTORIC BUILDINGS, AND (11) MODIFY CONFORMITY REQUIREMENTS IN VARIOUS USE DISTRICTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

### PREAMBLE

Whereas, on May 3, 2011 Supervisor Chiu introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 11-0548 which would amend the San Francisco Planning Code by

repealing Sections 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3 and 607.4 and amending various other Code sections to (1) increase the amount of principally permitted parking spaces for dwellings in RC-4 and C-3 Districts, (2) make off-street parking requirements in the Van Ness Special Use District and RC-3 Districts consistent with those of RC-4 Districts, (3) eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts, (4) allow exceptions from required parking under specified circumstances, (5) amend the restrictions on off-street parking rates and extend them to additional zoning districts, (6) revise sign, awning, canopy and marquee controls in specified zoning districts, (7) increase the permitted use size for limited corner commercial uses in RTO and RM districts, and allow reactivation of lapsed limited commercial uses in R districts, (8) revise the boundaries of and modify parking and screening requirements in the Washington-Broadway and Waterfront Special Use Districts, (9) modify controls for uses and accessory uses in Commercial and Residential-Commercial Districts, (10) permit certain exceptions from exposure and open space requirements for historic buildings, and (11) modify conformity requirements in various use districts; and

Whereas, on December 7, 2011, the San Francisco Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider aspects in the proposed Ordinance that directly impact Articles 10 and 11 buildings, and historic resources; and

Whereas, the proposed zoning changes have been determined to be exempt from environmental review under the General Rule Exclusion (Section 15061(b)(3) of the CEQA Guidelines); and

Whereas, the 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 the applicant, Department staff, and other interested parties; and

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

**MOVED**, that the Commission hereby recommends that the Board of Supervisors **approve** the proposed ordinance with modifications.

## COMMENTS

Having reviewed the materials identified in the recitals above, and having heard all testimony and arguments, this Commission has provided the following comments regarding the proposed project:

- 1.
- 2.
- 3.
- 4.



**General Plan Compliance.** The proposed Certificate of Appropriateness is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. URBAN DESIGN ELEMENT

THE URBAN DESIGN ELEMENT CONCERNS THE PHYSICAL CHARACTER AND ORDER OF THE CITY, AND THE RELATIONSHIP BETWEEN PEOPLE AND THEIR ENVIRONMENT.

GOALS

*The Urban Design Element is concerned both with development and with preservation. It is a concerted effort to recognize the positive attributes of the city, to enhance and conserve those attributes, and to improve the living environment where it is less than satisfactory. The Plan is a definition of quality, a definition based upon human needs.*

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

POLICY 1.3

*Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.*

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4

*Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.*

POLICY 2.5

*Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.*

POLICY 2.7

*Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.*

*The propose ordinance would encourage the reuse and preservation of existing buildings and allow greater flexibility in the transfer of development rights, helping to preserve San Francisco's unique character.*

**Priority Polices.** The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed Ordinance will encourage neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses by allowing expired Limited Conforming Uses to be reestablished.*

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed Ordinance would help preserve existing neighborhood character by encouraging the reuse of existing building.*

- C) The City's supply of affordable housing will be preserved and enhanced:

*The proposed Ordinance will not negatively impact affordable housing in the City.*

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

*The proposed Ordinance seeks to reduce the impact that private automobiles have on City streets by eliminating minimum parking requirements and replacing them with maximum parking requirements.*

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.*

- G) That landmark and historic buildings will be preserved:

*The proposed ordinance would allow Landmark and historic buildings to be adaptively reused more easily by exempting them from certain provisions in the Planning Code, which would reduce the amount of change that is required to add housing to historic buildings and help preserve them for the future.*

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments. It is not anticipated that permits would be such that sunlight access, to public or private property, would be adversely impacted.*

I hereby certify that the foregoing Motion was ADOPTED by the Historic Preservation Commission at its regularly scheduled meeting on December 7, 2011

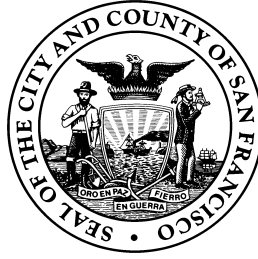
Linda D. Avery  
Commission Secretary

PRESENT:

ABSENT:

ADOPTED: December 7, 2011

**BOARD of SUPERVISORS**



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May 12, 2011

Planning Commission  
Attn: Linda Avery  
1660 Mission Street, 5<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Commissioners:

On May 3, 2011, President Chiu introduced the following proposed legislation:

**File No. 110548**

Ordinance amending the San Francisco Planning Code by repealing Sections 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3, and 607.4 and amending various other Sections to: 1) increase the amount of principally permitted parking spaces for dwellings in RC-4 and C-3 Districts; 2) make off-street parking requirements in the Van Ness Special Use District and RC-3 Districts consistent with those of RC-4 Districts; 3) eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts; 4) allow exceptions from required parking under specified circumstances; 5) amend the restrictions on off-street parking rates and extend them to additional zoning districts; 6) revise sign, awning, canopy and marquee controls in specified zoning districts; 7) increase the permitted use size for limited corner commercial uses in RTO and RM districts, and allow reactivation of lapsed limited commercial uses in R Districts; 8) revise the boundaries of and modify parking and screening requirements in the Washington-Broadway and Waterfront Special Use Districts; 9) modify controls for uses and accessory uses in Commercial and Residential-Commercial Districts; 10) permit certain exceptions from exposure and open space requirements for historic buildings; and 11) modify conformity requirements in various use districts; adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

By: Alisa Somera, Committee Clerk  
Land Use & Economic Development Committee

Attachment

- c: John Rahaim, Director of Planning
- Scott Sanchez, Zoning Administrator
- Bill Wycko, Chief, Major Environmental Analysis
- AnMarie Rodgers, Legislative Affairs
- Nannie Turrell, Major Environmental Analysis
- Brett Bollinger, Major Environmental Analysis

1 [Planning Code - Zoning - Uses, Signs, Building Features, Floor Area Ratio, Parking, and  
2 Compliance in Specified Use Districts]

3 **Ordinance amending the San Francisco Planning Code by repealing Sections 136.2,**  
4 **136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3, and 607.4 and amending**  
5 **various other Sections to: 1) increase the amount of principally permitted parking**  
6 **spaces for dwellings in RC-4 and C-3 Districts; 2) make off-street parking requirements**  
7 **in the Van Ness Special Use District and RC-3 Districts consistent with those of RC-4**  
8 **Districts; 3) eliminate minimum parking requirements for the Chinatown Mixed Use**  
9 **Districts and North Beach Neighborhood Commercial Districts; 4) allow exceptions**  
10 **from required parking under specified circumstances; 5) amend the restrictions on off-**  
11 **street parking rates and extend them to additional zoning districts; 6) revise sign,**  
12 **awning, canopy and marquee controls in specified zoning districts; 7) increase the**  
13 **permitted use size for limited corner commercial uses in RTO and RM districts, and**  
14 **allow reactivation of lapsed limited commercial uses in R districts; 8) revise the**  
15 **boundaries of and modify parking and screening requirements in the Washington-**  
16 **Broadway and Waterfront Special Use Districts; 9) modify controls for uses and**  
17 **accessory uses in Commercial and Residential-Commercial Districts; 10) permit certain**  
18 **exceptions from exposure and open space requirements for historic buildings; and 11)**  
19 **modify conformity requirements in various use districts; adopting findings, including**  
20 **environmental findings, Section 302 findings, and findings of consistency with the**  
21 **General Plan and the Priority Policies of Planning Code Section 101.1.**

22 NOTE: Additions are *single-underline italics Times New Roman*;  
23 deletions are ~~*strike-through italics Times New Roman*~~.  
24 Board amendment additions are double-underlined;  
25 Board amendment deletions are ~~strikethrough normal~~.

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

1 Section 1. Findings.

2 (a) The Planning Department has determined that the actions contemplated in this  
3 ordinance comply with the California Environmental Quality Act (California Public Resources  
4 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of  
5 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference.

6 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
7 amendments will serve the public necessity, convenience, and welfare for the reasons set  
8 forth in Planning Commission Resolution No. \_\_\_\_\_ and the Board incorporates such  
9 reasons herein by reference. A copy of Planning Commission Resolution No. \_\_\_\_\_ is on  
10 file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

11 (c) This Board finds that these Planning Code amendments are consistent with the  
12 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set  
13 forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board hereby  
14 incorporates such reasons herein by reference.

15  
16 Section 2. The San Francisco Planning Code is hereby amended by deleting Sections  
17 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3, and 607.4, as follows:

18 ~~**SEC. 136.2. OBSTRUCTIONS OVER STREETS AND ALLEYS AND IN REQUIRED**~~  
19 ~~**SETBACKS, YARDS, AND USABLE OPEN SPACE IN MIXED USE DISTRICTS.**~~

20 ~~*In addition to the limitations of Section 136, especially Paragraph 136(c)(12), the following*~~  
21 ~~*provisions shall apply in Mixed Use Districts.*~~

22 ~~*(a) Awnings. All portions of any permitted awning shall be not less than eight feet above the*~~  
23 ~~*finished grade, excluding any valance which shall not be less than seven feet above the finished grade.*~~  
24 ~~*No portion of any awning shall be higher than the windowsill level of the lowest story (if any), exclusive*~~

1 ~~or east curbline of The Embarcadero (generally 60 feet inland from the waterfront line) and the Pier~~  
2 ~~Head Line with boundaries as set by the Port Commission in any agreement entered into with a~~  
3 ~~developer.~~

4 ~~(b) Such height exceptions may be permitted, provided that:~~

5 ~~(1) The height of the building or structure so approved by the Planning Commission shall not~~  
6 ~~exceed 175 feet; and~~

7 ~~(2) Within this 175-foot maximum, there shall be a limitation on permitted building volume~~  
8 ~~located above the basic height limit of 84 feet, calculated as the product of 91 feet (the difference~~  
9 ~~between 175 feet and 84 feet) and 10 percent of the project area.~~

10 ~~(c) In acting upon any application under this Section, the Planning Commission shall consider~~  
11 ~~the following criteria in addition to those stated in Section 303(e):~~

12 ~~(1) The development criteria for the Waterfront Special Use District No. 1 as set forth in~~  
13 ~~Section 240.1; and~~

14 ~~(2) The siting of buildings or structures so that higher elements are located nearest The~~  
15 ~~Embarcadero and lower elements outward from The Embarcadero toward the Bay, with a gradual~~  
16 ~~stepping down in height.~~

17 **~~SEC. 602.25. HISTORIC MOVIE THEATER PROJECTING SIGN.~~**

18 ~~may occur with a change of ownership, change of~~ A projecting business sign attached to a  
19 ~~Qualified Movie Theater, as defined in Section 188(e)(1), when such sign was originally constructed in~~  
20 ~~association with the Qualified Movie Theater or similar historic use. Such signs are typically~~  
21 ~~characterized by (i) perpendicularity to the primary facade of the building, (ii) fixed display of the~~  
22 ~~name of the establishment, often in large lettering descending vertically throughout the length of the~~  
23 ~~sign; (iii) a narrow width that extends for a majority of the vertical distance of a building's facade,~~  
24 ~~typically terminating at or slightly above the roofline, and (iv) an overall scale and nature such that the~~  
25 ~~sign comprises a significant and character defining architectural feature of the building to which it is~~



1 ~~attached. Elimination or change of any lettering or other inscription from a movie theater projecting~~  
2 ~~sign, such as that which use, or closure does not preclude classification of the sign under this Section.~~

3 **~~SEC. 602.26. HISTORIC MOVIE THEATER MARQUEE.~~**

4 ~~A marquee, as defined in Section 790.58, attached to a Qualified Movie Theater, as defined in~~  
5 ~~Section 188(e)(1), when such marquee was originally constructed in association with a movie theater~~  
6 ~~or similar historic use. Elimination or change of any lettering or other inscription from a movie~~  
7 ~~theater marquee, such as that which may occur with a change of ownership, change of use or closure,~~  
8 ~~does not preclude classification of the marquee under this Section.~~

9 **~~SEC. 607.3. VAN NESS SPECIAL SIGN DISTRICT.~~**

10 ~~(a) **General.** Signs located within the Van Ness Special Use District, with the exception of the~~  
11 ~~Civic Center Special Sign District as shown in Sectional Map SSD, shall be regulated by the provisions~~  
12 ~~of Article 6 and those set forth below, except for those signs which are exempt pursuant to Section 603.~~  
13 ~~In the event of conflict between the provisions of this Section and those of Article 6, the provisions of~~  
14 ~~this Section shall prevail in the Van Ness Special Use District.~~

15 ~~(b) **Purposes.** In addition to the purposes stated in Sections 101 and 601 of this Code, the~~  
16 ~~following purposes apply to the Van Ness Special Use District. These purposes constitute findings that~~  
17 ~~form a basis for regulations and provide guidance for their application.~~

18 ~~(1) As Van Ness Avenue changes from an automotive oriented area to a mixed use,~~  
19 ~~predominantly residential district, it needs to maintain its attractiveness to business customers and~~  
20 ~~residents alike. Physical amenities and a pleasant appearance will benefit both existing and new~~  
21 ~~enterprises.~~

22 ~~(2) The character of signs and other features projecting from buildings is an important part of~~  
23 ~~the visual appeal of a street and the general quality and economic stability of the area. Opportunities~~  
24 ~~exist to relate these signs and projections more effectively to street design and building design. These~~

1 In order to promote, protect, and maintain a scale of development which is appropriate  
 2 to each Mixed Use District and complementary to adjacent buildings, new construction or  
 3 enlargement of existing buildings on lots larger than the square footage stated in the table  
 4 below shall be permitted as conditional uses subject to the provisions set forth in Section 303.

District	Lot Size Limits
<i>Chinatown</i>	5,000 sq. ft.
<i>Chinatown</i> Community Business	
<i>Chinatown</i> Residential/Neighborhood Commercial	
<i>Chinatown</i> Visitor Retail	

11 In addition to the criteria of Section 303(c), the ~~City~~ Planning Commission shall  
 12 consider the following criteria:

13 (1) The mass and facade of the proposed structure are compatible with the existing  
 14 scale of the district.

15 (2) The facade of the proposed structure is consistent with design features of adjacent  
 16 facades that contribute to the positive visual quality of the district.

17 **SEC. 128. TRANSFER OF DEVELOPMENT RIGHTS IN C-3 DISTRICTS.**

18 (a) **Definitions.**

19 (1) "Development Lot." A lot to which TDR may be transferred to increase the  
 20 allowable gross floor area of development thereon beyond that otherwise permitted by Section  
 21 124

22 (2) "Owner of Record." The owner or owners of record in fee.

23 (3) "Preservation Lot." A parcel of land on which is either (i) a Significant or  
 24 Contributory building (as designated pursuant to Article 11); or (ii) a Category V Building that  
 25 has complied with the eligibility requirement for transfer of TDR as set forth in Section

1 1109(c); or (iii) a structure designated an individual landmark pursuant to Article 10 of this  
2 Code. The boundaries of the Preservation Lot shall be the boundaries of the Assessor's lot on  
3 which the building is located at the time the ordinance or, as to Section 1109(c), resolution,  
4 making the designation is adopted, unless boundaries are otherwise specified in the  
5 ordinance.

6 (4) "Transfer Lot." A Preservation Lot located in a C-3 District from which TDR may be  
7 transferred. A lot zoned P (public) may in no event be a Transfer Lot unless a building on that  
8 lot is (i) owned by the City and County of San Francisco, and (ii) located in a P District  
9 adjacent to a C-3 District, and (iii) designated as an individual landmark pursuant to Article 10  
10 of this Code, designated as a Category I Significant Building pursuant to Article 11 of this  
11 Code, or listed on the National Register of Historic Places, and (iv) the TDR proceeds are  
12 used to finance, in whole or in part, a project to rehabilitate and restore the building in  
13 accordance with the Secretary of Interior standards. For the purposes of Section 128(b), a lot  
14 zoned P which satisfies the criteria of this subsection (4) to qualify as a "Transfer Lot" shall be  
15 deemed to have an allowable gross floor area of 7.5:1 under Section 124

16 (5) "Transferable Development Rights (TDR)." § Units of gross floor area which may  
17 be transferred, pursuant to the provisions of this Section and Article 11 of this Code, from a  
18 Transfer Lot to increase the allowable gross floor area of a development on a Development  
19 Lot.

20 (6) "Unit of TDR." One unit of TDR is one square foot of gross floor area.

21 (b) **Amount of TDR Available for Transfer.** The maximum TDR available for transfer  
22 from a Transfer Lot consists of the difference between (i) the allowable gross floor area  
23 permitted on the Transfer Lot by Section 124 and (ii) the gross floor area of the development  
24 located on the Transfer Lot.

1 (c) **Eligibility of Development Lots and Limitation on Use of TDR on**

2 **Development Lots.** TDR may be used to increase the allowable gross floor area of a  
3 development on a Development Lot if the following requirements and restrictions are satisfied:

4 (1) Transfer of Development Rights shall be limited to the following:

5 (i) The Transfer Lot and the Development Lot are located in ~~the same~~ a C-3 Zoning  
6 District; or

7 ~~(ii) the Transfer Lot is located in a C-3-O, or C-3-R District and the Development Lot is~~  
8 ~~located in the C-3-O(SD) Special Development District; or~~

9 ~~(iii) (ii)~~ the Transfer Lot contains a Significant building and is located in the South of  
10 Market Extended Preservation District, as set forth in Section 819, ~~or a C-3-G or C-3-S District~~  
11 and the Development Lot is located in a ~~the~~ C-3-O (SD) Special District; or

12 ~~(iv) the Transfer Lot is in a C-3-R District or a District designated C-3-O (SD) in the Yerba~~  
13 ~~Buena Center Redevelopment Plan and is located in the Yerba Buena Center Redevelopment Project~~  
14 ~~Area and the Development Lot is located in a C-3-O District; or~~

15 ~~(v) (iii)~~ the Transfer Lot is in a P District adjacent to a C-3 District and meets the  
16 requirements established in subsection (a)(4) above and the Development Lot is located in a  
17 C-3 District; or

18 ~~(vi) (iv)~~ the Transfer Lot is located in any C-3 District and contains an individual  
19 landmark designated pursuant to Article 10 and the Development Lot is located in any C-3  
20 District but not within a Redevelopment Agency Plan Area.

21 (2) TDR may not be transferred for use on any lot on which is or has been located a  
22 Significant or Contributory building; provided that this restriction shall not apply if the  
23 designation of a building is changed to Unrated; nor shall it apply if the ~~City~~ Planning  
24 Commission finds that the additional space resulting from the transfer of TDR is essential to  
25 make economically feasible the reinforcement of a Significant or Contributory building to meet

1 the standards for seismic loads and forces of the Building Code, in which case TDR may be  
2 transferred for that purpose subject to the limitations of this Section and Article 11, including  
3 Section 1111.6. Any alteration shall be governed by the requirements of Sections 1111 to  
4 1111.6

5 (3) Notwithstanding any other provision of this Section, development on a  
6 Development Lot is limited by the provisions of this Code, other than those on floor area ratio,  
7 governing the approval of projects, including the requirements relating to height, bulk,  
8 setback, sunlight access, and separation between towers, and any limitations imposed  
9 pursuant to Section 309 review applicable to the Development Lot. The total allowable gross  
10 floor area of a development on a Development Lot may not exceed the limitation imposed by  
11 Section 123(c).

12 (d) **Effect of Transfer of TDR.**

13 (1) Transfer of TDR from a Transfer Lot permanently reduces the development  
14 potential of the Transfer Lot by the amount of the TDR transferred, except as provided in  
15 Section 124(f). In addition, transfer of TDR from a Preservation Lot containing a Contributory  
16 building or an individual landmark designated pursuant to Article 10 causes such building to  
17 become subject to the same restrictions on demolition and alteration, and the same penalties  
18 and enforcement remedies, that are applicable to Significant Buildings Category I, as provided  
19 in Article 11.

20 (e) **Procedure for Determining TDR Eligibility.**

21 (1) In order to obtain a determination of whether a lot is a Transfer Lot and, if it is, of  
22 the amount of TDR available for transfer, the owner of record of the lot may file an application  
23 with the Zoning Administrator for a Statement of Eligibility. The application for a Statement of  
24 Eligibility shall contain or be accompanied by plans and drawings and other information which  
25 the Zoning Administrator determines is necessary in order to determine whether a Statement

1 of Eligibility can be issued. Any person who applies for a Statement of Eligibility prior to  
2 expiration of the time for request of reconsideration of designation authorized in Section 1105  
3 shall submit in writing a waiver of the right to seek such reconsideration.

4 (2) The Zoning Administrator shall, upon the filing of an application for a Statement of  
5 Eligibility and the submission of all required information, issue either a proposed Statement of  
6 Eligibility or a written determination that no TDR are available for transfer and shall mail that  
7 document to the applicant and to any other person who has filed with the Zoning Administrator  
8 a written request for a copy, and shall post the proposed Statement of Eligibility or written  
9 determination on the Planning Department website. Any appeal of the proposed Statement of  
10 Eligibility or determination of noneligibility shall be filed with the Board of *Permit* Appeals within  
11 20 days of the date of issuance of the document. If not appealed, the proposed Statement of  
12 Eligibility or the determination of noneligibility shall become final on the 21st day after the date  
13 of issuance. The Statement of Eligibility shall contain at least the following information: (i) the  
14 name of the owner of record of the Transfer Lot; (ii) the address, legal description and  
15 Assessor's Block and Lot of the Transfer Lot; (iii) the C-3 use district within which the Transfer  
16 Lot is located; (iv) whether the Transfer Lot contains a Significant or Contributory building, a  
17 Category V building, or an Article 10 individually designated landmark; (v) the amount of TDR  
18 available for transfer; and (vi) the date of issuance.

19 (3) Once the proposed Statement of Eligibility becomes final, whether through lack of  
20 appeal or after appeal, the Zoning Administrator shall record the Statement of Eligibility in the  
21 Office of the County Recorder. The County Recorder shall be instructed to mail the original of  
22 the recorded document to the owner of record of the Transfer Lot and a conformed copy to  
23 the Zoning Administrator.

24 (f) **Cancellation of Eligibility.**

1 (1) If reasonable grounds should at any time exist for determining that a building on a  
2 Preservation Lot may have been altered or demolished in violation of Articles 10 or 11,  
3 including Sections 1110 and 1112 thereof, the Zoning Administrator may issue and record  
4 with the County Recorder a Notice of Suspension of Eligibility for the affected lot and, in cases  
5 of demolition of a Significant or Contributory building, a notice that the restriction on the floor  
6 area ratio of a replacement building, pursuant to Section 1114, may be applicable and shall  
7 mail a copy of such notice to the owner of record of the lot. The notice shall provide that the  
8 property owner shall have 20 days from the date of the notice in which to request a hearing  
9 before the Zoning Administrator in order to dispute this initial determination. If no hearing is  
10 requested, the initial determination of the Zoning Administrator is deemed final on the twenty-  
11 first day after the date of the notice, unless the Zoning Administrator has determined that the  
12 initial determination was in error.

13 (2) If a hearing is requested, the Zoning Administrator shall notify the property owner  
14 of the time and place of hearing, which shall be scheduled within 21 days of the request, shall  
15 conduct the hearing, and shall render a written determination within 15 days after the close of  
16 the hearing. If the Zoning Administrator shall determine that the initial determination was in  
17 error, that officer shall issue and record a Notice of Revocation of Suspension of Eligibility.  
18 Any appeal of the determination of the Zoning Administrator shall be filed with the Board of  
19 *Permit* Appeals within 20 days of the date of the written determination following a hearing or, if  
20 no hearing has been requested, within 20 days after the initial determination becomes final.

21 (3) If after an appeal to the Board of *Permit* Appeals it is determined that an unlawful  
22 alteration or demolition has occurred, or if no appeal is taken of the determination by the  
23 Zoning Administrator of such a violation, the Zoning Administrator shall record in the Office of  
24 the County Recorder a Notice of Cancellation of Eligibility for the lot, and shall mail to the  
25 property owner a conformed copy of the recorded Notice. In the case of demolition of a

1 Significant or Contributory Building, the Zoning Administrator shall record a Notice of Special  
2 Restriction noting the restriction on the floor area ratio of the Preservation Lot pursuant to the  
3 provisions of Section 1114, and shall mail to the owner of record a certified copy of the Notice.  
4 If after an appeal to the Board of ~~Permit~~ Appeals it is determined that no unlawful alteration or  
5 demolition has occurred, the Zoning Administrator shall issue and record a Notice of  
6 Revocation of Suspension of Eligibility and, if applicable, a Notice of Revocation of the Notice  
7 of Special Restriction pursuant to Section 1114, and shall mail conformed copies of the  
8 recorded notices to the owner of record.

9 (4) No notice recorded under this Section 128(f) shall affect the validity of TDR that  
10 have been transferred from the affected Transfer Lot in compliance with the provisions of this  
11 Section prior to the date of recordation of such notice, whether or not such TDR have been  
12 used.

13 (g) **Procedure for Transfer of TDR.**

14 (1) DR from a single Transfer Lot may be transferred as a group to a single transferee  
15 or in separate increments to several transferees. TDR may be transferred either directly from  
16 the original owner of the TDR to the owner of a Development Lot or to persons, firms or  
17 entities who acquire the TDR from the original owner of the TDR and hold them for  
18 subsequent transfer to other persons, firms, entities or to the owners of a Development Lot or  
19 Lots.

20 (2) When TDR are transferred, they shall be identified in each Certificate of Transfer  
21 by a number. A single unit of TDR transferred from a Transfer Lot shall be identified by the  
22 number "1." Multiple units of TDR transferred as a group for the first time from a Transfer Lot  
23 shall be numbered consecutively from "1" through the number of units transferred. If a fraction  
24 of a unit of TDR is transferred, it shall retain its numerical identification. (For example, if 5,000-  
25 1/2 TDR are transferred in the initial transfer from the Transfer Lot, they would be numbered



1 "1 through 5,000 and one-half of 5,001.") TDR subsequently transferred from the Transfer Lot  
2 shall be identified by numbers taken in sequence following the last number previously  
3 transferred. (For example if the first units of gross floor area transferred from a Transfer Lot  
4 are numbered 1 through 10,000, the next unit transferred would be number 10,001.) If  
5 multiple units transferred from a Transfer Lot are subsequently transferred separately in  
6 portions, the seller shall identify the TDR sold by numbers which correspond to the numbers  
7 by which they were identified at the time of their transfer from the Transfer Lot. (For example,  
8 TDR numbered 1 through 10,000 when transferred separately from the Transfer Lot in two  
9 equal portions would be identified in the two Certificates of Transfer as numbers 1 through  
10 5,000 and 5,001 through 10,000.) Once assigned numbers, TDR retain such numbers for the  
11 purpose of identification through the process of transferring and using TDR. The phrase  
12 "numerical identification," as used in this section, shall mean the identification of TDR by  
13 numbers as described in this Subsection.

14 (3) Transfer of TDR from the Transfer Lot shall not be valid unless (i) a Statement of  
15 Eligibility has been recorded in the Office of the County Recorder prior to the date of  
16 recordation of the Certificate of Transfer evidencing such transfer and (ii) a Notice of  
17 Suspension of Eligibility or Notice of Cancellation of Eligibility has not been recorded prior to  
18 such transfer or, if recorded, has thereafter been withdrawn by an appropriate recorded Notice  
19 of Revocation or a new Statement of Eligibility has been thereafter recorded.

20 (4) Transfer of TDR, whether by initial transfer from a Transfer Lot or by a subsequent  
21 transfer, shall not be valid unless a Certificate of Transfer evidencing such transfer has been  
22 prepared and recorded. The Zoning Administrator shall prepare a form of Certificate of  
23 Transfer and all transfers shall be evidenced by documents that are substantially the same as  
24 the Certificate of Transfer form prepared by the Zoning Administrator, which form shall contain  
25 at least the following:

1 (i) For transfers from the Transfer Lot only:  
2 (aa) Execution and acknowledgement by the original owner of TDR as the  
3 transferor(s) of the TDR; and  
4 (bb) Execution and acknowledgment by the Zoning Administrator; and  
5 (cc) A notice, prominently placed and in all capital letters, preceded by the underlined  
6 heading "Notice of Restriction," stating that the transfer of TDR from the Transfer Lot  
7 permanently reduces the development potential of the Transfer Lot by the amount of TDR  
8 transferred, with reference to the provisions of this Section.

9 (ii) For all transfers:  
10 (aa) The address, legal description, Assessor's Block and Lot, and C-3 use district of  
11 the Transfer Lot from which the TDR originates; and  
12 (bb) The amount and sale price of TDR transferred; and  
13 (cc) Numerical identification of the TDR being transferred; and  
14 (dd) The names and mailing addresses of the transferors and transferees of the TDR;  
15 and  
16 (ee) Execution and acknowledgment by the transferors and transferees of the TDR;  
17 and  
18 (ff) A reference to the Statement of Eligibility, including its recorded instrument number  
19 and date of recordation, and a recital of all previous transfers of the TDR, including the names  
20 of the transferors and transferees involved in each transfer and the recorded instrument  
21 number and date of recordation of each Certificate of Transfer involving the TDR, including  
22 the transfer from the Transfer Lot which generated the TDR.

23 (5) When a Certificate of Transfer for the transfer of TDR from a Transfer Lot is  
24 presented to the Zoning Administrator for execution, that officer shall not execute the  
25 document if a transfer of the TDR would be prohibited by any provision of this Section or any

1 other provision of this Code. The Zoning Administrator shall, within five business days from  
2 the date that the Certificate of Transfer is submitted for execution, either execute the  
3 Certificate of Transfer or issue a written determination of the grounds requiring a refusal to  
4 execute the Certificate.

5 (6) Each duly executed and acknowledged Certificate of Transfer containing the  
6 information required herein shall be presented for recordation in the Office of the County  
7 Recorder and shall be recorded by the County Recorder. The County Recorder shall be  
8 instructed to mail the original Certificate of Transfer to the person and address designated  
9 thereon and shall be given a copy of the Certificate of Transfer and instructed to conform the  
10 copy and mail it to the Zoning Administrator.

11 (h) **Certificate of Transfer of TDR for a Project on a Development Lot.**

12 (1) When the use of TDR is necessary for the approval of a building permit for a  
13 project on a Development Lot, the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building  
14 Inspection shall not approve issuance of the permit unless the Zoning Administrator has  
15 issued a written certification that the owner of the Development Lot owns the required number  
16 of TDR. When the transfer of TDR is necessary for the approval of a site permit for a project  
17 on a Development Lot, the Zoning Administrator shall impose as a condition of approval of the  
18 site permit the requirement that the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building  
19 Inspection shall not issue the first addendum to the site permit unless the Zoning  
20 Administrator has issued a written certification that the owner of the Development Lot owns  
21 the required number of TDR.

22 (2) In order to obtain certification as required in Section 128(h)(1), the permit applicant  
23 shall present to the Zoning Administrator:

24 (i) Information necessary to enable the Zoning Administrator to prepare the Notice of  
25 Use of TDR, which information shall be at least the following:

1 (aa) The address, legal description, Assessor's Block and Lot, and zoning  
2 classification of the Development Lot;

3 (bb) The name and address of the owner of record of the Development Lot;

4 (cc) Amount and numerical identification of the TDR being used;

5 (dd) A certified copy of each Certificate of Transfer evidencing transfer to the owner of  
6 the Development Lot of the TDR being used; and

7 (ii) A report from a title insurance company showing the holder of record of the TDR to  
8 be used, all Certificate of Transfer of the TDR, and all other matters of record affecting such  
9 TDR. In addition to showing all such information, the report shall guarantee that the report is  
10 accurate and complete and the report shall provide that in the event that its guarantee or any  
11 information shown in the report is incorrect, the title company shall be liable to the City for the  
12 fair market value of the TDR at the time of the report. The liability amount shall be not less  
13 than \$10,000 and no more than \$1,000,000, the appropriate amount to be determined by the  
14 Zoning Administrator based on the number of TDR being used.

15 (iii) An agreement whereby the owner of the Development Lot shall indemnify the City  
16 against any and all loss, cost, harm or damage, including attorneys' fees, arising out of or  
17 related in any way to the assertion of any adverse claim to the TDR, including any loss, cost,  
18 harm or damage occasioned by the passive negligence of the City and excepting only that  
19 caused by the City's sole and active negligence. The indemnity agreement shall be secured  
20 by a financial balance sheet certified by an auditor or a corporate officer showing that the  
21 owner has assets equal to or greater than the value of the TDR, or other security satisfactory  
22 to Planning Department and the City Attorney.

23 (3) If the Zoning Administrator determines that the project applicant has complied with  
24 the provisions of Subsection (h)(2) and all other applicable provisions of this Section, and that  
25 the applicant is the owner of the TDR, that officer shall transmit to the *Superintendent Director*

1 of the ~~Bureau~~ Department of Building Inspection, with a copy to the project applicant, written  
2 certification that the owner of the Development Lot owns the TDR. Prior to transmitting such  
3 certification, the Zoning Administrator shall prepare a document entitled Notice of Use of TDR  
4 stating that the TDR have been used and may not be further transferred, shall obtain the  
5 execution and acknowledgment on the Notice of the owner of record of the Development Lot,  
6 shall execute and acknowledge the Notice, shall record it in the Office of the County  
7 Recorder, and shall mail to the owner of record of the Development Lot a conformed copy of  
8 the recorded Notice. If the Zoning Administrator determines that the project applicant is not  
9 the owner of the TDR, or has not complied with all applicable provisions of this Section, that  
10 determination shall be set forth in writing along with the reasons therefore. The Zoning  
11 Administrator shall either transmit certification or provide a written determination that  
12 certification is inappropriate within 10 business days after the receipt of all information  
13 required pursuant to Subsection (h)(2).

14 (i) **Cancellation of Notice of Use; Transfer from Development Lot.**

15 (1) The owner of a Development Lot for which a Notice of Use of TDR has been  
16 recorded may apply for a Cancellation of Notice of Use if (i) the building permit or site permit  
17 for which the Notice of Use was issued expires or was revoked or cancelled prior to  
18 completion of the work for which such permit was issued and the work may not be carried out;  
19 or (ii) any administrative or court decision is issued or any ordinance or initiative or law is  
20 adopted which does not allow the applicant to make use of the permit; or (iii) a portion or all of  
21 such TDR are not used.

22 (2) If the Zoning Administrator determines that the TDR have not been and will not be  
23 used on the Development Lot based on the reasons set forth in subsection (i)(1), the Zoning  
24 Administrator shall prepare the Cancellation of Notice of Use of TDR. If only a portion of the  
25 TDR which had been acquired are not being used, the applicant may identify which TDR will

1 not be used and the Cancellation of Notice of Use of TDR shall apply only to those TDR. The  
2 Zoning Administrator shall obtain on the Cancellation of Notice of Use of TDR the signature  
3 and acknowledgment of the owner of record of the Development Lot as to which the Notice of  
4 Use of TDR was recorded, shall execute and acknowledge the document, and shall record it  
5 in the office of the County Recorder.

6 (3) Once a Cancellation of Notice of Use of TDR has been recorded, the owner of the  
7 Development Lot may apply for a Statement of Eligibility in order to transfer the TDR identified  
8 in that document. The procedures and requirements set forth in this Section governing the  
9 transfer of TDR shall apply to the transfer of TDR from the owner of a Development Lot after a  
10 Notice of Use has been filed, except for the provisions of this Section permanently restricting  
11 the development potential of a Transfer Lot upon the transfer of TDR; provided, however, that  
12 the district or districts to which the TDR may be transferred shall be the same district or  
13 districts to which TDR could have been transferred from the Transfer Lot that generated the  
14 TDR.

15 (j) **Erroneous Notice of Use; Revocation of Permit.** If the Zoning Administrator  
16 determines that a Notice of Use of TDR was issued or recorded in error, that officer may direct  
17 the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building Inspection to suspend any  
18 permit issued for a project using such TDR, in which case the ~~Superintendent~~ Director of the  
19 Department of Building Inspection shall comply with that directive. The Zoning Administrator  
20 shall thereafter conduct a noticed hearing in order to determine whether the Notice of Use of  
21 TDR was issued or recorded in error. If it is determined that the Notice of Use of TDR was  
22 issued or recorded in error, the Superintendent of the ~~Bureau~~ Department of Building Inspection  
23 shall revoke the permit; provided, however, that no permit authorizing such project shall be  
24 revoked if the right to proceed thereunder has vested under California law. If it is determined  
25

1 that the Notice of Use of TDR was not issued or recorded in error, the permit shall be  
2 reinstated.

3 (k) **Effect of Repeal or Amendment.** TDR shall convey the rights granted herein only  
4 so long and to the extent as authorized by the provisions of this Code. Upon repeal of such  
5 legislative authorization, TDR shall there after convey no rights or privileges. Upon  
6 amendment of such legislative authorization, TDR shall thereafter convey only such rights and  
7 privileges as are permitted under the amendment. No Statement of Eligibility shall convey any  
8 right to use, transfer or otherwise utilize TDR if the maximum floor area ratio for the Transfer  
9 Lot is reduced after the Statement of Eligibility is issued.

10 (l) **Preservation Rehabilitation, and Maintenance Requirements for Preservation**  
11 **Lots.**

12 (1) In addition to the material required to be submitted with an application for a  
13 Statement of Eligibility set forth in subsection 128(e), the owner of the Preservation Lot shall:

14 (i) Demonstrate that any and all outstanding Notices of Violation have been abated;  
15 and

16 (ii) Submit for approval by the Department a Preservation, Rehabilitation, and  
17 Maintenance Plan that describes any proposed preservation and rehabilitation work and that  
18 guarantees the maintenance and upkeep of the Preservation Lot. This Plan shall include:

19 (aa) a plan for the ongoing maintenance of the Preservation Lot;

20 (bb) information regarding the nature and cost of any rehabilitation, restoration or  
21 preservation work to be conducted on the Preservation Lot, including information about any  
22 required seismic, life safety, or disability access work;

23 (cc) a construction schedule; and

24 (dd) any other such information as the Department may require to determine  
25 compliance of this subsection 128(l).

1 All such work, shall comply with the Secretary of the Interior's Standards for the  
2 Treatment of Historic Properties. The requirements of the approved Plan shall be recorded  
3 along with the final Statement of Eligibility in the Office of the County Recorder.

4 Notwithstanding the foregoing, the owner of the Preservation Lot may apply to the  
5 Department for a hardship exemption from the requirements of subsection (i). Such hardship  
6 exemption shall demonstrate to the satisfaction of the Department that sale of TDR is  
7 necessary to fund the work required to cure the outstanding Notice(s) of Violation on the  
8 Preservation Lot.

9 (2) Approval of the Statement of Eligibility shall be conditioned on execution of the  
10 requirements described in subsection (I)(1). Once a Statement of Eligibility has been issued  
11 and a Notice of Special Restrictions has been recorded on the property, the owner of the  
12 Preservation Lot, at the owner's sole discretion, may withdraw from the TDR program prior to  
13 the sale of any TDR. The Department shall rescind the Statement of Eligibility and request  
14 removal of such condition(s) on the Preservation Lot. Once any TDR is transferred from the  
15 Preservation Lot, the Statement of Eligibility and conditions may not be withdrawn.

16 (3) Within one year of the issuance of the Statement of Eligibility, the owner of the  
17 Preservation Lot shall submit a status report to the Department detailing how the  
18 requirements of subsection (I)(1) have been completed and describing ongoing maintenance  
19 activities. Such report shall include: (i) information detailing the work completed; (ii) copies of  
20 all permits obtained for the work, including any Certificates of Appropriateness or Permits to  
21 Alter; (iii) any inspection reports or other documentation from the Department of Building  
22 Inspection showing completion of the work; (iv) itemized receipts of payment for work  
23 performed; and (v) any such other documentation as the Department may require to  
24 determine compliance with the requirements of this subsection 128(I). The deadline for  
25 completion of the work and submittal of this report may be extended at the discretion of the



1 Department upon application of the owner of the Preservation Lot and only upon a showing  
2 that the owner has diligently pursued all required permits and completion of the work.

3 (4) Failure to comply with the requirements of this subsection (l), including all reporting  
4 requirements, shall be grounds for enforcement under this Code, including but not limited to  
5 under Sections 176 and 176.1. Penalties for failure to comply may include, but shall not be  
6 limited to, a lien on the Preservation Lot equal to the sale price of the TDR sold.

7 **SEC. 135. USABLE OPEN SPACE FOR DWELLING UNITS AND GROUP HOUSING, R,**  
8 **NC, MIXED USE, C, AND M DISTRICTS.**

9 Except as provided in Sections 134.1, 172 and 188 of this Code, usable open space  
10 shall be provided for each dwelling and each group housing structure in R, NC, C, Mixed Use,  
11 and M Districts according to the standards set forth in this Section unless otherwise specified  
12 in specific district controls elsewhere in this Code.

13 (a) **Character of Space Provided.** Usable open space shall be composed of an  
14 outdoor area or areas designed for outdoor living, recreation or landscaping, including such  
15 areas on the ground and on decks, balconies, porches and roofs, which are safe and suitably  
16 surfaced and screened, and which conform to the other requirements of this Section. Such  
17 area or areas shall be on the same lot as the dwelling units (or bedrooms in group housing)  
18 they serve, and shall be designed and oriented in a manner that will make the best practical  
19 use of available sun and other climatic advantages. "Private usable open space" shall mean  
20 an area or areas private to and designed for use by only one dwelling unit (or bedroom in  
21 group housing). "Common usable open space" shall mean an area or areas designed for use  
22 jointly by two or more dwelling units (or bedrooms in group housing).

23 (b) **Access.** Usable open space shall be as close as is practical to the dwelling unit  
24 (or bedroom in group housing) for which it is required, and shall be accessible from such  
25 dwelling unit or bedroom as follows:

1 Section 166, and to promote and encourage those tenants and their employees to prioritize  
2 the use of car-share services for activities that necessitate automobile travel, including the  
3 promotion and sale of individual and business memberships in certified car-sharing  
4 organizations, as defined by Section 166(b)(2).

5 (5) To promote and encourage project occupants to adopt a coordinated flex-time or  
6 staggered work hours program designed to more evenly distribute the arrival and departure  
7 times of employees within normal peak commute periods;

8 (6) To participate with other project sponsors in a network of transportation brokerage  
9 services for the respective downtown, South of Market area, or other area of employment  
10 concentration in ~~the Eastern Neighborhoods~~ Mixed Use Districts;

11 (7) To carry out other activities determined by the Planning Department to be  
12 appropriate to meeting the purpose of this requirement.

13 **SEC. 182. NONCONFORMING USES: CHANGES OF USE.**

14 The following provisions shall apply to nonconforming uses with respect to changes of  
15 use:

16 (a) A nonconforming use shall not be changed or modified so as to increase the  
17 degree of nonconformity under the use limitations of this Code, with respect to the type of use  
18 or its intensity except as provided in Section 181 for nighttime entertainment activities within  
19 the RSD, MUG, MUR, or SLR Districts and in Subsection (f) below. The degree of  
20 nonconformity shall be deemed to be increased if the new or modified use is less widely  
21 permitted by the use districts of the City than the nonconforming use existing immediately  
22 prior thereto.

23 (b) Except as limited in this Subsection, a nonconforming use may be reduced in size,  
24 extent or intensity, or changed to a use that is more widely permitted by the use districts of the  
25

1 City than the existing use, subject to the other applicable provisions of this Code. Except as  
2 otherwise provided herein, the new use shall still be classified as a nonconforming use.

3 (1) ~~A Nonconforming commercial and industrial use in a Residential or Residential  
4 Enclave District shall be subject to the requirements of Section 186 (other than a Residential-  
5 Commercial Combined District or an RED District), which use is located more than 1/4 mile from the  
6 nearest Individual Area Neighborhood Commercial District or Restricted Use Subdistrict described in  
7 Article 7 of this Code, may change to another use which is permitted as a principal use at the first story  
8 and below in an NC-1 District, or it may change to another use which is permitted as a conditional use  
9 at the first story and below in an NC-1 District only upon approval of a conditional use application  
10 pursuant to the provisions of Article 3 of this Code. If the nonconforming use is seeking to change in  
11 use to a retail sales activity or retail sales establishment which is also a formula retail use, as defined  
12 in Section 703.3 of this Code, it shall comply with the provisions of Section 703.3 of this Code. The  
13 nonconforming use shall comply with other building standards and use limitations of NC-1 Districts, as  
14 set forth in Sections 710.10 through 710.95 of this Code.~~

15 ~~If the nonconforming use is located within 1/4 mile from any Individual Area Neighborhood  
16 Commercial District or Restricted Use Subdistrict described in Article 7 of this Code, the  
17 nonconforming use may change to another use which is permitted as a principal use at the first story  
18 and below in an NC-1 District and in the Individual Area Neighborhood Commercial District or  
19 Restricted Use Subdistrict or Districts within 1/4 mile of the use, or it may change to another use which  
20 is permitted as a conditional use at the first story and below in an NC-1 District and in the Individual  
21 Area Neighborhood Commercial District or Districts within 1/4 mile of the use only upon approval of a  
22 conditional use application pursuant to the provisions of Article 3 of this Code. If the nonconforming  
23 use is seeking to change in use to a retail sales activity or retail sales establishment which is also a  
24 formula retail use, as defined in Section 703.3 of this Code, it shall comply with the provisions of  
25 Section 703.3 of this Code. The nonconforming use shall comply with other building standards and use~~

1 ~~limitations of NC-1 Districts and any Individual Area NC District or Districts located within ¼ mile of~~  
2 ~~the use, as set forth in Article 7 of this Code.~~

3 ~~(2) A nonconforming use in a Residential-Commercial Combined District may be changed to~~  
4 ~~another use listed in Articles 2 or 7 of this Code as a principal use for the district in which the existing~~  
5 ~~use would first be permitted as a principal or conditional use.~~

6 ~~(3) A nonconforming use in a Neighborhood Commercial District may be changed to~~  
7 ~~another use as provided in Subsections (c) and (d) below or as provided in Section 186.1 of~~  
8 ~~this Code.~~

9 ~~(4) A nonconforming use in any district other than a Residential, Downtown Residential, or~~  
10 ~~Neighborhood Commercial District may be changed to another use listed in Articles 2 or 7 of this Code~~  
11 ~~as a principal use for the district in which the existing use would first be permitted as a principal use.~~

12 ~~(3) (5) A nonconforming use in any South of Market Mixed Use District may not be~~  
13 ~~changed to an office, retail, bar, restaurant, nighttime entertainment, adult entertainment,~~  
14 ~~hotel, motel, inn, hostel, or movie theater use in any district where such use is otherwise not~~  
15 ~~permitted or conditional, except as provided in Subsection (g) below.~~

16 (c) A nonconforming use may be changed to a use listed ~~in Articles 2 or 7 of this Code~~  
17 ~~as a conditional use for the district in which the property is located, only upon approval of a~~  
18 ~~conditional use application pursuant to the provisions of Article 3 of this Code, subject to the other~~  
19 ~~applicable provisions of this Code, without the necessity of specific authorization by the City Planning~~  
20 ~~Commission except where major work on a structure is involved, and the new use may thereafter~~  
21 ~~be continued as a permitted conditional use, subject to the limitation of Section 178(b) of this~~  
22 ~~Code.~~

23 (d) A nonconforming use may be changed to a use listed ~~in Articles 2, 7 or 8 of this Code~~  
24 ~~as a principal use for the district in which the property is located, subject to the other~~  
25

1 applicable provisions of this Code, and the new use may thereafter be continued as a  
2 permitted principal use.

3 (e) A nonconforming use ~~in an R District subject to termination under the provisions of~~  
4 ~~Section 185 of this Code~~ may be converted to ~~a~~ dwelling units or to group housing, in a district  
5 where such use is principally permitted, without regard to the requirements of this Code with  
6 respect to residential dwelling unit density under Article 2, dimensions, areas and open space under  
7 Article 1.2, or required off-street parking under Article 1.5, and the Zoning Administrator may  
8 provide relief from certain other standards specified in Section 307(h) through the procedures of that  
9 Section, provided the nonconforming use is eliminated by such conversion, provided further  
10 that the structure is not enlarged, extended or moved to another location, and provided further  
11 that the requirements of the Building Code, the Housing Code and other applicable portions of  
12 the Municipal Code are met.

13 (f) Any nonconforming use in an RED District may change to any use falling within  
14 zoning categories 816.36, 816.42 through 816.47, 816.55, or 816.64 through 816.67, subject  
15 to the applicable provisions of this Code other than those controlling uses, and the new use  
16 may thereafter continue as a nonconforming use.

17 (g) Once a nonconforming use has been changed to a principal or conditional use  
18 permitted in the district in which the property is located, or brought closer in any other manner  
19 to conformity with the use limitations of this Code, the use of the property may not thereafter  
20 be returned to its former nonconforming status, except that:

21 ~~(1) Any area which is used as a live/work unit shall be allowed to return to its former~~  
22 ~~nonconforming status.~~

23 ~~(2) Within any South of Market Mixed Use District, any area occupied by a~~  
24 ~~nonconforming office use which is changed to an arts, home and/or business service use~~  
25 ~~falling within zoning categories 102.2 or 816.42 through 816.47 or a wholesale, storage or~~

1 light manufacturing use falling within zoning categories 816.64 through 816.67 shall be  
2 allowed to return to its former nonconforming office use.

3 ~~(3)~~ Upon restoration of a previous nonconforming use as permitted ~~by Subsection (1) or~~  
4 ~~(2)~~ above, any modification, enlargement, extension, or change of use, from circumstances  
5 which last lawfully existed prior to the ~~ereation of the live/work unit, or prior to the~~ change from  
6 office use, shall be subject to the provisions of this Article, and the restored nonconforming  
7 use shall be considered to have existed continuously since its original establishment, prior to  
8 the live/work unit or change to office use, for purposes of this Article.

9 (h) If a nonconforming use has been wrongfully changed to another use in violation of  
10 any of the foregoing provisions, and the violation is not immediately corrected when required  
11 by the Zoning Administrator, the wrongful change shall be deemed to be a discontinuance or  
12 abandonment of the nonconforming use under Section 183 of this Code.

13 **SEC. 184. SHORT-TERM CONTINUANCE OF CERTAIN NONCONFORMING USES.**

14 The period of time during which the following nonconforming uses may continue or  
15 remain shall be limited to five years from the effective date of this Code (May 2, 1960), or of  
16 the amendment thereto which caused the use to be nonconforming. Every such  
17 nonconforming use shall be completely eliminated within 90 days after the expiration of such  
18 period.

19 (a) Any nonconforming commercial or industrial use of land where no enclosed  
20 building is involved in such use, ~~except for permanent off-street parking lots in the C-3-O, C-3-R~~  
21 ~~and C-3-G Districts existing on the effective date of Ordinance No. 414-85, provided that such lots are~~  
22 ~~screened in the manner required by Section 156(e);~~

23 (b) Any use of a type first permitted as a principal or conditional use in an NC, C or M  
24 District or in a Residential-Commercial ~~Combined~~ District, when occupying a building in an R  
25 District other than a Residential-Commercial ~~Combined~~ District that has an assessed valuation

1 not in excess of \$500 on the effective date of this Code or such later date as the use becomes  
2 nonconforming, with the following exceptions:

3 (1) Any lawful use in this category in a building having an assessed valuation of \$250  
4 or more on the effective date of this Code, or such later date as the use becomes  
5 nonconforming, shall have a period of permitted continuance of 10 years from the date at  
6 which the property was placed in a residential zoning classification, if such a period of  
7 continuance produces an expiration date which is later than the expiration date stated above;  
8 or

9 (2) Any lawful use in this category which is of a type first permitted in an NC-1 District;  
10 or of a type first permitted in any other district and supplying commodities at retail, or offering  
11 personal services, primarily to residents of the immediate vicinity; shall have a period of  
12 permitted continuance of 10 years from the effective date of this Code, or of the amendment  
13 thereto which caused the use to be nonconforming. After five years of such period have  
14 elapsed, any use as described in this Paragraph (b)(2) shall, upon application, be qualified for  
15 consideration by the City Planning Commission as a conditional use as regulated in Section  
16 303 of this Code.

17 **SEC. 186. EXEMPTION OF LIMITED COMMERCIAL AND INDUSTRIAL**  
18 **NONCONFORMING USES IN RH, RM, RTO, AND RED DISTRICTS.**

19 The purpose of this Section is to provide for the further continuance in RH, RM, RTO,  
20 and RED Districts of nonconforming uses of a limited commercial and industrial character, as  
21 herein described, which are beneficial to, or can be accommodated within, the residential  
22 areas in which they are located. It is hereby found and declared that, despite the general  
23 incompatibility of nonconforming uses with the purposes of this Code, and with other nearby  
24 uses, these limited commercial uses may be tolerated in residential areas, and tend to provide  
25 convenience goods and services on a retail basis to meet the frequent and recurring needs of

1 neighborhood residents within a short distance of their homes or, within the South of Market  
2 RED Districts, tend to provide jobs and continuation of small scale service and light industrial  
3 activities. These uses tend to be small in scale, to serve primarily a walk-in trade, and cause a  
4 minimum of interference with nearby streets and properties. Accordingly, this Section  
5 recognizes the public advantages of these uses and establishes conditions for their continued  
6 operation.

7 (a) Exemption from Termination Provisions. The following nonconforming uses in R  
8 Districts shall be exempt from the termination provisions of Section 185, provided such uses  
9 comply with all the conditions specified in Subsection (b) below:

10 (1) Any nonconforming use at any story in an RH or RM District which is located more  
11 than ¼ mile from the nearest Individual Area Neighborhood Commercial District or Restricted  
12 Use Subdistrict described in Article 7 of this Code, and which complies with the use limitations  
13 specified for the first story and below of an NC-1 District, as set forth in Sections 710.10  
14 through 710.95 of this Code.

15 (2) Any nonconforming use in an RH or RM District which is located within ¼ mile from  
16 any Individual Area Neighborhood Commercial District or restricted use subdistrict and which  
17 complies with the most restrictive use limitations specified for the first story and below of:

18 (A) NC-1 District, as set forth in Sections 710.10 through 710.95 of this Code; and

19 (B) Any Individual Area Neighborhood Commercial District within ¼ mile of the use, as  
20 set forth in Sections 714.10 through 729.95 of this Code;

21 (C) Any Restricted Use Subdistrict within ¼ mile of the use, as set forth in Sections  
22 781 through 781.7 of this Code.

23 (3) In the RED Districts, any nonconforming use which is a personal service use falling  
24 within zoning category 816.31; home and business service use falling within zoning categories  
25



1 816.42 through 816.47; live/work unit falling within zoning category 816.55; wholesale sales,  
2 storage or light manufacturing uses falling within zoning categories 816.64 through 816.67.

3 (b) Conditions on Limited Nonconforming Uses. The limited nonconforming uses  
4 described above shall meet the following conditions:

5 (1) The building shall be maintained in a sound and attractive condition, consistent  
6 with the general appearance of the neighborhood;

7 (2) Any signs on the property shall be made to comply with the requirements of Article  
8 6 of this Code applying to nonconforming uses;

9 (3) The hours during which the use is open to the public shall be limited to the period  
10 between 6:00 a.m. and 10:00 p.m.;

11 (4) Public sidewalk space may be occupied in connection with the use provided that it  
12 is only occupied with tables and chairs as permitted by this Municipal Code;

13 (5) Truck loading shall be limited in such a way as to avoid undue interference with  
14 sidewalks, or with crosswalks, bus stops, hydrants and other public features;

15 (6) Noise, odors and other nuisance factors shall be adequately controlled; and

16 (7) All other applicable provisions of this Code shall be complied with.

17 (c) **Formula Retail Uses.** All uses meeting the definition of "formula retail" use per  
18 Section 703.3(b) shall not be permitted except by Conditional Use authorization under ~~through~~  
19 the procedures of Section 303 of this Code.

20 (d) **Street Frontage.** In addition to the requirements of Section 144 of this Code, the  
21 requirements of Section 145.1(c)(6) and (7) shall apply.

22 (e) **Awnings.** Awnings are permitted, subject to the standards for an NC-1 District in  
23 Section 136.1(a) of this Code. Canopies and marquees are not permitted.

24 (f) Compliance. Any use affected by this Section which does not comply with all of the  
25 conditions herein specified shall be subject to termination in accordance with Section 185 at

1 the expiration of the period specified in that Section, but shall be qualified for consideration as  
2 a conditional use under Section 185(e). Any such use which is in compliance with such  
3 conditions at the expiration of such period but fails to comply therewith at any later date shall  
4 be subject to termination when it ceases to comply with any of such conditions.

5 (g) **Reactivation.** Limited Commercial uses in RH, RM, RTO, and RED Districts that have  
6 been discontinued or abandoned, as defined in Section 183, may be reactivated with Conditional Use  
7 authorization. In addition to the findings of Section 303, the Planning Commission must find that:

8 (1) the subject space is located on or below the ground floor, and was in commercial or  
9 industrial use prior to January 1, 1960;

10 (2) the subject space has not been converted to a dwelling unit; and

11 (3) the proposed commercial use meets all the requirements of this section, and other  
12 applicable sections of this Code.

13 (h) ~~(f)~~ **Termination.** Any use affected by this Section which does not comply with all of  
14 the conditions herein specified shall be subject to termination in accordance with Section 185  
15 at the expiration of the period specified in that Section, but shall be qualified for consideration  
16 as a conditional use under Section 185(e). Any such use which is in compliance with such  
17 conditions at the expiration of such period but fails to comply therewith at any later date shall  
18 be subject to termination when it ceases to comply with any of such conditions.

19 ~~(d)~~ (i) **Other Applicable Provisions.** The provisions for nonconforming uses contained in  
20 Sections 180 through 183 shall continue to apply to all uses affected by this Section 186,  
21 except that the cost limit for structural alterations contained in Section 181(b)(4) shall not be  
22 applicable thereto.

23 **SEC. 188. NONCOMPLYING STRUCTURES; ENLARGEMENTS, ALTERATIONS AND**  
24 **RECONSTRUCTION.**

1 approving installation of the garage, the Commission shall find that: (1) the proposed garage  
2 opening/addition of off-street parking will not cause the "removal" or "conversion of residential  
3 unit," as those terms are defined in Section 317 of this Code; (2) the proposed garage  
4 opening/addition of off-street parking will not substantially decrease the livability of a dwelling  
5 unit without increasing the floor area in a commensurate amount; (3) the building has not had  
6 two or more "no-fault" evictions, as defined in 37.9(a)(7)—(13) of the San Francisco  
7 Administrative Code, with each eviction associated with a separate unit(s) within the past ten  
8 years, (4) the garage would not front on a public right-of-way narrower than 41 feet, and (5)  
9 the proposed garage/addition of off-street parking installation is consistent with the Priority  
10 Policies of Section 101.1 of this Code.

11 Prior to the Planning Commission hearing, or prior to issuance of notification under  
12 Section 311(c)(2) of this Code, the Planning Department shall require a signed affidavit by the  
13 project sponsor attesting to (1), (2), and (3) above, which the Department shall independently  
14 verify. The Department shall also have made a determination that the project complies with  
15 (4) and (5) above.

16 **SEC. 262. ADDITIONAL HEIGHT LIMITS APPLICABLE TO SIGNS.**

17 (a) The height limits established by this Article 2.5 shall apply to all signs regulated by  
18 this Code, except those identified as an hHistoric sSigns within an Historic Sign District pursuant  
19 to Sections ~~302, 303 and 608.14~~ 602.9 of this Code. No sign shall be erected, placed, replaced,  
20 reconstructed or relocated except in conformity with the provisions of this Article, whether  
21 such sign is freestanding or attached to a building or structure.

22 (b) The height of signs is also regulated by Article 6 of this Code, and in each case the  
23 most restrictive of the applicable height limitations shall prevail, except for historic signs ~~within~~  
24 ~~Historic Sign Districts~~ which are exempt from height limits pursuant to Section 260 of this Code

25 **SEC. 307. OTHER POWERS AND DUTIES OF THE ZONING ADMINISTRATOR.**

1           In addition to those specified in Sections 302 through 306, and Sections 316 through  
2 316.8 of this Code, the Zoning Administrator shall have the following powers and duties in  
3 administration and enforcement of this Code. The duties described in this Section shall be  
4 performed under the general supervision of the Director of Planning, who shall be kept  
5 informed of the actions of the Zoning Administrator.

6           **(a) Rules, Regulations and Interpretations.** The Zoning Administrator shall,  
7 consistent with the expressed standards, purposes and intent of this Code and pursuant to its  
8 objectives, issue and adopt such rules, regulations and interpretations as are in the Zoning  
9 Administrator's opinion necessary to administer and enforce the provisions of this Code.  
10 Such rules and regulations, and any such interpretations that will be of general application in  
11 future cases, shall be made a part of the permanent public records of the Planning  
12 Department. The Zoning Administrator shall respond to all written requests for determinations  
13 regarding the classification of uses and the interpretation and applicability of the provisions of  
14 this Code.

15           **(b) Compliance with This Code.** The Zoning Administrator shall have authority to  
16 take appropriate actions to secure compliance with this Code, through review of permit  
17 applications, surveys and record-keeping, enforcement against violations as described in  
18 Section 176, and other means.

19           **(c) Inspection of Premises.** In the performance of any prescribed duties, the Zoning  
20 Administrator and employees of the Planning Department authorized to represent the Zoning  
21 Administrator shall have the right to enter any building or premises for the purposes of  
22 investigation and inspection; provided, that such right of entry shall be exercised only at  
23 reasonable hours, and that in no case shall entry be made to any building in the absence of  
24 the owner or tenant thereof without the written order of a court of competent jurisdiction.  
25

1 (d) **Code Maintenance.** The Zoning Administrator shall periodically review and study  
2 the effectiveness and appropriateness of the provisions of this Code, for the purpose of  
3 recommending necessary changes to the Director of Planning and the Planning Commission.

4 (e) **Exercise of Powers and Duties by Others.** In cases where absence, incapacity,  
5 vacancy of the office, conflict of interest or other sufficient reasons prevent action by the  
6 Zoning Administrator, the Director of Planning may designate any officer or employee of the  
7 Department to carry out any function of the Zoning Administrator so affected.

8 (f) **Cooperation With Other Departments.** The Zoning Administrator shall furnish to  
9 the various departments, officers and employees of the City vested with the duty or authority  
10 to issue permits or licenses (including but not limited to the Department of Public Works,  
11 Department of Public Health, Police Department and Fire Department) such information as  
12 will insure the proper administration of this Code and of all the rules, regulations,  
13 interpretations and other determinations of the Planning Department relative thereto. It shall  
14 be the duty of said departments, officers and employees to cooperate with the Zoning  
15 Administrator in the performance of the Zoning Administrator's duties, and to assist in the  
16 enforcement of the provisions of this Code.

17 (g) **Exceptions from Certain Specific Code Standards through Administrative**  
18 **Review in the Chinatown Mixed Use Districts and the South of Market Mixed Use**  
19 **Districts.** The Zoning Administrator may allow complete or partial relief from parking, rear  
20 yard, open space and wind and shadow standards as authorized in the applicable sections of  
21 this Code, when modification of the standard would result in a project better fulfilling the  
22 criteria set forth in the applicable section. The procedures and fee for such review shall be  
23 the same as those which are applicable to variances, as set forth in Sections 306.1 through  
24 306.5 and 308.2

1 (h) **Exceptions from Certain Specific Code Standards through Administrative**  
2 **Review** ~~*in the Eastern Neighborhoods Mixed Use Districts. In the Eastern Neighborhoods Mixed*~~  
3 ~~*Use Districts, the*~~ *The* Zoning Administrator may allow complete or partial relief from certain  
4 standards specifically identified below and elsewhere in this Code when modification of the  
5 standard would result in a project fulfilling the criteria set forth below and in the applicable  
6 section.

7 (1) **Applicability.**

8 (A) Eastern Neighborhoods Mixed Use Districts. For projects not subject to Section 329,  
9 relief may be provided for the following requirements: rear yard; non-residential open space;  
10 off-street loading requirements; and off-street parking limits up to the maximum quantities  
11 described in Section 151.1.

12 (B) Dwelling Unit Exposure for Historic Buildings. Relief may also be provided for  
13 dwelling unit exposure requirements for buildings which are designated landmark buildings or  
14 contributory buildings within designated historic districts per Article 10 of this Code, any  
15 building designated Category I-IV per Article 11 of this Code, and/or buildings recorded with the  
16 State Historic Preservation Office as eligible for the California Register, when the following  
17 criteria are met: (i) literal enforcement of Section 140 would result in the material impairment  
18 of the historic resource; and (ii) the project complies with the Secretary of the Interior's  
19 Standards, (36 C.F.R. § 67.7 (2001)) and/or Section 1006 and any related Article 10  
20 appendices of this Code. This administrative exception does not apply to new additions to historic  
21 buildings.

22 (C) Residential Open Space for Historic Buildings. For a landmark building designated per  
23 Article 10 of this Code, a contributing building located within a designated historic district per Article  
24 10, or any building designated Category I-IV per Article 11 of this Code, the provision of off-site  
25

1 publicly accessible open space, meeting the requirements of Section 135(h), may be credited toward the  
2 residential usable open space requirement.

3 (D) Conversion of Non-conforming Uses to Residential Uses. The Zoning Administrator may  
4 modify or waive dwelling unit exposure requirements, rear yard requirements, open space  
5 requirements for inner courts, and the substitution of off-site publicly accessible open space for  
6 required residential open space, provided:

7 (i) That the residential use, whether dwelling units group housing, or SRO units, are  
8 principally permitted in the district or districts in which the project is located;

9 (ii) That the nonconforming use is eliminated by such conversion, provided further that the  
10 structure is not enlarged, extended or moved to another location; and

11 (iii) That the requirements of the Building Code, the Housing Code and other applicable  
12 portions of the Municipal Code are met.

13 (2) **Procedures.** The review of a modification requested under this Section shall be  
14 conducted as part of, and incorporated into, a related building permit application or other  
15 required project authorizations; no additional fee shall be required. Under no circumstances  
16 shall such modification provide relief from any fee, including those related to usable open  
17 space pursuant to Sections 135(j) and 135.3(d). The provisions of this Subsection (h) shall not  
18 preclude such additional conditions as may be deemed necessary by the Zoning  
19 Administrator to further the purposes of this Section or other Sections of this Code.

20 (i) **Criteria for the Reduction or Modification of Off-Street Parking Requirements.**

21 In approving a reduction or modification of off-street requirements authorized by this Code,  
22 the Zoning Administrator or the Planning Commission shall consider and apply the following  
23 criteria:

24 (1) the reduction in the parking requirement is justified by the reasonably anticipated  
25 automobile usage by residents of and visitors to the project; and

- 1 (2) the reduction in the parking requirement will not be detrimental to the health,
- 2 safety, convenience, or general welfare of persons residing in or working in the vicinity; and
- 3 (3) the minimization of conflict of vehicular and pedestrian movements; and
- 4 (4) the availability of transportation modes other than the automobile; and
- 5 (5) the pattern of land use and character of development in the vicinity; and
- 6 (6) such other criteria as the Zoning Administrator deems appropriate in the
- 7 circumstances of the particular case.

8 **SEC. 309.1 PERMIT REVIEW IN DOWNTOWN RESIDENTIAL DISTRICTS.**

9 The provisions and procedures set forth in this Section shall govern the review of  
10 project authorization and building and site permit applications for the construction or  
11 substantial alteration of structures in Downtown Residential districts, the granting of  
12 exceptions to requirements of this Code, and the imposition of modifications necessary to  
13 achieve the objectives and policies of the General Plan and the purposes of this Code as  
14 provided for in Section ~~827~~ 825 and elsewhere. When any action authorized by this Section is  
15 taken, any determination with respect to the proposed project required or authorized pursuant  
16 to CEQA may also be considered.

17 (a) **Design Review.**

18 (1) In addition to the standard permit review process, the design of projects greater  
19 than 50,000 gross square feet or 85 feet in height shall be subject to design review and  
20 approval by Department staff. A detailed design review will be initiated by Department staff  
21 working with the project sponsor, at the time an application for 309.1 review or building permit  
22 is filed, and may take place in advance of filing a building permit application. This  
23 comprehensive review shall resolve issues related to the project's design, including the  
24 following:

- 25 (A) Overall building massing and scale;



1 A sign which directs attention to a business, commodity, service, industry or other  
2 activity which is sold, offered, or conducted, other than incidentally, on the premises upon  
3 which such sign is located, or to which it is affixed. Where a number of commodities, services,  
4 or other activities with different brand names or symbols are sold, offered or conducted, other than  
5 incidentally, on the premises, up to 1/3 of the area of a business sign, or 25 square feet of sign  
6 area, whichever is the lesser, may be devoted to the advertising of one or more of those  
7 commodities by brand name or symbol as an accessory function of the business sign,  
8 provided that such advertising is integrated with the remainder of the business sign, and  
9 provided also that any limits which may be imposed by this Code on the area of individual  
10 signs and the area of all signs on the property are not exceeded.

11 **SEC. 602.9. HISTORIC SIGNS ~~AND HISTORIC SIGN DISTRICTS.~~**

12 (a) Purpose. The purpose of this section is to designate and to preserve, maintain, and restore  
13 a sign which depicts in text or graphic form a particular residential, business, cultural, economic,  
14 recreational, or other valued resource which is deemed by the Planning Commission to be of historic  
15 value and contributes to the visual identity and historic character of a City neighborhood or the City as  
16 a whole. Historic signs can contribute to the character of historic buildings and districts. Historic  
17 signs can also be valued in themselves, apart from the buildings to which they may be attached.  
18 Exceptions from the requirements of this Article 6 may be granted via Conditional Use Authorization,  
19 subject to the procedures and standards of Section 303 and of this section.

20 (b) Definitions.

21 (1) Historic Sign. An Historic Sign is a sign that depicts a land use, a business activity,  
22 a public activity, a social activity or historical figure or an activity or use that recalls the City's  
23 historic past, as further defined in Section 608.14 of this Code, and as permitted by Sections  
24 303 and 608.14 of this Code.

1 *An historic sign district is a specific geographic area depicted on the Zoning Map of the City*  
2 *and County of San Francisco, pursuant to Section 302 of this Code, within which historic signs may be*  
3 *permitted by conditional use authorization by the Planning Commission pursuant to Sections 303 and*  
4 *608.14 of this Code.*

5 (A) **Historic Movie Theater Marquee.** A marquee, as defined in Section 136.1(c), attached to a  
6 Qualified Movie Theater, when such marquee was originally constructed in association with a movie  
7 theater or similar historic use. Elimination or change of any lettering or other inscription from a movie  
8 theater marquee, such as that which may occur with a change of ownership, change of use or closure,  
9 does not preclude classification of the marquee under this Section.

10 (B) **Historic Movie Theater Projecting Sign.** A projecting business sign attached to a  
11 Qualified Movie Theater when such sign was originally constructed in association with the Qualified  
12 Movie Theater or similar historic use. Such signs are typically characterized by (A) perpendicularity to  
13 the primary facade of the building, (B) fixed display of the name of the establishment, often in large  
14 lettering descending vertically throughout the length of the sign; (C) a narrow width that extends for a  
15 majority of the vertical distance of a building's facade, typically terminating at or slightly above the  
16 roofline, and (D) an overall scale and nature such that the sign comprises a significant and character  
17 defining architectural feature of the building to which it is attached. Elimination or change of any  
18 lettering or other inscription from a movie theater projecting sign, such as that which may occur with a  
19 change of ownership, change of use, or closure does not preclude classification of the sign under this  
20 Section.

21 (2) **Qualified Movie Theater.** A building that: (A) is currently or has been used as a movie  
22 theater; and (B) is listed on or eligible for listing on the National Register of Historic Places or the  
23 California Register of Historical Resources, designated a City Landmark or a contributor to a City  
24 Landmark District under Article 10, or designated as a Significant or Contributory Building under  
25 Article 11.

1           (c) **Application for Historic Sign Authorization.** Prior to the scheduling of the Conditional  
2 Use hearing before the Planning Commission required by subsection (a), the applicant for a historic  
3 sign authorization shall provide to the Department evidence in the form of photographs and/or  
4 documents demonstrating that:

5           (1) the sign proposed for historic authorization is at least 40 years old; and

6           (2) the sign depicts a particular residential, business, cultural, economic, recreational, or other  
7 valued resource of historic value and contributes to the visual identity and historic character of a City  
8 neighborhood or the City as a whole.

9           (d) **Referral to Historic Preservation Commission.** If the application for a historic sign  
10 authorization under this Section 608.14 is not otherwise required to be referred to the Historic  
11 Preservation Commission under the San Francisco Charter or this Code, it is not required to be  
12 referred. However, the Department may refer the application to that Commission for an advisory  
13 opinion as to the eligibility of the sign for historic sign status, and/or of any proposed alteration,  
14 restoration, or reconstruction to an eligible sign.

15           (e) **Criteria and Requirements for Preservation, maintenance, restoration, and**  
16 **reconstruction.** In addition to the requirements of Section 303, the Planning Commission shall  
17 consider the following criteria in granting Conditional Use Authorization for exceptions from the  
18 requirements of Article 6 for signs, and the requirements of Section 136.1 for Historic Movie Theater  
19 Marquees.

20           (1) **Minimizing alterations.** Historic signs shall be maintained unaltered and in their historic  
21 location to the extent possible, even when the new business is of a different nature from the old. Signs  
22 painted directly on walls, doors, windows, or other building surfaces may not be changed, but may be  
23 repaired or restored.

24           (2) **Relocation.** A Historic Sign may be relocated elsewhere on the building to accommodate a  
25 new sign. A Historic Sign may also be relocated to a public space inside the building, such as in the

1 lobby or above the bar in a restaurant. This option is less preferable than keeping the sign outside the  
2 building, but preserves the sign on site, and leaves open the possibility of putting it back in its historic  
3 location.

4 (3) **Modification.** Signs other than those painted directly onto building surfaces may be  
5 modified for use with a new business. Modifications to signs should be minimized, and should take  
6 care not to destroy essential features. New text and images shall maintain continuity with the character  
7 of the sign, building, and district. General Advertising Signs shall not be permitted on historic  
8 Projecting Signs or Roof Signs.

9 (4) **General Advertising Signs.** General Advertising Signs shall not be permitted on historic  
10 signs.

11 (5) **Historic Movie Theater Projecting Signs and Historic Movie Theater Marquees.** In order  
12 that certain character-defining architectural elements of Qualified Movie Theaters be preserved and  
13 enhanced, a noncomplying Historic Movie Theater Projecting Sign and/or a noncomplying Historic  
14 Movie Theater Marquee, as defined in this Section, may be preserved, rehabilitated, or restored. A  
15 noncomplying Historic Movie Theater Projecting Sign or a noncomplying Historic Movie Theater  
16 Marquee removed from a Qualified Movie Theater prior to or in absence of an application for  
17 replacement may be reconstructed.

18 (A) Any preservation, rehabilitation, restoration, or reconstruction permitted under this Section  
19 shall be in strict conformity with the overall design, scale, and character of the existing or previously  
20 existing Historic Movie Theater Sign or Historic Movie Theater Marquee and:

21 (B) For a Qualified Movie Theater that retains its Historic Movie Theater Projecting Sign  
22 and/or Historic Movie Theater Marquee, the signage features shall be limited to the following:

23 (i) On a Historic Movie Theater Projecting Sign, the historic name associated with a previous  
24 theater occupant;

1           (ii) On a Historic Movie Theater Marquee, the historic name associated with a previous theater  
2 occupant and, where applicable, on the signboard, other information that is an Identifying Sign, as  
3 defined in Section 602.10, provided such information shall be contained within the signboard, shall not  
4 consist of any logos, and shall be in the character of lettering historically found on movie theater  
5 signboards in terms of size, font, and detail.

6           (C) For a Qualified Movie Theater where the Historic Movie Theater Projecting Sign and/or  
7 Historic Movie Theater Marquee has been removed and is proposed to be reconstructed, the overall  
8 design and signage features shall be limited to the following:

9           (i) On a Historic Movie Theater Projecting Sign, the historic name associated with a previous  
10 theater occupant;

11           (ii) On a Historic Movie Theater Marquee, the historic name associated with a previous theater  
12 occupant and, where applicable, on the signboard, other information that is an Identifying Sign, as  
13 defined in Section 602.10, provided such information shall be contained within the signboard, shall not  
14 consist of any logos, and shall be in the character of lettering historically found on movie theater  
15 signboards in terms of size, font, and detail.

16           (D) Any application to reconstruct shall include evidence of the dimensions, scale, materials,  
17 placement, and features of the previously existing Historic Movie Theater Projecting Sign and/or  
18 Historic Movie Theater Marquee, as well as any other information required by the Zoning  
19 Administrator.

20           (E) General advertising signs shall not be permitted on either a Historic Movie Theater  
21 Projecting Sign or a Historic Movie Theater Marquee.

## 22 **SEC. 602.24. WINDOW SIGN.**

23           A sign painted directly on the surface of a window glass or placed ~~in front of or~~ behind  
24 the surface of a window glass.

## 25 **SEC. 604. PERMITS AND CONFORMITY REQUIRED.**

1           (a) **Approval of Application.** An application for a permit for a sign that conforms to the  
2 provisions of this Code shall be approved by the Planning Department ~~of Planning~~ without  
3 modification or disapproval by the Planning Department ~~of Planning~~ or the Planning  
4 Commission, pursuant to the authority vested in them by Section 26, ~~Part III,~~ of the San  
5 Francisco ~~Municipal~~ Business & Tax Regulations Code or any other provision of said Municipal  
6 Code; provided, however, that applications pertaining to (a) signs subject to the regulations  
7 set forth in Article 10 of the Planning Code, Preservation of Historical, Architectural and  
8 Aesthetic Landmarks, Article 11, Preservation of Buildings and Districts of Architectural,  
9 Historical and Aesthetic Importance in the C-3 Districts and Sections 602.9 and 608.14 may be  
10 disapproved pursuant to the relevant provisions thereof, and (b) preservation, restoration,  
11 rehabilitation, or reconstruction of Historic Movie Theater Projecting Signs or Historic Movie  
12 Theater Marquees as set forth in Section 188(e) may be modified or disapproved subject to  
13 applicable sections of the General Plan, this Code, relevant design guidelines, Department or  
14 Commission policy, or the Secretary of the Interior Standards for the Treatment of Historic  
15 Properties. No sign, other than those signs exempted by Section 603 of this Code, shall be  
16 erected, placed, replaced, reconstructed or relocated on any property, intensified in  
17 illumination or other aspect, or expanded in area or in any dimension except in conformity with  
18 Article 6 of this Code. No such erection, placement, replacement, reconstruction, relocation,  
19 intensification, or expansion shall be undertaken without a permit having been duly issued  
20 therefor, except as specifically provided otherwise in this Section 604.

21           (b) **Applicability of Section.** The provisions of this Section 604 shall apply to work of the  
22 above types on all signs unless specifically exempted by this Code, whether or not a permit  
23 for such sign is required under the San Francisco Building Code. In cases in which permits  
24 are not required under the Building Code, applications for permits shall be filed with the  
25 Central Permit Bureau of the Department of Building Inspection on forms prescribed by the

1 Planning Department ~~of Planning~~, together with a permit fee of \$5.00 for each sign, and the  
2 permit number shall appear on the completed sign in the same manner as required by the  
3 Building Code.

4 (c) Sign Painted on Door or Window. No permit shall be required under this Code for a  
5 sign painted or repainted directly on a door or window in an NC, C or M District. Permits shall  
6 be required for all other painted signs in NC, C and M Districts, and for all painted signs in P  
7 and R Districts. Repainting of any painted sign shall be deemed to be a replacement of the  
8 sign, except as provided in Subsection (f) below.

9 (d) Ordinary Maintenance and Repairs. Except as provided in Subsection (c) above, no  
10 permit shall be required under this Code for ordinary maintenance and minor repairs which do  
11 not involve replacement, alteration, reconstruction, relocation, intensification or expansion of  
12 the sign.

13 (e) Temporary Sale or Lease Signs. No permit shall be required under this Code for  
14 temporary sale or lease signs, temporary signs of persons and firms connected with work on  
15 buildings under actual construction or alteration, and temporary business signs, to the extent  
16 that such signs are permitted by this Code.

17 (f) Change of Copy. A mere change of copy on a sign the customary use of which  
18 involves frequent and periodic changes of copy shall not be subject to the provisions of this  
19 Section 604, except that a change from general advertising to nongeneral advertising sign  
20 copy or from nongeneral advertising to general advertising sign copy or an increase in area  
21 including, but not limited to, any extensions in the form of writing, representation, emblem or  
22 any figure of similar character shall in itself constitute a new sign subject to the provisions of  
23 this Section 604. In the case of signs the customary use of which does not involve frequent  
24 and periodic changes of copy, a change of copy shall in itself constitute a new sign subject to  
25

1 the provisions of this Section 604 if the new copy concerns a different person, firm, group,  
2 organization, place, commodity, product, service, business, profession, enterprise or industry.

3 (g) **Scaled Drawing.** Each application for a permit for a sign shall be accompanied by a  
4 scaled drawing of the sign, including the location of the sign on the building or other structure  
5 or on the lot, and including (except in the case of a sign the customary use of which involves  
6 frequent and periodic changes of copy) such designation of the copy as is needed to  
7 determine that the location, area and other provisions of this Code are met.

8 (h) **Nonconforming Signs; Replacement, Alteration, Reconstruction, Relocation,**  
9 **Intensification, or Expansion.** Unless otherwise provided in this Code or in other Codes or  
10 regulations, a lawfully existing sign which fails to conform to the provisions of this Article 6  
11 shall be brought into conformity ~~may remain until~~ when the activity for which the sign has been posted  
12 ceases operation or moves to another location, when a new building is constructed, or at the end of ~~its~~  
13 the sign's normal life. Such sign may not, however, be replaced, altered, reconstructed,  
14 relocated, intensified or expanded in area or in any dimension except in conformity with the  
15 provisions of this Code, including Subsection (i) below and Section 602.9 for historic signs.  
16 Ordinary maintenance and minor repairs shall be permitted, but such maintenance and  
17 repairs shall not include replacement, alteration, reconstruction, relocation, intensification or  
18 expansion of the sign; provided, however, that alterations of a structural nature required to  
19 reinforce a part or parts of a lawfully existing sign to meet the standards of seismic loads and  
20 forces of the Building Code, to replace a damaged or weathered signboard, to ensure safe  
21 use and maintenance of that sign, to remediate hazardous materials, or any combination of  
22 the above alterations shall be considered ordinary maintenance and shall be allowed. A sign  
23 which is damaged or destroyed by fire or other calamity shall be governed by the provisions of  
24 Sections 181(d) and 188(b) of this Code.



1 A sign which is voluntarily destroyed or removed by its owner or which is required by  
2 law to be removed may be restored only in full conformity with the provisions of this Code,  
3 except as authorized in Subsection (i) below. A general advertising sign that has been  
4 removed shall not be reinstalled, replaced, or reconstructed at the same location, and the  
5 erection, construction, and/or installation of a general advertising sign at that location to  
6 replace the previously existing sign shall be deemed to be a new sign in violation of Section  
7 611(a) of this Code; provided, however, that such reinstallation, replacement, or  
8 reconstruction pursuant to a permit duly issued prior to the effective date of this requirement  
9 shall not be deemed a violation of Section 611(a) and shall be considered a lawfully existing  
10 nonconforming general advertising sign; and further provided that this prohibition shall not  
11 prevent a general advertising sign from being relocated to that location pursuant to a  
12 Relocation Agreement and conditional use authorization under Sections 611 and 303(l) of this  
13 Code and Section 2.21 of the San Francisco Administrative Code.

14 (i) ***Business Signs.*** When the activity for which a business sign has been posted has ceased  
15 operation for more than 90 days, all signs pertaining to that business activity shall be removed after  
16 that time. A lawfully existing business that is relocating to a new location within 300 feet of its  
17 existing location within the North Beach Neighborhood Commercial District described in  
18 Sections 702.1 and 722.1 of this Code may move to the new location within said North Beach  
19 Neighborhood Commercial District one existing business sign together with its associated sign  
20 structure, whether or not the sign is nonconforming in its new location; provided, however, that  
21 the sign is not intensified or expanded in area or in any dimension except in conformity with  
22 the provisions of this Code. With the approval of the Zoning Administrator, however, the sign  
23 structure may be modified to the extent mandated by the Building Code. In no event may a  
24 painted sign or a sign with flashing, blinking, fluctuating or other animated light be relocated  
25 unless in conformity with current code requirements applicable to its new location. In addition,

1 the provisions of Articles 10 and 11 of this Code shall apply to the relocation of any sign to a  
2 location regulated by the provisions of said Articles.

3 (j) Nothing in this Article 6 shall be deemed to permit any use of property that is  
4 otherwise prohibited by this Code, or to permit any sign that is prohibited by the regulations of  
5 any special sign district or the standards or procedures of any Redevelopment Plan or any  
6 other Code or legal restriction.

7 (k) **Public Areas.** No sign shall be placed upon any public street, alley, sidewalk, public plaza  
8 or right-of-way, or in any portion of a transit system, except such projecting signs as are otherwise  
9 permitted by this Code and signs, structures and features as are specifically approved by the  
10 appropriate public authorities under applicable laws and regulations and under such conditions as  
11 may be imposed by such authorities.

12 (l) **Maintenance.** Every sign shall be adequately maintained in its appearance. When the  
13 activity for which a business sign has been posted has ceased operation for more than 90 days, all signs  
14 pertaining to that business activity shall be removed after that time.

15 ~~An historic sign is a sign that depicts a land use, a business activity, a public activity, a social~~  
16 ~~activity or historical figure or an activity or use that recalls the City's historic past, as further defined~~  
17 ~~in Section 608.14 of this Code, and as permitted by Sections 303 and 608.14 of this Code.~~

18 ~~An historic sign district is a specific geographic area depicted on the Zoning Map of the City~~  
19 ~~and County of San Francisco, pursuant to Section 302 of this Code, within which historic signs may be~~  
20 ~~permitted by conditional use authorization by the Planning Commission pursuant to Sections 303 and~~  
21 ~~608.14 of this Code.~~

22 **SEC. 606. RESIDENTIAL DISTRICTS.**

23 Signs in Residential and Residential Enclave Districts, other than those signs exempted  
24 by Section 603 of this Code, shall conform to the following provisions:

25 (a) **General Provisions for All Signs.**

## LEGISLATIVE DIGEST

[Planning Code - Zoning - Uses, Signs, Building Features, Floor Area Ratio, Parking, and Compliance in Specified Use Districts]

**Ordinance amending the San Francisco Planning Code by repealing Sections 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3, and 607.4 and amending various other Sections to: 1) increase the amount of principally permitted parking spaces for dwellings in RC-4 and C-3 Districts; 2) make off-street parking requirements in the Van Ness Special Use District and RC-3 Districts consistent with those of RC-4 Districts; 3) eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts; 4) allow exceptions from required parking under specified circumstances; 5) amend the restrictions on off-street parking rates and extend them to additional zoning districts; 6) revise sign, awning, canopy and marquee controls in specified zoning districts; 7) increase the permitted use size for limited corner commercial uses in RTO and RM districts, and allow reactivation of lapsed limited commercial uses in R Districts; 8) revise the boundaries of and modify parking and screening requirements in the Washington-Broadway and Waterfront Special Use Districts; 9) modify controls for uses and accessory uses in Commercial and Residential-Commercial Districts; 10) permit certain exceptions from exposure and open space requirements for historic buildings; and 11) modify conformity requirements in various use districts; adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.**

### Amendments to Current Law

#### **Density, Floor Area Ratio, and Open Space in C-3 Districts and the Van Ness Special Use District.**

Sections 102.9, 128, 138, 215, and 243 are amended to:

- Remove the conditional use requirement for higher residential density in the C-3 Districts.
- Exempt affordable housing from Gross Floor Area ratio limits in the C-3 Districts and the Van Ness Special Use District.
- Permit Transferred Development Rights from any eligible site in a C-3 District and from the South of Market Extended Preservation District to be applied to any site in a C-3 District.
- Count space dedicated to parking which exceeds principally permitted amounts, or parking located above ground, to Floor Area Ratio calculations in C-3 Districts. Currently, parking up to 150% of what is principally permitted is exempt from FAR calculations.
- Exempt Bicycle Parking from Floor Area Ratio calculations.

- Extend Public Open Space requirements in C-3 Districts to projects which are primarily retail.

### **Accessory uses in Commercial, Residential-Commercial, and Industrial Districts**

Section 204.3 is amended to:

- Increase the maximum permitted size of an accessory use in Commercial and Industrial Districts from one-quarter to one-third of the gross floor area.
- Remove limitations on the number of employees for an accessory use in a C-2 district.
- Remove maximum horsepower permitted for machines in accessory uses in Commercial Districts.
- Require that mechanical noise, vibration, or unhealthful emissions from accessory uses in Commercial Districts not extend outside the premises.
- Subject accessory uses in RC districts to the requirements of Commercial Districts rather than those of Residential Districts.

### **Parking and Automotive Uses**

Sections 151, 151.1, 155, 155.1, 155.4, 156, 157, 157.1, 158, 158.1, 161,163, 223, 228, and 243 are amended to:

- Increase the number of principally permitted parking spaces from one for every four units to one for every two units in C-3 Districts, and from 3 for every 8 units to one for every two units in RC Districts.
- Decrease the minimum number parking spaces required in RC-3 Districts and the Van Ness Special Use District from one space per unit to one space for every four units.
- Eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts
- Permit exceptions from parking requirements where providing required parking would remove a transit stop, compromise a building's earthquake safety or create a geologic hazard.
- Amend the pricing requirements for commuter parking to permit a discounted daily rate for use outside commute hours, and to extend these requirements to commuter parking in Residential-Commercial and South of Market Mixed Use Districts and the Washington-Broadway Special Use District.
- Expand bicycle parking requirements to include all uses.
- Extend transportation brokerage requirements to all non-residential projects over 100,000 square feet in Commercial and Mixed Use Districts.
- Consolidate various automotive use definitions in C, M, and PDR Districts with those for Mixed-Use Districts.
- Remove exceptions permitting non-accessory parking above the ground floor, and permitting exceptions from parking screening requirements, in C-3 Districts.
- Consolidate the conditional use findings for non-accessory parking in C-3 Districts in a single section.
- Allow automobile service stations on transit-priority and major pedestrian streets to be converted to another use without conditional use authorization, and amend the

conditional use criteria for conversion to include consideration of transportation impacts of the existing and proposed use.

### **Sign, Awning, Canopy, and Marquee controls**

Sections 136, 136.1, 136.2, 136.3, 262, 602.9, 602.24, 602.25, 602.26, 606, 607, 607.1, 608.6, 608.8, 608.10, 790.24, 790.26, 790.58, 890.21, 890.24, and 890.58 are amended to:

- Permit awnings, canopies, and marquees in PDR Districts.
- Consolidate awning, canopy, and marquee controls for all use districts into a single section.
- Permit awnings to be made of cloth, glass, and metal, but not of plastic.
- Conform signage controls in Residential districts with those of Neighborhood Commercial Districts, and to prohibit General Advertising Signs in the few RC and NC districts where they are currently permitted.
- Remove the special sign districts permitting blinking, flashing, and rotating signs from the Van Ness Corridor and from the portion of Broadway in the Chinatown Community Business District.
- Prohibit roof signs, other than historic signs, in Commercial Districts, to prohibit temporary General Advertising Signs around Union Square, and to limit business signs to 40' in height in C-3 districts.
- Permit window signs and small projecting signs, decrease the permitted size of wall signs, and limit sign illumination to business hours for Limited Commercial Uses in Residential Districts.
- Add The Embarcadero to the list of Scenic Streets where certain sign requirements apply, and to exempt Historic Signs from the sign size limits for Scenic Streets.
- Consolidate procedures for designating, altering, and reconstructing historic signs, and exempt historic signs from height limits on signs.
- Modify the definitions of window signs and business signs.
- Remove certain provisions from the Market Street and Upper Market Sign Districts which duplicate or conflict with sign controls for the underlying use districts.

### **Limited Commercial Uses in Residential Districts**

Sections 186, 209.9, and 231 are amended to:

- Increase the maximum size of new limited corner commercial uses permitted in RTO, RM-3 and RM-4 districts from 1250 to 2500 square feet, and permit them to extend more than 50' from a street corner.
- Require conditional use authorization to convert all or part of a dwelling to a limited corner commercial use.
- Permit Limited Commercial Uses to be reestablished in spaces which were in a commercial use before 1960, which have not been converted to a dwelling, and which conform to current code requirements, with Conditional Use authorization.
- Define commercial uses conditionally permitted in historic buildings in Residential Districts those permitted in an NC-1 district rather than an RC-1 district.

### **Washington-Broadway and Waterfront Special Use Districts.**

Sections 161, 239, 240, 240.1, 240.2, and 240.3 are amended to:

- Consolidate the two Washington-Broadway SUDs into a single district, limited to the C-2 zoned areas between Washington and Broadway Streets.
- Permit exceptions from parking requirements in Waterfront SUD #3.
- Remove parking screening requirements for the Waterfront Special Use Districts, so that the citywide screening requirements of Section 143 apply.
- Delete height limit exceptions for buildings on piers in 84' height districts, as such height limits no longer exist on the historic piers.

### **Conformity, Changes of Use, and Other Building Requirements**

Sections 136, 138.1, 135, 140, 182, 184, and 307 are amended to:

- Expand the exception from residential density limits and minimum parking requirements when converting non-conforming uses in existing buildings to residential uses in all districts where residential uses are principally permitted.
- Permit exceptions from dwelling unit exposure and residential open space requirements when converting historic buildings to residential use.
- Remove the exception for parking lots in C-3 districts from the conformity requirements for uses not in an enclosed building.
- Construction of basement spaces under public streets and alleys is no longer permitted.
- Permit the Planning Department to require, as a condition of approval, that non-conforming encroachments onto public rights-of-way be removed or brought into conformity with current standards when projects are newly constructed or undergo major additions or major changes of use.
- Extend rooftop screening requirements to Chinatown Mixed Use Districts.
- Permit Dwellings to face onto alleys as narrow as 20', rather than 25'.

In addition to the amendments to the Planning Code, conforming amendments to the Zoning Map have been made in a companion ordinance.

### Background

This ordinance aims to advance several goals of the City's General Plan and the Priority Policies of Planning Code Section 101.1, as follows:

**Reduce off-street parking requirements in dense, mixed-use neighborhoods located near transit.** San Francisco's Planning Code has provided for reduced parking requirements in dense and transit-rich neighborhoods since the 1960s, as a way of reducing traffic congestion, encouraging walking, cycling, and public transit, and making efficient use of scarce land. Planning Code changes in the past decade have eliminated minimum parking

requirements in many transit-rich areas of the City, including Rincon Hill (2005), Downtown (2006), The Market & Octavia Plan area (2008), Eastern Neighborhoods (2008), Balboa Park (2009) and for residential uses in Chinatown, North Beach, and Telegraph Hill (2010). This ordinance removes the remaining parking requirements in Chinatown, North Beach, and lower Broadway areas, and reduces residential parking requirements in the Van Ness corridor, which Proposition K (2003) designated as a bus rapid transit corridor. The ordinance also permits administrative exceptions from minimum parking requirements in the Fisherman's Wharf area (Waterfront SUD #2), and facilitates conversion of automobile service stations located on important transit and pedestrian streets to other compatible uses.

**Provide incentives for affordable housing and mixed-income residential projects.** By exempting affordable housing from Floor-Area Ratio limits in the Downtown Commercial (C-3) and Van Ness Special Use Districts, this ordinance will provide a significant incentive for construction of affordable projects and the inclusion of affordable units in market rate residential projects rather than their location off-site. State law requires that municipalities provide significant incentives to developers for including affordable units in market rate projects, and this ordinance will further San Francisco's compliance with the California Density Bonus law.

**Encourage the preservation and reuse of existing buildings.** San Francisco's existing buildings contribute to the unique character of San Francisco. Reusing buildings, rather than demolishing and rebuilding them, can preserve the built character of neighborhoods, as well as foster sustainability by conserving the energy and materials embodied in these buildings. Certain provisions of the Planning Code can be difficult for existing buildings to comply with, which limits their potential uses, or can entail a costly and time-consuming variance process for the building owner. This ordinance permits the conversion of non-conforming uses to residential uses, without regard to density limits or parking requirements, in all districts where residential uses are principally permitted. It establishes an administrative exception process from open space and dwelling unit exposure requirements for historic buildings, and permits dwellings to front onto alleys of 20' or more.

**Encourage small, neighborhood-serving commercial uses in residential areas.** For decades, the Planning Code has recognized that small commercial uses, although often nonconforming, "tend to provide convenience goods and services on a retail basis to meet the frequent and recurring needs of neighborhood residents within a short distance of their homes". Older storefronts are common in residential districts, and can be difficult to convert to residential uses because of lack of privacy and open space. This ordinance permits storefronts that were in active commercial use before 1960 to be reactivated with conditional use authorization. It also increases the maximum size of new street-corner commercial uses permitted in RTO, RM-3, and RM-4 to 2500 square feet, the size of a typical residential lot, and to extend further than 50' from a corner, to make more existing corner retail uses conforming, and to discourage inactive street fronting uses like storage or garage doors on prominent corner lots. This ordinance also establishes an appropriate set of signage standards that takes into account the essentially residential nature of the neighborhoods

where these uses are found, with limitations on the size of signs and sign illumination outside of business hours.

**Encourage small business formation and retention by increasing flexibility for accessory uses in Commercial, Industrial, and Residential-Commercial Districts.** Small businesses that combine office, production, retail, and even residential uses are increasingly common in San Francisco, but frequently do not fit into traditional zoning categories. This ordinance creates more flexibility in zoning around accessory uses, by increasing the maximum square footage for accessory uses in Commercial, Industrial, and Residential-Commercial Districts from one-quarter to one-third of available square footage, and replacing limitations on the horsepower of machines and number of employees in Commercial Districts with a 'good neighbor' performance standard.

**Reduce variances and conditional uses and increase code compliance.** Another goal of this ordinance is to decrease the number of planning code variances and conditional uses, by providing administrative process for certain exceptions which are otherwise desirable (appropriate reuse of historic buildings, or ensuring the earthquake safety of buildings) and making certain projects or features which conform to general plan and area plan goals (dense residential projects in C-3 districts, and residential projects with less than one space for every two units in C-3 and RC districts) principally permitted. The ordinance also provides more flexibility in converting non-conforming uses to residences where residences are principally permitted.

**Code Simplification:** The ordinance seeks to simplify the Planning Code by removing obsolete sections, consolidating controls for a single use or feature into a single code sections, and harmonizing similar definitions and controls across use districts.