



# SAN FRANCISCO PLANNING DEPARTMENT

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## Memorandum Articles 10 & 11

October 20, 2010

*Project Name:* **Planning Code Amendments: Articles 10 & 11**  
*Case Number:* 2010.0080T  
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Dear Historic Preservation Commissioners,

Included in your packets for the October 20<sup>th</sup> hearing are:

- Revised Article 11 based on comments from the October 6<sup>th</sup> hearing, the October 13<sup>th</sup> meeting with Commissioners Damkroger and Wolfram, and the October 15<sup>th</sup> special hearing; and
- Draft Resolution, recommending approval to the Board of Supervisors with modifications to Article 11.

Members of the public can view the original proposed legislation and additional materials at 1650 Mission Street Suite #400 or on the Planning Department website under PC Agenda's for July 8<sup>th</sup> and August 5<sup>th</sup>, and HPC Agendas on July 21<sup>st</sup>, August 4<sup>th</sup>, 18<sup>th</sup>, September 1<sup>st</sup>, 15<sup>th</sup>, 29<sup>th</sup>, and October 6<sup>th</sup> and 15<sup>th</sup>, under Planning Department Case No. 2010.0080T.

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Note: Additions are single-underline italics Times New Roman;  
Deletions are ~~striketrough italics Times New Roman~~.  
Board amendment additions are double underlined  
Board amendment deletions are ~~striketrough normal~~.

Section 70. The San Francisco Planning Code is hereby amended by amending Article 11, to read as follows:

SEC. 1101. FINDINGS AND PURPOSES.

(a) It is hereby found that a substantial number of the buildings in the C-3 District have a special architectural, historical, and aesthetic value. These buildings contribute substantially to San Francisco's reputation throughout the United States as a City of outstanding beauty and physical harmony. A substantial number of these special buildings have been and continue to be unnecessarily destroyed or impaired, despite the feasibility of preserving and continuing their use, and without adequate consideration for the irreplaceable loss to the people of the City of their aesthetic, cultural, historic and economic value.

(b) It is further found that distinct and definable subareas within the C-3 District possess concentrations of buildings that together create a unique historic, architectural, and aesthetic character which contributes to the beauty and attractiveness of the City. The quality of these geographic areas has been and continues to be degraded by the unnecessary demolition of buildings of substantial architectural and aesthetic merit, by their replacement with buildings which conflict with the character and scale of the area, and by alteration of buildings in a manner which conflicts with the character and scale of the area.

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(c) It is therefore declared that the protection, enhancement, and perpetuation of buildings and definable subareas of special architectural, historical, and aesthetic interest is necessary to promote the health, safety, prosperity and welfare of the people of the City. Accordingly, the purposes of this Article are:

(1) The protection, enhancement, and perpetuation of structures and subareas of special architectural, historical, and aesthetic character which contribute to the urban environment;

(2) The maintenance and improvement of a healthy economy for the City by enhancing both property values and the City's attractiveness as a place to do business;

(3) The protection and improvement of the City's attractiveness to tourists and other visitors, and the stimulus to business provided thereby;

(4) The enrichment of the educational, cultural, aesthetic and spiritual life of the inhabitants of the City by fostering knowledge of the heritage of the City's past and retaining the quality of the City's urban environment.

(d) It is further found that the use of Transferable Development Rights ("TDR") as provided herein is necessary to promote the urban planning and design goals of the ~~Master~~ General Plan by (1) maintaining appropriate overall development capacities in each zoning district within the C-3 area, as defined by applicable floor area, height, bulk and other parameters; (2) encouraging and directing development into the Special Development District in order to maintain a compact downtown financial district; and (3) facilitating the retention of Significant Buildings, ~~and encouraging the retention of~~ Contributory Buildings, and the compatible replacement or alteration of Unrated buildings in Conservation Districts, as defined herein.

SEC. 1102. STANDARDS FOR DESIGNATION OF BUILDINGS.

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1           The buildings in the C-3 Districts are divided into five categories according to the  
2 Building Rating methodology as set forth and explained in the Preservation of the Past section  
3 of the Downtown Plan, a component of the ~~Master~~ General Plan. Those categories are as  
4 follows:

5           (a)    Significant Buildings - Category I. Buildings which:

6               (1)   Are at least 40 years old; and

7               (2)   Are judged to be Buildings of Individual Importance; and

8               (3)   Are rated Excellent in Architectural Design or are rated Very Good in both

9 Architectural Design and Relationship to the Environment.

10          (b)    Significant Buildings - Category II. Buildings:

11               (1)   Which meet the standards in Section 1102(a) above; and

12               (2)   To which, because of their depth and relationship to other structures, it is  
13 feasible to add different and higher replacement structures or additions to height at the rear of  
14 the structure, even if visible when viewing the principal facades, without affecting their  
15 architectural quality or relationship to the environment and without affecting the appearance of  
16 the retained portions as separate structures when viewing the principal facades. The  
17 designation of Category II Buildings shall identify for each building the portion of the building  
18 beyond which such additions may be permitted.

19          (c)    Contributory Buildings - Category III. Buildings which:

20               (1)   Are located outside a designated Conservation District; and

21               (2)   Are at least 40 years old; and

22               (3)   Are judged to be Buildings of Individual Importance; and

23               (4)   Are rated either Very Good in Architectural Design or Excellent or Very Good in  
24 Relationship to the Environment.

25          (d)    Contributory Buildings - Category IV. Buildings which:

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- 1           (1)     Are located in a designated Conservation District; and  
2           (2)     Are at least 40 years old; and  
3           (3)     Are judged to be Buildings of Individual Importance, and are rated either Very  
4     Good in Architectural Design or Excellent or Very Good in Relationship to the Environment.  
5           (4)     Are judged to be Buildings of Contextual Importance and are rated Very Good in  
6     Architectural Design and/or Excellent or Very Good in Relationship to the Environment.  
7           (e)\_\_\_\_Unrated Buildings - Category V. Buildings which are not designated as  
8     Significant or Contributory.

9           SEC. 1102.1.DESIGNATION OF BUILDINGS.

10          The buildings in the C-3 District are classified as follows:

- 11          (a)     Significant Buildings - Category I. The buildings listed in Appendix A to this  
12     Article 11 are hereby designated as Significant Buildings - Category I.  
13          (b)     Significant Buildings - Category II. The buildings listed in Appendix B to this  
14     Article 11 are hereby designated as Significant Buildings - Category II.  
15          (c)     Contributory Buildings - Category III. The buildings listed in Appendix C to this  
16     Article 11 are hereby designated as Contributory Buildings - Category III.  
17          (d)     Contributory Buildings - Category IV. The buildings listed in Appendix D to this  
18     Article 11 are hereby designated as Contributory Buildings - Category IV.  
19          (e)     Unrated Buildings - Category V. All buildings in the C-3 District not otherwise  
20     designated in this Section are hereby designated as Unrated - Category V.

21          SEC. 1103. STANDARDS FOR DESIGNATION OF CONSERVATION DISTRICTS.

22          Portions of the C-3 District may be designated as Conservation Districts if they contain  
23     substantial concentrations of buildings that together create subareas of special architectural  
24     and aesthetic importance. Such areas shall contain substantial concentrations of Significant  
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1 and Contributory Buildings and possess substantial overall architectural, aesthetic or historic  
2 qualities justifying additional controls in order to protect and promote those qualities.

3 SEC. 1103.1. CONSERVATION DISTRICT DESIGNATIONS.

4 The following Conservation Districts are hereby designated for the reasons indicated in  
5 the appropriate Appendix:

6 (a) The Kearny-Market-Mason-Sutter Conservation District is hereby designated as  
7 set forth in Appendix E.

8 (b) The New Montgomery-Second Street Conservation District is hereby designated  
9 as set forth in Appendix F.

10 (c) The Commercial-Leidesdorff Conservation District is hereby designated as set  
11 forth in Appendix G.

12 (d) The Front-California Conservation District is hereby designated as set forth in  
13 Appendix H.

14 (e) The Kearny-Belden Conservation District is hereby designated as set forth in  
15 Appendix I.

16 (f) The Pine-Sansome Conservation District is hereby designated as set forth in  
17 Appendix J.

18 SEC. 1104. INTENTIONALLY LEFT BLANK. ~~NOTICE OF DESIGNATION.~~

19 ~~(a) — The Zoning Administrator shall notify by mail the owners of every building designated~~  
20 ~~by this ordinance as a Significant or Contributory Building and every building within a conservation~~  
21 ~~district as established by this ordinance.~~

22 ~~(b) — With respect to buildings designated Significant or Contributory by this ordinance,~~  
23 ~~notice shall also be given by posting each such building in a conspicuous place as well as by~~  
24 ~~publication pursuant to the provisions of California Government Code Section 6064. The notice shall~~  
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1 ~~state that the owner of every building so designated has the right to request a change of designation~~  
2 ~~and the time permitted for making such a request.~~

3 ~~(c) — The Zoning Administrator shall cause a copy of this ordinance, or notice thereof, to be~~  
4 ~~recorded in the office of the County Recorder for properties designated as Significant or Contributory,~~  
5 ~~and for properties designated within a conservation district, by this ordinance.~~

6 SEC. 1105. INTENTIONALLY LEFT BLANK ~~—RECONSIDERATION OF DESIGNATION.~~

7 ~~(a) — Request for Reconsideration. Within 45 days of the effective date of this ordinance, a~~  
8 ~~request for reconsideration and change of a designation may be filed by any affected property owner,~~  
9 ~~by any organization or group which has historic preservation stated as one of its goals in its bylaws or~~  
10 ~~articles of incorporation, or the application of at least 50 registered voters of the City, based on the~~  
11 ~~grounds that under the standards contained in Section 1102 the designation set forth in this ordinance~~  
12 ~~is incorrect. Such a request shall be filed with the Department of City Planning on forms provided for~~  
13 ~~that purpose. The Department of City Planning shall not accept or act upon any application filed after~~  
14 ~~45 days have passed. Once a request for reconsideration has been made as to any building, no~~  
15 ~~additional requests shall be accepted as to that building; however, another applicant may seek a~~  
16 ~~change of designation different from that sought in the original reconsideration request. Any property~~  
17 ~~owner who contends that the designation applicable to its property deprives the owner of a~~  
18 ~~constitutionally protected property right, or that, by reason of such application, the property owner is~~  
19 ~~entitled to compensation, shall assert such argument in connection with and in aid of the application~~  
20 ~~filed under this Section and provide all evidence in the property owner's possession in support of such~~  
21 ~~contention.~~

22 ~~(b) — Referral to the Landmarks Preservation Advisory Board; Review by the Department of~~  
23 ~~City Planning. Upon determination by the Zoning Administrator that an application is complete, the~~  
24 ~~Zoning Administrator shall promptly refer the matter to the Landmarks Preservation Advisory Board~~  
25 ~~for review and recommendation, and the Department of City Planning shall undertake a study of the~~

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1 ~~reconsideration request and prepare a report and recommendation. The Landmarks board shall~~  
2 ~~recommend approval, disapproval, or approval with modifications of the application within 30 days of~~  
3 ~~receiving it; provided, however, that if more than 30 applications are received within any 15-day~~  
4 ~~period at the Department of City Planning, the Zoning Administrator may extend the time for Advisory~~  
5 ~~Board action with respect to those applications for an additional period of time not to exceed 45 days,~~  
6 ~~and if more than 50 applications are received within such time, for an additional period of time deemed~~  
7 ~~necessary to allow sufficient time for Board review. If the Landmarks Board fails to respond within the~~  
8 ~~allowed time the City Planning Commission shall proceed without a recommendation from the~~  
9 ~~Landmarks Board.~~

10 ~~(c)——Submittal to the Planning Commission. Upon completion of the study by the Department~~  
11 ~~of City Planning and recommendation by the Landmarks Advisory Board, the matter shall be scheduled~~  
12 ~~for public hearing before the Planning Commission; provided, however, that in no event shall it be~~  
13 ~~scheduled later than 30 days after the Advisory Board has made its recommendation unless the~~  
14 ~~applicant consents to an extension of this time limit. Notice of the hearing shall be given by mail to the~~  
15 ~~applicant and to any other persons requesting notice.~~

16 ~~(d)——City Planning Commission Decision. The Planning Commission may approve,~~  
17 ~~disapprove, or approve with modifications the reconsideration application. The building shall be~~  
18 ~~deemed to be designated according to the decision of the Planning Commission and the provisions of~~  
19 ~~this Article 11 applicable to that designation shall apply to the building notwithstanding another~~  
20 ~~designation of the building in Appendices A, B, C or D to this Article.~~

21 SEC. 1106. PROCEDURES FOR CHANGE OF DESIGNATION; AND DESIGNATION  
22 OF ADDITIONAL SIGNIFICANT AND CONTRIBUTORY BUILDINGS.

23 Buildings may be designated as Significant or Contributory Structures or their designation  
24 may be changed through amendment of Appendices A, B, C and D of this Article. Such  
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1 designation or change of designation shall be governed by the following provisions in lieu of  
2 the provisions of Section 302:

3 (a) Initiation. The designation or change of designation of a Significant or  
4 Contributory building may be initiated by motion of the Board of Supervisors, by resolution of  
5 the ~~Planning Commission or the Landmarks Preservation Advisory Board~~ HPC, by the verified  
6 application of the owner or authorized agent of the affected property, by the application of any  
7 organization or group which has historic preservation stated as one of its goals in its bylaws or  
8 articles of incorporation, or by the application of at least 50 registered voters of the City.

9 Except in the case of initiation by governmental bodies, any such application shall contain  
10 historic, architectural, and/or cultural documentation to support the initiation or change of designation  
11 as well as any additional information which may be required by the application procedures and  
12 policies established by the HPC. ~~be filed with the Department of City Planning upon forms prescribed~~  
13 ~~by the Department of City Planning, and shall be accompanied by all data required by the Department.~~

14 (b) Notice ~~;~~ ~~Referral to the Landmarks Preservation Advisory Board~~; Review by the  
15 Planning Department of City Planning; ~~and Referral to HPC~~. Upon determination by the Zoning  
16 ~~Administrator~~ Planning Department that a verified application is complete and contains all  
17 necessary information or upon receipt of the motion or resolution of one of the governmental  
18 bodies set forth in Subsection (a) above, the ~~Zoning Administrator~~ Department shall (1) promptly  
19 schedule a hearing before the HPC on the proposed designation or change of designation; ~~Landmarks~~  
20 ~~Preservation Advisory Board send notice of the proposed designation or change of designation by mail~~  
21 ~~to the owner of the affected property, unless the application is that of the owner~~, and (2) send notice of  
22 the HPC hearing by mail no less than 20 days prior to the date of the hearing to the initiators of the  
23 designation or change of designation, to the owner(s) of the affected property, unless the application is  
24 that of the owner, and to any interested parties who make a request in writing to the Department.  
25 ~~promptly refer the matter to the Landmarks Preservation Advisory Board for review and the submittal~~

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1 ~~of a recommendation. The Department of City Planning shall also undertake a study of the proposed~~  
2 ~~designation or change of designation.~~

3 (c) Action by the ~~Planning Commission~~ HPC. ~~Upon completion of the review of the~~  
4 ~~proposed designation or change of designation by the Department of City Planning and the submittal of~~  
5 ~~the report by the Landmarks Board, the matter~~ The application proposed designation or change of  
6 designation shall be placed on the agenda of the ~~Planning Commission~~ HPC for public hearing.  
7 The ~~Planning Commission~~ HPC shall determine the appropriate designation or change in  
8 designation of the building. If the ~~Planning Commission~~ HPC approves or modifies the proposed  
9 designation or change of designation in whole or in part, it shall transmit ~~the proposal its~~  
10 recommendation, together with a copy of the resolution of approval, to the Clerk of the Board of  
11 Supervisors without referral or recommendation of the Planning Commission.

12 (d e) Designation by Board of Supervisors. The Board of Supervisors, or a committee  
13 thereof, shall hold a public hearing on any proposal so transmitted to it. The Board of  
14 Supervisors may approve, modify and approve, or disapprove the designation or change of  
15 designation by a majority vote of all its members.

16 (e) ~~(f)~~ Appeal to Board of Supervisors. If the ~~Planning Commission~~ HPC disapproves the  
17 proposed designation or change of designation, such action shall be final except upon the  
18 filing of a notice of appeal to the Board of Supervisors within 30 days by the applicant or any  
19 of the persons, organizations or groups listed in Section 1106(a); provided, however, that if  
20 the proposal was initiated by the Board of Supervisors, the Clerk of the said Board shall be  
21 notified immediately of the disapproval without the necessity for an appeal.

22 (f) ~~(g)~~ Board of Supervisors Hearing and Decision of an Appeal of Designation or Change of  
23 Designation. The Board of Supervisors, or a committee thereof, shall hold a public hearing on  
24 any such proposal to designate or change of designation appealed to it ~~or initiated by it~~. The  
25 Board of Supervisors may uphold the ~~Planning Commission~~ HPC, overrule the ~~Planning~~

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1 ~~Commission~~ HPC and approve, or modify and approve, the designation or change of  
2 designation by a majority vote of all its members.

3 ~~(g) (h)~~ Notice of Board of Supervisors Proceedings. Notice of the public hearing~~(s)~~  
4 scheduled before the ~~Planning Commission and~~ Board of Supervisors pursuant to this Section  
5 1106, and of the availability of applicable reports on the proposed designation or change of  
6 designation, shall be given by mail no less than 20 days prior to the date of the hearing to the  
7 initiators of the designation or change of designation, to the owners of any affected building, to  
8 the owners of all properties within 150 feet of the affected building, to appellants, and to any other  
9 interested person or organization who request such notice in writing to the Department ~~requesting~~  
10 ~~notice~~.

11 ~~(h) (i)~~ Grounds for Designation or Change of Designation. The designation of a  
12 building may be changed if (1) changes in the area in the vicinity of a building located outside  
13 a Conservation District warrant a change in the rating of the building with respect to its  
14 relationship to the environment and therefore place it in a different category, pursuant to  
15 Section 1102; or (2) changes in Conservation District boundaries make a building of  
16 Contextual Importance fall outside a Conservation District and therefore no longer eligible for  
17 designation as a Contributory building, or, conversely, make a building of Contextual  
18 Importance fall within a Conservation District and therefore eligible for designation as a  
19 Contributory Building; or (3) changes in the physical features of the building due to  
20 circumstances beyond the control of the owner, or otherwise permitted by this Article, warrant  
21 placing the building in a different category pursuant to the standards set forth in Section 1102;  
22 or (4) restoration of the building to its original quality and character warrants placing the  
23 building in a different category pursuant to the standards set forth in Section 1102; or (5) by  
24 the passage of time, the building has become at least 40 years old, making it eligible to be  
25 considered for designation as a Significant or Contributory building, pursuant to Section 1102;

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1 or (6) the discovery of new factual information (for example, information about the history of  
2 the building) makes the building eligible for rating as a Building of Individual or Contextual  
3 Importance and, therefore, eligible to be designated as a Significant or Contributory Building.

4 SEC. 1107. PROCEDURES FOR DESIGNATION OF ADDITIONAL  
5 CONSERVATION DISTRICTS OR BOUNDARY CHANGE OF CONSERVATION DISTRICTS.

6 A Conservation District may be designated or its boundary changed through  
7 amendment of Section 1103.1 of this Article 11. The HPC shall have the authority to recommend  
8 approval, disapproval, or modification of Conservation District designations or boundary changes to  
9 the Board of Supervisors. Such designation or boundary change shall be governed by the  
10 following provisions in lieu of the provisions of Section 302.

11 (a) Initiation of Designation or Boundary Change. The designation of an area of the  
12 C-3 District as a Conservation District or the change of District boundaries may be initiated by  
13 motion of the Board of Supervisors, by resolution of the ~~Planning Commissioner the Landmarks~~  
14 ~~Preservation Advisory Board~~ HPC, upon the verified application of the owners or other  
15 authorized agents of greater than 25 percent of the structures in the area proposed for  
16 designation (or, as to an alteration, 25 percent of the structures of the proposed new district  
17 unless it would be an area smaller than the existing district, in which case it shall be 25  
18 percent of the structures of the existing district), upon the verified application of any  
19 organization or group which has historic preservation stated as one of its goals in its bylaws or  
20 articles of incorporation, or upon the verified application of at least 150 registered voters of the  
21 City. Except in case of an initiation by governmental bodies, any such application shall contain  
22 historic, architectural, and/or cultural documentation to support the initiation or change of designation  
23 as well as any additional information which may be required by the application procedures and  
24 policies established by the HPC. ~~be filed with the Department of City Planning upon forms prescribed~~  
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1 ~~by the Department of City Planning, and shall be accompanied by all data required by said~~  
2 ~~Department.~~

3 (b) Notice; Review by the Planning Department; Referral to HPC. Upon determination by  
4 the Planning Department that a verified application is complete and contains all necessary information  
5 or upon receipt of a motion or resolution of one of the governmental agencies set forth in Subsection  
6 (a), the Department shall (1) promptly schedule a hearing before the HPC on the proposed district or  
7 boundary change; and (2) send notice of the HPC hearing by mail no less than 20 days prior to the  
8 date of the hearing to the initiators of the designation or change of designation, to the owners of the  
9 affected properties and to any interested parties who make a request in writing to the Department.  
10 ~~Notice; Referral to the Landmarks Preservation Advisory Board; Review by the Department of City~~  
11 ~~Planning. Notice, referral to the Landmarks Board and review by the Department of City Planning~~  
12 ~~shall be as provided in Section 1106(b) of this Article.~~

13 (c) Action by the HPC. Submittal to the Planning Commission. The proposed designation  
14 or change of boundary designation shall be placed on the agenda of the HPC for public hearing. The  
15 HPC shall determine the appropriate designation or boundary change of the Conservation District. If  
16 the HPC approves or modifies the proposed designation or boundary change in whole or in part, it  
17 shall transmit its recommendation together with a copy of the resolution, to the Clerk of the Board of  
18 Supervisors. Submittal to and action by the Planning Commission HPC shall be as set forth in Section  
19 1106(e) of this Article.

20 (d) Review by the Planning Commission. Submittal to and action by the Planning  
21 Commission shall be as set forth in Section 1106(d) of this Article Following action by the HPC, the  
22 Department shall promptly refer the HPC's recommendation on the proposed Conservation District  
23 designations or boundary changes to the Planning Commission , which shall have 45 days to review  
24 and comment on the proposed designation and boundary changes. The Planning Commission's  
25 comments, if any, shall be forwarded to the Board of Supervisors together with the HPC's

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1 recommendation. Notice of the Planning Commission hearing shall be given as provided in Section  
2 1107(g) of this Article.

3 (d) Designation by Board of Supervisors. The Board of Supervisors, or a committee  
4 thereof, shall hold a public hearing on any proposal so transmitted to it. The Board of  
5 Supervisors may approve, modify and approve, or disapprove the designation or boundary  
6 change by a majority vote of all its members.

7 (e) Appeal to Board of Supervisors. If the ~~Planning Commission~~ HPC disapproves the  
8 proposed designation or boundary change, such action shall be final except upon the filing of  
9 a notice of appeal to the Board of Supervisors within 30 days by the applicant or any of the  
10 persons, organizations, or groups listed in Section 1107(a); provided, however, that if the  
11 proposal was initiated by the Board of Supervisors, the Clerk of the said board shall be  
12 notified immediately of the disapproval without the necessity for an appeal.

13 (f) Board of Supervisors Hearing and Decision of an Appeal of a Conservation District  
14 Designation or Boundary Change. The Board of Supervisors, or a committee thereof, shall hold  
15 a public hearing on any such proposal appealed to ~~it or initiated by it~~. The Board of  
16 Supervisors may uphold the ~~Planning Commission~~ HPC, overrule the ~~Planning Commission~~ HPC  
17 and approve, or modify and approve, the designation or boundary change by a majority vote  
18 of all its members.

19 (g) Notice of Board of Supervisors Proceedings. Notice of the public hearing(s)  
20 scheduled pursuant to this Section 1107, and of the availability of applicable reports on the proposed  
21 designation or boundary change ~~before the Planning Commission~~ shall be given by mail no less than  
22 20 days prior to the date of the hearing to the initiators of the designation or alteration, the  
23 owners of all lots within ~~300 feet of~~ the proposed new district or of that portion of the district  
24 being ~~altered~~ modified, to appellants, as well as to interested individuals or organizations who  
25 request such notice in writing to the Department.

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(h) Standards Applicable to Designation or Boundary Change. The standards governing the designation and change of District boundaries are those set forth in Section 1103. Areas may be removed from Conservation Districts if the character of the area has changed such that the area no longer qualifies under the standards set forth in Section 1103.

SEC. 1108. NOTICE OF DESIGNATION.

When a building has been designated Significant or Contributory or its designation is changed pursuant to Section 1106, or when a new Conservation District is established or the boundary of a Conservation District changed pursuant to Section 1107, the ~~Zoning Administrator~~ Planning Department shall notify each affected property owner by mail and shall cause a copy of the ordinance, or notice thereof, to be recorded in the office of the County Recorder. The Department shall file in its permanent records any new designation or change of designation of a Significant or Contributory Building or a new Conservation District or change of a Conservation District boundary.

SEC. 1109. PRESERVATION LOTS: ELIGIBILITY FOR TRANSFER OF DEVELOPMENT RIGHTS.

For the purpose of ~~T~~ransfer of D~~evelopment~~ Rights ("TDR") as provided in Section 128 of this Code, lots on which are located Significant or Contributory Buildings, or Category V Buildings in those certain Conservation Districts and portions thereof as indicated in Section 8 of the Appendix relating to that District are eligible ~~P~~reservation L~~ots~~ as provided in this Section:

(a) Significant Buildings. Lots on which are located buildings designated as Significant Buildings - Category I or Category II - are eligible to transfer the difference between the allowable gross floor area permitted on the lot by Section 124 of this Code and the gross floor area of the development on the lot, if all the requirements for transfer set forth in Section

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128 are met. Lots on which are located Significant Buildings which have been altered in conformance with the provisions of this Article retain eligibility for the transfer of TDR.

(b) Contributory Buildings. Lots on which are located buildings designated as Contributory Buildings - Category III or Category IV - are eligible to transfer the difference between the allowable gross floor area permitted on the lot by Section 124 of the Code and the gross floor area of the development on the lot, if all the requirements for transfer set forth in Section 128 are met. Alteration or demolition of such a building in violation of Section 1110 or Section 1112, or alterations made without a permit issued pursuant to Sections 1111 through 1111.6, eliminates eligibility for the transfer of TDR; provided, however, that such eligibility may nonetheless be retained or acquired again if, pursuant to Section 1114(b), the property owner demonstrates as to any alteration that it was ~~not~~ a Minor Alteration as defined herein ~~major~~, or if the property owner restores the ~~demolished or~~ altered building. Once any TDR have been transferred from a Contributory Building, the building is subject to the same restrictions on demolition and alteration as a Significant Building. These restrictions may not be removed by the transfer of TDR back to the building.

(c) Category V Buildings in Conservation Districts. Where explicitly permitted in Section 8 of the Appendix establishing a Conservation District, lots located in such a District on which are located Category V Buildings (designated as neither Significant nor Contributory) are eligible to transfer the difference between the allowable gross floor area permitted on the lot under Section 124 of the Code and the gross floor area of the development on the lot, if all the requirements for transfer set forth in Section 128 are met; provided, however, that a lot is eligible as a Preservation Lot pursuant to this Section only if (1) the exterior of the building is substantially altered so as to make it compatible with the scale and character of the Significant and Contributory Buildings in the district, including those features described in Sections 6 and 7 of the Appendix to Article 11 describing the relevant district, and has thus been determined

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1 a Compatible Rehabilitation, and the building meets or has been reinforced to meet the  
2 standards for seismic loads and forces of the ~~1975~~ Building Code or (2) the building on the lot  
3 is new, having replaced a Category V Building, and has received approval as a Compatible  
4 Replacement Building, pursuant to Section 1113. The procedures governing these  
5 determinations are set forth in Section 309.

6 SEC. 1110. ALTERATION AND DEMOLITION OF SIGNIFICANT OR  
7 CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS.

8 With respect to a designated Significant or Contributory Building or any ~~Category V B~~  
9 building in a Conservation District, no person shall carry out or cause to be carried out:

10 (a) any alteration of a structure or any work involving a sign, awning, marquee, canopy,  
11 mural, or other appendage ("Permit to Alter"); or

12 (b) any demolition ("Permit to Demolish") to the exterior of a building

13 for which a permit is required pursuant to the Building Code unless ~~the~~ a permit is  
14 approved pursuant to the provisions of Sections 1111 through 1111.86 of this Article.

15 The HPC shall have the authority to approve, disapprove, or modify all applications for Permits  
16 to Alter and Permits to Demolish any Significant or Contributory Buildings or buildings within  
17 Conservation Districts, subject to appeal as provided in Section 1115 of this Article 11. The HPC must  
18 review and act on a Permit to Alter and/or a Permit to Demolish prior to any other planning approval  
19 action. Buildings that are designated landmark sites pursuant to Article 10 of this Code shall be  
20 governed by the provisions of that Article in lieu of the provisions in Article 11. If the proposed work  
21 would demolish a Significant or Contributory Building or any building in a Conservation District, as  
22 defined in Section 1005, such proposed demolition shall be subject to the provisions of this Section.  
23 Notwithstanding the foregoing, in the following cases the Department shall process the permit  
24 application without further reference to this Article 11:

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1           (1) When the application is for a permit to construct on a site where the Significant or  
2           Contributory Building has been lawfully demolished and the site is not within a designated  
3           Conservation District; and

4           (2) When the application is for a permit to make interior alterations only on a privately-  
5           owned structure or on a publically-owned structure, unless the Department has determined that any  
6           proposed interior alterations will not result in any visual or material impact to the exterior of the  
7           building or the designating Appendix in this Article requires review of such interior alterations to the  
8           privately- or publically-owned structure.

9           ~~—; provided, however, that this approval is not required with respect to the owner of a~~  
10          ~~Contributory Building of Category III who has not transferred any TDR and who elects to proceed with~~  
11          ~~a major alteration without reference to Sections 1111 through 1111.6. Election to proceed without a~~  
12          ~~permit pursuant to this Section may be made at the time that the Zoning Administrator determines that~~  
13          ~~the proposed alteration is major pursuant to Section 1111.1. If no election is made at the time of the~~  
14          ~~Zoning Administrator's determination that an alteration is major, the applicant may make such election~~  
15          ~~at any time thereafter. Review under Sections 1111 through 1111.6 shall cease after such election has~~  
16          ~~been made and the permit shall be processed without regard to the requirements of that Section.~~  
17          ~~Election shall be made in writing on a form provided by the Zoning Administrator. Where an owner~~  
18          ~~elects not to proceed pursuant to Sections 1111 through 1111.6, the proposed alteration for which the~~  
19          ~~application is filed shall be deemed not to meet the requirements of Section 1111.6, and if the alteration~~  
20          ~~permit is issued and work commenced thereunder, the Zoning Administrator shall not issue a Statement~~  
21          ~~of Eligibility for the lot on which the building is located.~~

22           SEC. 1111. APPLICATIONS FOR PERMITS TO ALTER OR PERMITS TO DEMOLISH.

23           All applications for permits to undertake any alteration or demolition of a building designated  
24           Significant or Contributory or a building in any Conservation District shall be referred to the Planning

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1 Department by the Central Permit Bureau within five (5) days of receipt and an application for a  
2 Permit to Alter or a Permit to Demolish shall be required.

3 (a) Who May Apply. An application for a Permit to Alter or Permit to Demolish may be filed  
4 by the owner, or authorized agent for the owner of the property for which the permit is sought.

5 (b) Where to File. Applications shall be filed in the office of the Planning Department.

6 (c) Verification. Each application filed by or on behalf of one or more property owners  
7 shall be verified by at least one such owner or his authorized agent attesting to the truth and  
8 correctness of all facts, statements and information presented.

9 (d) Content of Applications. The content of applications shall be in accordance with the  
10 policies, rules and regulations of the Department and the HPC. All applications shall be upon forms  
11 prescribed therefore, and shall contain or be accompanied by all information required to assure the  
12 presentation of all pertinent facts for proper consideration of the case and for the permanent record.

13 (i) For Permits to Alter, the application shall contain the following information:

14 (1) Plans, sections and elevations showing all existing and proposed work, including but not  
15 limited to color, texture of materials, and architectural design and detail;

16 (2) All demolition calculations associated with the proposed scope of work;

17 (3) Specifications describing the means and methods associated with the proposed scope of  
18 work;

19 (4) Photographs showing the property and the context of its surroundings; and

20 (3) Any other additional information needed for the preparation and mailing of notices as  
21 specified in Section 1111.4.

22 (ii) For Permits to Demolish buildings that have not sold their TDR rights, the application  
23 shall contain the following information:

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1           (1) Demolition calculations and associated detailed drawings indicating all interior and  
2 exterior alterations, including but not limited to any changes to the internal structural framework, floor  
3 plates, removal of interior walls, or changes to the foundation.

4           (2) The amount paid for the property;

5           (3) The date of purchase, the party from whom purchased, and a description of the business  
6 or family relationship, if any, between the owner and the person from whom the property was  
7 purchased;

8           (4) The cost of any improvements since purchase by the applicant and date incurred;

9           (5) The assessed value of the land, and improvements thereon, according to the most recent  
10 assessments;

11           (6) Real estate taxes for the previous two years;

12           (7) Annual debt service, if any, for the previous two years;

13           (8) All appraisals obtained within the previous five years by the owner or applicant in  
14 connection with his or her purchase, financing or ownership of the property;

15           (9) Any listing of the property for sale or rent, price asked and offers received, if any;

16           (10) Any consideration by the owner for profitable and adaptive uses for the property,  
17 including renovation studies, plans, and bids, if any;

18           (11) If it is a Preservation Lot eligible to transfer TDR, the amount and value of such TDR;  
19 and

20           (12) Annual gross income from the property for the previous four years;

21           (13) Itemized operating and maintenance expenses for the previous four years;

22           (14) Annual cash flow for the previous four years.

23           (iii) For Permits to Demolish buildings that have sold their TDR rights, the application shall  
24 contain the following information:

25           (1) All items listed in Subsection ii; and

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(2) The Statement of Eligibility;

(3) An itemized list of the amount of TDR which has been transferred from the property;

(4) A list of the amount of TDR rights remaining on the property;

(5) The amount received for rights transferred;

(6) The transferee(s); and

(7) A copy of each document effecting a transfer of such rights.

~~An applicant for a major alteration permit for a Category V Building in any of the Conservation Districts which provides for such eligibility may request on the application a determination that if the proposed alteration is completed as approved, the building will be deemed a Compatible Rehabilitation under Section 1109(c) so that the lot on which the building is located becomes eligible as a Preservation Lot for the transfer of TDR.~~

~~The Zoning Administrator may define categories of alterations which are deemed to be minor alterations and individual permits falling within those categories shall be reviewed and acted upon without referral to the Zoning Administrator HPC for review pursuant to Sections 1111 through 1111.6 All other applications for permits to undertake any alteration of a building designated Significant or Contributory or a building in any Conservation District shall be referred to the Zoning Administrator by the Central Permit Bureau within five days of receipt.~~

SEC. 1111.1. DETERMINATION OF ~~MAJOR~~ ALTERATIONS.

~~Within 10 days after referral by the Central Permit Bureau, the Zoning Administrator shall determine in writing if the proposed alteration is a Major Alteration or a Minor Alteration. An application for a Permit to Alter shall be reviewed by the Department which shall determine within 30 days after the application is filed whether or not the application is complete. The HPC shall have the authority to define categories of alterations to be deemed Minor Alterations and may delegate approval of applications for such Permits for Minor Alterations to Department staff, whose decisions may be appealed to the HPC pursuant to subsection 1111.1(c) of this Article. All other categories of work~~

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1 shall be defined as a Major Alteration and subject to HPC review. If delegated to the Department, the  
2 categories of Minor Alterations shall include but are not limited to the following:

3 ~~(a) — An alteration is considered Major if any of the following apply:~~

4 ~~(1) — The alteration will substantially change, obscure or destroy exterior character defining~~  
5 ~~spaces, materials, features or finishes; or~~

6 ~~(2) — The alteration would affect all or any substantial part of a building's structural~~  
7 ~~elements, exterior walls or exterior ornamentation; or~~

8 ~~(3) — The alteration occurs by virtue of construction which results in a substantial addition of~~  
9 ~~height above the height of the building.~~

10 ~~(b) — An alteration is considered minor if:~~

11 ~~(1) — The criteria set forth in Subsection (a) do not apply; or —~~

12 ~~(2) — It is an alteration of the ground-floor display areas within the architectural frame (piers~~  
13 ~~and lintels) of the building to meet the needs of first-floor commercial uses; or~~

14 (1) Work to perform “ordinary maintenance and repairs” which for the purpose of this  
15 Article 11 shall mean any work, the sole purpose and effect of which is to correct deterioration, decay,  
16 or damage; and

17 (2) The sole purpose and effect of the alteration is to comply with the UMB Seismic  
18 Retrofit Ordinances and the Zoning Administrator determines that the proposed work complies  
19 with the UMB Retrofit Architectural Design Guidelines, which guidelines shall be adopted by the  
20 Planning Commission HPC; and

21 (3) Any other work so delegated to the Department by the HPC.

22 (a) If the application is been determined to be a Minor Alteration which has been delegated  
23 to the Department staff for approval, then the application may be approved as a Permit for Minor  
24 Alteration by the Department without a hearing before the HPC. The Department shall mail its written  
25 decisions approving Permits for Minor Alteration to the applicant and any individuals or organizations

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1 who have made a requesting writing to the Department to receive such decisions. Such decisions of the  
2 Department may be appealed to the HPC within 15 days of the date of the written decision. The HPC  
3 may also review the decisions of the Department by its own motion.

4 (b) If the application for a Permit to Alter is not for a Minor Alteration that has been  
5 delegated to Department staff, then it shall be scheduled for a hearing by the HPC pursuant to the  
6 procedures in Section 1111.4 below.

7 ~~(c) The Zoning Administrator shall mail to the applicant and any individuals or~~  
8 ~~organizations who so request the written determination as to the category of the proposed alteration.~~  
9 ~~Decisions of the Zoning Administrator may be appealed to the Board of Permit Appeals HPC within 10~~  
10 ~~days of the written determination in the manner provided in Section 308.2.~~

11 ~~(d) Permits determined to be for minor alterations shall be returned, with that~~  
12 ~~determination noted, to the Central Permit Bureau for further processing; provided, however, that the~~  
13 ~~Zoning Administrator may take any action with respect to the application otherwise authorized.~~

14 SEC. 1111.2. PERMITS FOR SIGNS ~~-REFERRAL OF APPLICATIONS FOR MAJOR~~  
15 ~~ALTERATIONS TO LANDMARKS PRESERVATION ADVISORY BOARD: REVIEW BY THE~~  
16 ~~DEPARTMENT OF CITY PLANNING.~~

17 (a) Installation of a new general advertising sign is prohibited in any Historic District or  
18 Conservation District or on any historic property regulated by this Article 11.

19 (b) Wherever a permit for a sign is required pursuant to Article 6 of this Code, an  
20 application for such permit shall be governed by the provisions of this Section in addition to those of  
21 Article 6.

22 (c) Apart from and in addition to any grounds for approval or disapproval of the  
23 application under Article 6, an application involving a permit for a business sign, or general  
24 advertising sign, identifying sign, or nameplate to be located on a Significant or Contributory Building  
25 or any building in a Conservation District shall be subject to review by the HPC pursuant to the

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1 provisions of this Article, and the HPC may disapprove, the application or approve it subject to  
2 conditions if the proposed location, materials, means of illumination or method or replacement of  
3 attachment would adversely affect the special architectural, historical or aesthetic significance of the  
4 building or the Conservation District. No application shall be denied on the basis of the content of the  
5 sign.

6 ~~(a) — Upon determination that the proposed alteration is a major alteration, the Director of~~  
7 ~~Planning shall refer applications for permits to alter Significant and Contributory Buildings to the~~  
8 ~~Landmarks Preservation Advisory Board for its report and recommendation, which shall be rendered~~  
9 ~~within 30 days. Said time limit for the Board to render its report may be extended by the Department of~~  
10 ~~City Planning for an additional 30 days to render its report in the case of complex alterations, multiple~~  
11 ~~hearings, or upon request of the applicant. If the Board fails to submit a report and recommendation~~  
12 ~~within the time allowed, the matter may be considered without reference to such report and~~  
13 ~~recommendation.~~

14 ~~(b) — Simultaneously with the proceedings before the Landmarks Board, the application shall~~  
15 ~~be reviewed by the Department of City Planning.~~

16 ~~(c) — Applications for permits to alter any Category V building in a Conservation District~~  
17 ~~which alteration is determined to be major shall be governed by the standards of Section 1111.6(c) and~~  
18 ~~the procedures set forth in Section 309.~~

19 SEC. 1111.3. INTENTIONALLY LEFT BLANK. RECOMMENDATION BY THE DIRECTOR  
20 OF PLANNING.

21 ~~After considering any report and recommendation submitted by the Landmarks Preservation~~  
22 ~~Advisory Board, the Director of Planning shall make a determination on the application and shall~~  
23 ~~submit a written recommendation containing findings to the Planning Commission. The~~  
24 ~~recommendation may be to approve, to approve with conditions, or disapprove the application for~~  
25 ~~alteration, and, where applicable, the application for a determination that the building is a Compatible~~

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1 ~~Rehabilitation. The Commission, the applicant and any other person who so requests shall be supplied~~  
2 ~~with a copy of reports and recommendations of the Landmarks Preservation Advisory Board and the~~  
3 ~~findings and recommendations of the Director of Planning.~~

4 SEC. 1111.4. SCHEDULING AND NOTICE OF HPC HEARINGS ~~CONSIDERATION AND~~  
5 ~~DECISION BY THE CITY PLANNING COMMISSION.~~

6 Upon determination by the Department that a proposed alteration is not a Minor Alteration that  
7 has been delegated to staff, or if the proposed application is a Permit to Demolish, then the application  
8 shall be scheduled for a hearing by the HPC. The Department shall set a time and place for said  
9 hearing within a reasonable period. Notice of the time, place, and purpose of the hearing shall be  
10 given by the Department as follows:

11 (a) By mail to the owner of the subject property not less than 20 days prior to the date of the  
12 hearing; and

13 (b) By mail to the applicant not less than 20 days prior to the date of the hearing; and

14 (c) By mail to any interested parties not less than 20 days who make a request in writing to  
15 the Department; and

16 (d) For applications for a building located in a Conservation District, by mail not less than  
17 20 days prior to the date of the hearing to the owners of all real property within 300 feet of the subject  
18 property; and

19 (e) By posting notice on the site not less than 20 days prior to the date of the hearing; and

20 (f) Any other notice as the Department shall deem appropriate.

21 (g) Notice for HPC review of Minor Permits to Alter. For all requests of the HPC to  
22 exercise its review powers over a Minor Permit to Alter as outlined in Section 1111.1, the following  
23 notification procedures shall be used:

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1           (1) Mailed notice not less than 10 days prior to the date of the hearing to the applicant, all  
2           owners within 150 feet of the subject property, as well as to any other interested parties who make a  
3           request in writing; and

4           (2) Posted notice on the site not less than 10 days prior to the date of the hearing.

5           (h) For the purposes of the mailed notice, the latest citywide assessment roll for names and  
6           addresses of owners shall be used. Failure to send notice by mail to any such property owner where  
7           the address is not shown on the citywide assessment roll shall not invalidate any procedures in  
8           connection with such action.

9           ~~(a) The recommendation of the Director of Planning shall be placed on the consent~~  
10          ~~calendar of the City Planning Commission; provided, however, that upon the request of the applicant~~  
11          ~~or of any person prior to the City Planning Commission meeting or by a member of the Commission at~~  
12          ~~the meeting, the matter may be removed from the consent calendar and calendared for a public hearing~~  
13          ~~before the Planning Commission at a later meeting, which shall be the next regular meeting of the~~  
14          ~~Commission unless the applicant otherwise consents.~~

15          ~~(b) Notice of the time, place and purpose of the hearing before the City Planning~~  
16          ~~Commission shall begin given as follows:~~

17          ~~(1) By mail to the applicant;~~

18          ~~(2) When the application is for alteration of a building located in a Conservation District,~~  
19          ~~by mail not less than 10 days prior to the date of the hearing to the owners of all real property within~~  
20          ~~300 feet of property that is the subject of the application.~~

21          SEC. 1111.5.DECISION BY THE HPC CITY PLANNING COMMISSION.

22          The ~~Planning Commission~~ HPC may approve, disapprove or approve with conditions an  
23          application for a Permit to Alter or a Permit to Demolish ~~an alteration permit~~ and, where  
24          applicable, for a determination that the building is a Compatible Rehabilitation or a Compatible  
25          Building, and shall make findings in support of its decision. For applications for a Permit to

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~~Demolish, the applicant has the burden of establishing that the criteria governing the approval of applications set forth in Section 1111.7 have been met. All decisions of the HPC shall be final except upon the valid modification of the HPC's decision by the Planning Commission as provided in 1114 of this Article or upon the filing of a valid appeal to the Board of Appeals or Board of Supervisors as provided in Section 1115 of this Article. If the Planning Commission approves the recommendation of the Director of Planning, it may adopt or modify the findings of the Director of Planning as appropriate. Where the Planning Commission disapproves the recommendations of the Director of Planning, it shall make findings supporting its decision. If the Commission disapproves the application for a permit to alter, it shall recommend disapproval to the Central Permit Bureau which shall deny the application. The Planning Commission's determination that a building qualifies or fails to qualify as a Compatible Rehabilitation is a final administrative decision. Any decision of the Planning Commission HPC rendered pursuant to this Section shall be rendered within 30 days from the date of conclusion of the hearing.~~

SEC. 1111.6. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR ALTERATIONS.

~~The HPC, the Board of Permit Appeals, the Board of Supervisors, the City Planning Commission and the Planning Department the Director of Planning, and the Landmarks Board shall be governed by the following standards in the review of applications for Permits to Alter major alteration permits.~~

(a) The proposed alteration shall be consistent with and appropriate for the effectuation of the purposes of this Article 11.

~~(b) The proposed work shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties.~~

~~(c) For Significant Buildings - Categories I and II, and for Contributory Buildings - Categories III and IV, proposed alterations of structural elements and exterior features shall~~

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1 be consistent with the architectural character of the building, and shall comply with the  
2 following specific requirements:

3 (1) The distinguishing original qualities or character of the building may not be  
4 damaged or destroyed. Any distinctive architectural feature which affects the overall  
5 appearance of the building shall not be removed or altered unless it is the only feasible means  
6 to protect the public safety.

7 (2) The integrity of distinctive stylistic features or examples of skilled craftsmanship  
8 that characterize a building shall be preserved.

9 (3) Distinctive architectural features which are to be retained pursuant to Paragraph  
10 (1) but which are deteriorated shall be repaired rather than replaced, whenever possible. In  
11 the event replacement is necessary, the new material shall match the material being replaced  
12 in composition, design, color, texture and other visual qualities. Repair or replacement of  
13 missing architectural features shall be based on accurate duplication of features,  
14 substantiated by historic, physical or pictorial evidence, if available, rather than on conjectural  
15 designs or the availability of different architectural elements from other buildings or structures.  
16 Replacement of nonvisible structural elements need not match or duplicate the material being  
17 replaced.

18 (4) Contemporary design of alterations is permitted, provided that such alterations  
19 do not destroy significant exterior architectural material and that such design is compatible  
20 with the size, scale, color, material and character of the building and its surroundings.

21 (5) The degree to which distinctive features need be retained may be less when the  
22 alteration is to exterior elements not constituting a part of a principal facade or when it is an  
23 alteration of the ground-floor frontage in order to adapt the space for ground-floor uses.

24 (6) In the case of Significant Buildings - Category I, any additions to height of the  
25 building (including addition of mechanical equipment) shall be limited to one story above the

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height of the existing roof, shall be compatible with the scale and character of the building, and shall in no event cover more than 75 percent of the roof area.

(7) In the case of Significant Buildings - Category II, a new structure or addition, including one of greater height than the existing building, may be permitted on that portion of the lot not restricted in Appendix B even if such structure or addition will be visible when viewing the principal facades at ground level, provided that the structure or addition does not affect the appearance of the retained portion as a separate structure when so viewing the principal facades and is compatible in form and design with the retained portion. Alteration of the retained portion of the building is permitted as provided in Paragraphs (1) through (6) of this Subsection (b).

(d) Within Conservation Districts, all major exterior alterations, of Category V Buildings, shall be compatible in scale and design with the District as set forth in Sections 6 and 7 of the Appendix which describes the District.

(e) If TDR has been transferred from any Contributory Building, the building is subject to the same restrictions on alterations as a Significant Building. These restrictions may not be removed by the transfer of TDR back to the building.

SEC. 1111.7. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR DEMOLITION.

The HPC, Planning Commission, Board of Appeals, and the Board of Supervisors shall follow the standards in this Section in their review of applications for a Permit to Demolish any Significant or Contributory Building or building within a Conservation District.

(a) For Significant and Contributory Buildings that have transferred TDR, no demolition permit may be approved unless:

(1) it is determined that under the designation, taking into account the value of any Transferable Development Rights that have been transferred or which may be available for transfer

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1 from the property, if any, and costs of rehabilitation to meet the requirements of the Building Code or  
2 other City, State or federal laws, the property retains no substantial remaining market value or  
3 reasonable use; or

4 (b) For Significant and Contributory Buildings that have not transferred TDR, no  
5 demolition permit may be approved unless:

6 (1) the Director of the Department of Building Inspection or the Chief of the Bureau of Fire  
7 Prevention and Public Safety determines, after consultation, to the extent feasible, with the HPC and  
8 the Planning Department, that an imminent safety hazard exists and that demolition of the structure is  
9 the only feasible means to secure the public safety. Costs of rehabilitation necessitated by alterations  
10 made in violation of Section 1110, by demolition in violation of Section 1112, or by failure to maintain  
11 the property in violation of Section 1119 Z, may not be included in the calculation of rehabilitation  
12 costs under Subsection (1).

13 SEC. 1111.8 ~~7.~~ INTENTIONALLY LEFT BLANK PERMITS FOR SIGNS.

14 ~~(a) — Installation of a new general advertising sign is prohibited in any Historic District or~~  
15 ~~Conservation District or on any historic property regulated by this Article 11.~~

16 ~~(b) — Wherever a permit for a sign is required pursuant to Article 6 of this Code, an~~  
17 ~~application for such permit shall be governed by the provisions of this Section in addition to those of~~  
18 ~~Article 6.~~

19 ~~(c) — Apart from and in addition to any grounds for approval or disapproval of the~~  
20 ~~application under Article 6, an application involving a permit for a business sign, or general~~  
21 ~~advertising sign, identifying sign, or nameplate to be located on a Significant or Contributory Building~~  
22 ~~or any building in a Conservation District may be disapproved, or approved it subject to conditions if~~  
23 ~~the proposed location, materials, means of illumination or method or replacement of attachment would~~  
24 ~~adversely affect the special architectural, historical or aesthetic significance of the building or the~~  
25 ~~Conservation District. No application shall be denied on the basis of the content of the sign.~~

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1           ~~(d) — The Director of Planning shall make the determination required pursuant to Subsection~~  
2 ~~(b). Any permit applicant may appeal the determination of the Director of Planning to the City~~  
3 ~~Planning Commission by filing a notice of appeal with the Secretary of the Commission within 10 days~~  
4 ~~of the determination. The City Planning Commission shall hear the appeal and make its determination~~  
5 ~~within 30 days of the filing of the notice of appeal.~~

6           SEC. 1112. INTENTIONALLY LEFT BLANK. ~~DEMOLITION OF SIGNIFICANT AND~~  
7 ~~CONTRIBUTORY BUILDINGS AND BUILDINGS IN CONSERVATION DISTRICTS.~~

8           ~~No person shall demolish or cause to be demolished all or any part of a Significant or~~  
9 ~~Contributory Building or any building in a Conservation District without obtaining a Permit and a~~  
10 ~~Permit for a Replacement Building pursuant to the provisions of this Article. Applications for permits~~  
11 ~~to demolish Category V Buildings located outside a Conservation District may be processed without~~  
12 ~~reference to this Article.~~

13           SEC. 1112.1. INTENTIONALLY LEFT BLANK. ~~APPLICATIONS FOR A PERMIT TO~~  
14 ~~DEMOLISH.~~

15           ~~Applications for a permit to demolish any Significant or Contributory Building or any building~~  
16 ~~in a Conservation District shall comply with the provisions of Section 1006.1 of Article 10 of this Code.~~

17           ~~In addition to the contents specified for applications in Section 1006.1 of Article 10, any~~  
18 ~~application for a permit to demolish a Significant Building, or a Contributory Building from which~~  
19 ~~TDR have been transferred, on the grounds stated in Section 1112.7(a)(1), shall contain the following~~  
20 ~~information:~~

21           ~~(a) — For all property:~~  
22           ~~(1) — The amount paid for the property;~~  
23           ~~(2) — The date of purchase, the party from whom purchased, and a description of the business~~  
24 ~~or family relationship, if any, between the owner and the person from whom the property was~~  
25 ~~purchased;~~

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~~(3) — The cost of any improvements since purchase by the applicant and date incurred;~~

~~(4) — The assessed value of the land, and improvements thereon, according to the most recent assessments;~~

~~(5) — Real estate taxes for the previous two years;~~

~~(6) — Annual debt service, if any, for the previous two years;~~

~~(7) — All appraisals obtained within the previous five years by the owner or applicant in connection with his or her purchase, financing or ownership of the property;~~

~~(8) — Any listing of the property for sale or rent, price asked and offers received, if any;~~

~~(9) — Any consideration by the owner for profitable and adaptive uses for the property, including renovation studies, plans, and bids, if any; and~~

~~(b) — For income-producing property:~~

~~(1) — Annual gross income from the property for the previous four years;~~

~~(2) — Itemized operating and maintenance expenses for the previous four years;~~

~~(3) — Annual cash flow for the previous four years.~~

~~Applications for the demolition of any Significant or Contributory Building shall also contain a description of any Transferable Development Rights or the right to such rights which have been transferred from the property, a statement of the quantity of such rights and untransferred rights remaining, the amount received for rights transferred, the transferee, and a copy of each document effecting a transfer of such rights.~~

~~SEC. 1112.2. INTENTIONALLY LEFT BLANK. DISPOSITION OF APPLICATIONS TO DEMOLISH CONTRIBUTORY BUILDINGS AND UNRATED BUILDINGS IN CONSERVATION DISTRICTS.~~

~~(a) — The Zoning Administrator shall determine, within five days of acceptance of a complete application, the designation of the building and, with respect to Contributory Buildings, whether any TDR have been transferred from the lots of such buildings.~~

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1           ~~(b)——If the Zoning Administrator determines that TDR have been transferred from the lot of a~~  
2           ~~Contributory Building, the application for demolition of that building shall be reviewed and acted upon~~  
3           ~~as if it applied to a Significant Building.~~

4           ~~(c)——The Zoning Administrator shall approve any application for demolition of a~~  
5           ~~Contributory Building in a Conservation District from which no TDR have been transferred, or an~~  
6           ~~Unrated Building located in a Conservation District if a building or site permit has been lawfully~~  
7           ~~issued for a replacement structure on the site, in compliance with Section 1113. The Zoning shall~~  
8           ~~approve an application for demolition of a Significant Building—Category II if a building or site permit~~  
9           ~~has been lawfully issued for an alteration or replacement structure on the portion of the site which~~  
10           ~~would be affected by the demolition, in compliance with Section 1111.6(b)(7).~~

11           ~~The Zoning Administrator shall disapprove any application for a demolition permit where the~~  
12           ~~foregoing requirement has not been met; provided, however, that the Zoning Administrator shall~~  
13           ~~approve any otherwise satisfactory application for such a permit notwithstanding the fact that no~~  
14           ~~permit has been obtained for a replacement structure if the standards of Section 1112.7 for allowing~~  
15           ~~demolition of a Significant Building are met.~~

16           ~~(d)——The Zoning Administrator shall approve applications to permit demolition of a~~  
17           ~~Contributory Building—Category III from which no TDR have been transferred only if a building or~~  
18           ~~site permit for a replacement building on the same site has been approved, and it has been found,~~  
19           ~~pursuant to review under the procedural provisions of Section 309, that the proposed replacement will~~  
20           ~~not adversely affect the character, scale or design qualities of the general area in which it is located,~~  
21           ~~either by reason of the quality of the proposed design or by virtue of the relation of the replacement~~  
22           ~~structure or structures to their setting. Notwithstanding the preceding sentence, the Zoning~~  
23           ~~Administrator shall approve any such demolition permit application if the standards of Section 1112.7~~  
24           ~~for allowing demolition of a Significant Building are met.~~

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1 SEC. 1112.3. INTENTIONALLY LEFT BLANK. ~~APPLICATIONS TO DEMOLISH~~  
2 ~~SIGNIFICANT BUILDINGS OR CONTRIBUTORY BUILDINGS FROM WHICH TDR HAVE BEEN~~  
3 ~~TRANSFERRED; ACCEPTANCE AND NOTICE.~~

4 ~~Upon acceptance as complete of applications for a permit to demolish any Significant Building~~  
5 ~~or to demolish any Contributory Building from which TDR have been transferred, the application shall~~  
6 ~~be placed on the agenda of the Planning Commission for hearing.~~

7 SEC. 1112.4. INTENTIONALLY LEFT BLANK. ~~REFERRAL TO THE LANDMARKS~~  
8 ~~PRESERVATION ADVISORY BOARD PRIOR TO HEARING; REVIEW BY THE DIRECTOR OF~~  
9 ~~PLANNING.~~

10 ~~The application for a permit to demolish a building covered by Section 1112.3 shall be referred~~  
11 ~~to the Landmarks Preservation Advisory Board and considered by said Board pursuant to the~~  
12 ~~provisions of Section 1006.4 of this Code. The Director of Planning shall prepare a report and~~  
13 ~~recommendation for the Planning Commission. If the Landmarks Board does not act within 30 days of~~  
14 ~~referral to it, the Planning Commission may proceed without a report and recommendation from the~~  
15 ~~Landmarks Board.~~

16 SEC. 1112.5. INTENTIONALLY LEFT BLANK. ~~PLANNING COMMISSION HEARING AND~~  
17 ~~DECISION.~~

18 ~~The application shall be heard by the Planning Commission. Notice of the hearing shall be~~  
19 ~~given in the manner set forth in Section 309(c). In such proceedings, the applicant has the burden of~~  
20 ~~establishing that the criteria governing the approval of applications set forth in Section 1112.7 have~~  
21 ~~been met.~~

22 SEC. 1112.6. INTENTIONALLY LEFT BLANK. ~~DECISION OF THE PLANNING~~  
23 ~~COMMISSION.~~

24 ~~The Planning Commission may approve, disapprove or approve with conditions, the~~  
25 ~~application, and shall make findings relating its decision to the standards set forth in Section 1112.7.~~

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~~The decision of the Planning Commission shall be rendered within 30 days from the date of conclusion of the hearing.~~

SEC. 1112.7. INTENTIONALLY LEFT BLANK. ~~STANDARDS AND REVIEW OF APPLICATIONS TO DEMOLISH.~~

~~The Board of Permit Appeals, the City Planning Commission the Director of Planning, and the Landmarks Board shall follow the standards in this Section in their review of applications for a permit to demolish any Significant or Contributory Building from which TDR have been transferred.~~

~~No demolition permit may be approved unless:~~

~~(1) it is determined that under the designation, taking into account the value of Transferable Development Rights and costs of rehabilitation to meet the requirements of the Building Code or other City, State or federal laws, the property retains no substantial remaining market value or reasonable use; or~~

~~(2) the Superintendent of the Bureau of Building Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines, after consultation, to the extent feasible, with the Department of City Planning, that an imminent safety hazard exists and that demolition of the structure is the only feasible means to secure the public safety. Costs of rehabilitation necessitated by alterations made in violation of Section 1110, by demolition in violation of Section 1112, or by failure to maintain the property in violation of Section 111.7, may not be included in the calculation of rehabilitation costs under Subsection (1).~~

SEC. 1113. NEW AND REPLACEMENT CONSTRUCTION IN CONSERVATION DISTRICTS.

No person shall construct or cause to be constructed any new or replacement structure or add to any existing structure in a Conservation District unless it is found that such construction is compatible in scale and design with the District as set forth in Sections 6 and 7 of the Appendix which describes the District. Applications for a building or site permit to

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construct or add to a structure in any Conservation District shall be reviewed by the HPC before any other planning approval action that may be required, including any review by the Planning Commission, if applicable pursuant to the procedures set forth in Section 309 and shall only be approved pursuant to Section 3090 if they meet the standards set forth ~~herein~~ in this Article 11. For projects that require Section 309 review, the Planning Commission may modify the decision of the HPC on a Permit to Alter pursuant to Section 1114, provided that the project does not concern Significant (Categories I and II) or a Contributory (Category III) building. ~~—If~~ a building or site permit application for construction of a building is approved by the HPC pursuant to ~~this Section~~ this Article without modification by the Planning Commission and if the building is constructed in accordance with such approval, and if the buildings located in a Conservation District for which, pursuant to Section 8 of the Appendix establishing that district, such a transfer is permitted, the building shall be deemed a Compatible Replacement Building, and the lot on which such building is located shall be eligible as a Preservation Lot for the transfer of TDR.

SEC. 1114. RIGHT TO MODIFY A DECISION OF THE HPC WHERE THERE ARE MULTIPLE PLANNING APPROVALS.

For projects that require multiple planning approvals, the HPC must review and act on any Permit to Alter or Permit to Demolish before any other planning approval action. For projects that (1) require a Conditional Use Authorization or Permit Review under Section 309, et. seq. of the Code, and (2) do not concern Significant Building (Categories I & II) or a Contributory Building (Category III only), the Planning Commission may modify any decision on a Permit to Alter or Permit to Demolish by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Code.

For properties located on vacant lots, the Planning Commission may modify any decision on a Permit to Alter by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code.

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1        SEC. 1115. RIGHT OF APPEAL.

2        The HPC's or the Planning Commission's decision on a Permit to Alter or a Permit to  
3        Demolish shall be final unless appealed to the Board of Appeals, which may modify the decision by a  
4        4/5 vote; provided however, that if the project requires Board of Supervisors approval or is appealed to  
5        the Board of Supervisors as a Conditional Use Authorization, the decision shall not be appealed to the  
6        Board of Appeals but rather to the Board of Supervisors, which may modify the decision by a majority  
7        vote. Any appeal must be made within 30 days after the date of the final action by the HPC. An action  
8        on a Permit to Alter or a Permit to Demolish so appealed from shall not become effective unless and  
9        until approved by the Board of Appeals or the Board of Supervisors in accordance with this Section.

10       SEC. 11164. UNLAWFUL ALTERATION OR DEMOLITION.

11       (a)     In addition to any other penalties provided in Section 1119 or elsewhere,  
12       alteration or demolition of a Significant or Contributory Building or any building within a  
13       Conservation District in violation of the provisions of this Article shall eliminate the eligibility of  
14       the building's lot as a Preservation Lot, and such lot, if it is the site of an unlawfully  
15       demolished Significant Building, or Contributory Building from which TDR have been  
16       transferred, may not be developed in excess of the floor area ratio of the demolished building  
17       for a period of 20 years from the unlawful demolition. No department shall approve or issue a  
18       permit that would authorize construction of a structure contrary to the provisions of this  
19       Section.

20       (b)     A property owner may be relieved of the penalties provided in Subsection (a) if:  
21       (1) as to an unlawful alteration or demolition, the owner can demonstrate to the ~~Zoning~~  
22       ~~Administrator~~ HPC that the violation did not constitute a major alteration as defined in Section  
23       1111.1; or (2) as to an unlawful alteration, the owner restores the original distinguishing  
24       qualities and character of the building destroyed or altered, including exterior character-  
25       defining spaces, materials, features, finishes, exterior walls and exterior ornamentation. A

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1 property owner who wishes to effect a restoration pursuant to Subsection (b)(2) shall, in  
2 connection with the filing of a building or site permit application, seek approval of the  
3 proposed restoration by reference to the provisions of this Section. If the application is  
4 approved ~~and~~ by the HPC and the HPC it is determined that the proposed work will effect  
5 adequate restoration, the ~~City Planning Commission~~ HPC shall so find. Upon such approval,  
6 and the completion of such work, the lot shall again become an eligible Preservation Lot and  
7 the limitation on floor area ratio set forth in Subsection (a) shall not thereafter apply. The ~~City~~  
8 ~~Planning Commission~~ HPC may not approve the restoration unless it first finds that the  
9 restoration can be done with a substantial degree of success. The determination under this  
10 Subsection (b)(2) is a final administrative decision.

11 SEC. 1117~~5~~. CONFORMITY WITH OTHER CITY PERMIT PROCESSES.

12 Except where explicitly so stated, nothing in this Article shall be construed as relieving  
13 any person from other applicable permit requirements. The following requirements are  
14 intended to insure conformity between existing City permit processes and the provisions of  
15 this Article:

16 (a) Upon the designation of a building as a Significant or Contributory Building, or  
17 upon the designation of the Conservation District, the ~~Zoning Administrator~~ Planning Department  
18 shall inform the Central Permit Bureau of said designation or, in the case of a Conservation  
19 District, of the boundaries of said District and a complete list of all the buildings within said  
20 District and their designations. The Central Permit Bureau shall maintain a current record of  
21 such Buildings and Conservation Districts.

22 (b) Upon receipt of any application for a building permit, demolition permit, site  
23 permit, alteration permit, or any other permit relating to a Significant or Contributory Building  
24 or a building within a designated Conservation District, the Central Permit Bureau shall  
25 forward such application to the Planning Department ~~of City Planning, except as provided in~~

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1 ~~Section 1111.~~ If the ~~Zoning Administrator~~ Planning Department determines that the application is  
2 subject to provisions of this Article, processing shall proceed under the provisions of this  
3 Article. The Central Permit Bureau shall not issue any permit for construction, alteration,  
4 removal or demolition of any structure, or for any work involving a Significant or Contributory  
5 Building or a building within a Conservation District unless either the ~~Zoning Administrator~~  
6 Planning Department has determined that such application is exempt from the provisions of this  
7 Article, or processing under this Article is complete and necessary approvals under this Article  
8 have been obtained. The issuance of any permit by a City department or agency that is  
9 inconsistent with any provision of this Article may be revoked by the Director ~~Superintendent~~ of  
10 the ~~Bureau~~ Department of Building Inspection pursuant to Section ~~303(e)~~ 106A.4.5 of the ~~San~~  
11 ~~Francisco~~ Building Code.

12 (c) No abatement proceedings or enforcement proceedings shall be undertaken by  
13 any department of the City for a Significant or Contributory building or a building within a  
14 Conservation District without, to the extent feasible, prior notification of the Planning  
15 ~~Department of City Planning and the HPC~~. Such proceedings shall comply with the provisions of  
16 this Article where feasible.

17 SEC. 111~~8.6~~ UNSAFE OR DANGEROUS CONDITIONS.

18 Where the Director ~~Superintendent~~ of the Department ~~Bureau~~ of Building Inspection or the  
19 Chief of the Bureau of Fire Prevention and Public Safety determines that a condition on or  
20 within a Significant or Contributory Building is unsafe or dangerous and determines further  
21 that repair or other work rather than demolition will not threaten the public safety, said official  
22 shall, after consulting with the Planning ~~Department of City Planning and the HPC~~, to the extent  
23 feasible, determine the measures of repair or other work necessary to correct the condition in  
24 a manner which, insofar as it does not conflict with State or local requirements, is consistent  
25 with the purposes and standards set forth in this Article.

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SEC. 111~~9~~7. MAINTENANCE REQUIREMENTS AND ENFORCEMENT THEREOF.

(a) Maintenance. The owner, lessee, or other person in actual charge of a Significant or Contributory Building shall comply with all applicable codes, laws and regulations governing the maintenance of property. It is the intent of this Section to preserve from deliberate or inadvertent neglect the exterior features of buildings designated Significant or Contributory, and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. All such buildings shall be preserved against such decay and deterioration and free from structural defects through prompt corrections of any of the following defects:

(1) Facades which may fall and injure members of the public or property;

(2) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;

(3) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;

(4) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;

(5) Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering;

(6) Any fault or defect in the building which renders it not properly watertight or structurally unsafe.

(b) Enforcement Procedures. The procedures set forth in Building Code Section 203 governing unsafe buildings or property shall be applicable to any violations of this Section.

SEC. 112~~0~~19. ENFORCEMENT AND PENALTIES.

Enforcement and Penalties shall be as provided in Sections 176 and 176.1 of this Code.

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SEC. 1121~~0~~. RELATIONSHIP TO ARTICLE 10.

Buildings or areas within the C-3 District designated pursuant to the provisions of both Article 10 and Article 11 shall be regulated pursuant to the procedures of both Articles. In case of conflict, the more restrictive provision shall control.

Notwithstanding the rating of a building in a C-3 District pursuant to the provisions of Article 11, buildings may be designated as landmarks according to the provisions of Article 10.

~~Where an appeal is taken from a decision regarding alteration of a building which is both a landmark under Article 10 and a Significant or Contributory Building under Article 11, the appeal shall be taken to the Board of Supervisors pursuant to the provisions of Article 10.~~

SEC. 1122~~1~~. NOTICE OF AMENDMENT.

Notice of any hearing before the ~~City Planning Commission~~ HPC, or, if no hearing, notice of the first hearing before the Board of Supervisors, of a proposed amendment to this Article which materially alters the limitations and requirements applicable to any building or class of buildings shall be given to the owners of such buildings by mail.

SEC. 1123~~2~~. NOTICE PROCEDURE.

When any provision of this Article requires notice by mail to a property owner, the officer or body providing the notice shall use for this purpose the names and addresses as shown on the latest citywide Assessment Roll in the Assessor's Office.

SEC. 1124~~3~~. TIME PROVISIONS.

Unless otherwise indicated, all time provisions governing the taking of action by City officials are directory and not mandatory.

SEC. 1125~~4~~. SEVERABILITY.

If any part of this Article 11 is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Article 11 or any part thereof. The Board

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of Supervisors hereby declares that it would have passed all portions of this Article  
irrespective of the fact that any one or more portions be declared unconstitutional or invalid.

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

By: JUDITH A. BOYAJIAN  
Deputy City Attorney



# SAN FRANCISCO PLANNING DEPARTMENT

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## Draft Historic Preservation Commission Resolution

### Planning Code Text Changes: Article 11

HEARING DATE: OCTOBER 20, 2010

*Project Name:* 2010 Planning Code Amendments  
*Case Number:* 2010.0080T  
*Initiated by:* John Rahaim, Director of Planning  
*Initiated:* July 8, 2010  
*Staff Contact:* Tara Sullivan, Legislative Affairs  
tara.sullivan@sfgov.org, 415-558-6257  
*Reviewed by:* Tim Frye, Acting Preservation Coordinator  
tim.frye@sfgov.org, 415-575-6822

*Recommendation:* **Approve Article 11 Amendments with Modifications**

1650 Mission St.  
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Information:  
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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS AN ORDINANCE INITIATED BY THE PLANNING COMMISSION THAT WOULD AMEND THE PLANNING CODE ARTICLE 11 – PRESERVATION OF BUILDINGS AND DISTRICTS OF ARCHITECTURAL, HISTORIC, AND AESTHETIC IMPORTANCE IN C-3 DISTRICTS PER HPC DRAFT DATED OCTOBER 20, 2010; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS AND PLANNING CODE SECTION 101.1 FINDINGS.

### PREAMBLE

WHEREAS, on February 3, 2010, the Planning Director requested that amendments be made to the Planning Code under Case Number 2010.0080T; and

WHEREAS, the proposed Planning Code text changes would amend several sections of the Code and in particular, to Articles 10 and 11; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the initiation of the proposed Ordinance on July 8, 2010; and

WHEREAS the Planning Commission adopted Resolution No. 18133 initiating amendments to the Planning Code on July 8, 2010; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the proposed Ordinance on August 5, 2010; and

WHEREAS the Planning Commission adopted Resolution No. 18157 recommending approval with modifications of the proposed ordinance to the Board of Supervisors on August 5, 2010; and

WHEREAS, pursuant to Charter Section 4.135, any proposed ordinance concerning historic preservation issues must be submitted to the Historic Preservation Commission ("HPC") for review and recommendation to the Board of Supervisors; and

WHEREAS, the Historic Preservation Commission conducted a duly noticed public hearings to consider the proposed amendments to Articles 10 & 11 on July 21<sup>st</sup>, August 4<sup>th</sup>, 18<sup>th</sup>, September 1<sup>st</sup>, 15<sup>th</sup>, 29<sup>th</sup>, October 6<sup>th</sup>, and 15<sup>th</sup> 2010; and

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

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

WHEREAS, 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 HPC has reviewed the proposed Ordinance; and

**MOVED**, that the HPC hereby recommends that the Board of Supervisors *approve with modifications* the proposed ordinance for Article 11 as detailed in the draft dated October 15, 2010.

## **FINDINGS**

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

1. This Historic Preservation Commission was created in the fall of 2008 when the voters passed amendments to the San Francisco Charter establishing Section 4.135.
2. Article 10 (Preservation of Historical and Architectural and Aesthetic Landmarks) and Article 11 (Preservation of Buildings and Districts of Architectural, Historical, and Aesthetic Importance in the C-3 Districts) are the Planning Code chapters that outline the designation and permit review processes for historic buildings.
3. These Articles have not been updated and do not conform to Charter Section 4.135. The proposed revisions will simply make them consistent with Charter Section 4.135.

4. The additional changes proposed to Articles 10 and 11 will update preservation practices and policies and help streamline the designation and permit review processes.
5. Therefore, the HPC recommends *approval of Article 11 with modifications in the draft dated October 15, 2010 of the proposed Ordinance.*
6. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

#### **I. COMMERCE & INDUSTRY ELEMENT**

THE COMMERCE & INDUSTRY ELEMENT SETS FORTH OBJECTIVES AND POLICES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE. THE PLAN SERVES AS A COMPREHENSIVE GUIDE FOR BOTH THE PUBLIC AND PRIVATE SECTORS WHEN MAKING DECISIONS RELATED TO ECONOMIC GROWTH AND CHANGE.

#### **GOALS**

*The objectives and policies are based on the premise that economic development activities in San Francisco must be designed to achieve three overall goals: 1) Economic Vitality - the first goal is to maintain and expand a healthy, vital and diverse economy which will provide jobs essential to personal well-being and revenues to pay for the services essential to the quality of life in the city; 2) Social Equity - the second goal is to assure that all segments of the San Francisco labor force benefit from economic growth. This will require that particular attention be given to reducing the level of unemployment, particularly among the chronically unemployed and those excluded from full participation by race, language or lack of formal occupational training; and 3) Environmental Quality - the third goal is to maintain and enhance the environment. San Francisco's unique and attractive environment is one of the principal reasons San Francisco is a desirable place for residents to live, businesses to locate, and tourists to visit. The pursuit of employment opportunities and economic expansion must not be at the expense of the environment appreciated by all.*

#### **OBJECTIVE 1**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### **POLICY 1.3**

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

#### **OBJECTIVE 6**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

#### **POLICY 6.1**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among

the districts.

**POLICY 6.3**

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

**POLICY 6.8**

Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

**II. 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.

**III. DOWNTOWN ELEMENT**

THE DOWNTOWN PLAN GROWS OUT OF AN AWARENESS OF THE PUBLIC CONCERN IN RECENT YEARS OVER THE DEGREE OF CHANGE OCCURRING DOWNTOWN — AND OF THE OFTEN CONFLICTING CIVIC OBJECTIVES BETWEEN FOSTERING A VITAL ECONOMY AND RETAINING THE URBAN PATTERNS AND STRUCTURES WHICH COLLECTIVELY FOR THE PHYSICAL ESSENCE OF SAN FRANCISCO.

**OBJECTIVE 1**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

**OBJECTIVE 12**

CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.

**Policy 12.1**

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.

*The goal of the proposed Ordinance is to make typographical and clerical errors to the Planning Code, as well as to update Articles 10 and 11 to make it conform to Charter Section 4.135.*

7. The proposed replacement project is generally 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 would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.*

- 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 will not impact existing housing and neighborhood character.*

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

*The proposed Ordinance will not impact the supply of affordable housing.*

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

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

- 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.*

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

*The proposed Ordinance will update the Planning Code to reflect Charter Section 4.135 to incorporate the Historic Preservation Commission.*

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

*The proposed Ordinance will not impact the City's parks and open space.*

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on October 20, 2010.

Linda D. Avery  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: October 20, 2010

Exhibit A: Draft Ordinance with October 20, 2010 amendments to Article 11