



SAN FRANCISCO PLANNING DEPARTMENT

Historic Preservation Commission Executive Summary Planning Code Text Changes

HEARING DATE: JULY 21, 2010

Project Name: 2010 Planning Code 'Clean Up'
Case Number: 2010.0080T
Initiated by: John Rahaim, Director of Planning
Staff Contact: Tara Sullivan, Legislative Affairs
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Reviewed by: Tim Frye, Acting Preservation Coordinator
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Recommendation: **Recommend Approval of Planning Code Amendments**

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The action before the Historic Preservation Commission ("HPC") is to review and recommend proposed amendments to the Planning Code that are described below. Pursuant to Charter Section 4.135, any ordinance concerning historic preservation issues must be submitted to the HPC for review and recommendation to the Board of Supervisors. Part of the 'clean up' are revisions to Articles 10 and 11 of the Planning Code, which regulate individual landmarks, local historic districts, and buildings in C-3 Districts.

PLANNING CODE AMENDMENTS

The proposed Ordinance would amend several sections of the Planning Code as detailed in Attachment B: *2010 Planning Code Clean Up Amendments* and incorporated herein.

The proposed changes are minor in scope - typographical errors, updating and consolidating definitions, and correcting errors that were inadvertently made by subsequent code changes and/or by the publisher. The Ordinance is not proposing any changes in policy but focuses on non-substantive changes to the Planning Code.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the HPC so that it may approve or disapprove the initiation of Planning Code amendments.

RECOMMENDATION

The Department recommends that the HPC recommend *approval of the amendments* to the Board of Supervisors and adopt the attached Draft Resolution to that effect.

Basis for recommendation

The Planning Code has been amended dozens of times over the past three years. In addition to the Eastern Neighborhoods, Balboa Park, and Ocean Avenue plans being created (among others), the Board of Supervisors has regularly amended Code sections. Many factors contribute to the errors that need

fixing by this legislation. First, there is a delay between the effective date of a Ordinance and when the online Planning Code is updated to reflect the change. In addition, amendments from the Planning Code are proposed by many sources including the Planning Department, the Board of Supervisors, the Mayor and private parties. Legislation does not march in an orderly manner through the approvals process. An Ordinance considered by the Planning Commission in the spring may sit at the Board for months before it is called to hearing before a Committee. In the meantime, other pieces of legislation may move ahead that were not considered in the original ordinance. The most recent Code changes not yet visible online may not be used as a basis for new Code amendments. As a result, many code amendments were inadvertently removed and controls were amended or omitted. The majority of this legislation addresses these issues. Attachment B details the Code sections that are being amended and the specific changes being made.

The Department supports these changes, as the existing errors lead inconsistent application of the Code, cause confusion among staff and the public, and will bring the Code up to date.

In addition to the clean up amendments, below are a few proposed amendments to Code sections/topics that the Department would like to highlight.

ARTICLES 10 & 11

The Historic Preservation Commission ("HPC") was created in the fall of 2008. Articles 10 and 11 are the Planning Code chapters that outline the designation and permit review processes for historic buildings and have not been updated and do not conform to Charter Section 4.135. At the request of the Planning Commission and the HPC, the Department is proposing amendments to these two Articles. These revisions will simply make them consistent with Charter Section 4.135. There will not be any substantive changes to the Planning Code; the amendments will only remove references to the former Landmarks Preservation Advisory Board and where appropriate, the Planning Commission, to reflect the Charter.

FORMULA RETAIL CONTROLS

The main definition of a formula retail use is located in Article 7: Neighborhood Commercial Districts. The formula retail controls originated in the neighborhood commercial districts. However, over time, these controls have been placed on other use districts, such as Residential-Commercial Districts. There is not one consolidated location for the definition of what qualifies as a formula retail use, what controls apply, and which districts require a Conditional Use Authorization or are not permitted. The Department is proposing to amend Section 303(i) to incorporate these controls. Section 303 deals with Conditional Use Authorizations and has sections for specific topics, such as hotels, general advertising signs, and gas stations. Currently formula retail is briefly mentioned in subsection (i), but it points to Article 7 (703.3) for the controls, as does formula retail controls in Article 2 and Article 8. The Department would like Section 303 to be the main location for formula retail controls and have drafted the amended section to clearly list out what areas in the City require a Conditional Use Authorization, which are not permitted, and the definitions and requirements for formula retail uses. This amendment will help the public and staff understand the requirements of formula retail controls.

MEDICAL MARIJUANA DISPENSARIES ("MCD")

In 1992 California voters passed the Compassionate Use Act, legalizing marijuana for medical use. Locally, San Francisco's Medical Cannabis Act became effective on December 30, 2005. The Act, set forth in Board of Supervisors Ordinance 275-05 (BOS File No. 05-1250) and supported by Ordinances 271-05 (BOS File No. 05-1747) and 273-05 (BOS File No. 05-1748), amended the Planning, Health, Traffic, and

Business and Tax Regulation Codes in order to establish a comprehensive regulatory framework for medical cannabis dispensaries ("MCDs") in San Francisco. All MCDs that were in existence prior to April 1, 2005 have either received City permits or have closed.

The 'definition' of an MCD was amended four times to accommodate the final permitting of the City's existing dispensaries. The result is definitions and controls that are extremely confusing to understand – both for the public and for Department staff. It does not clearly lay out the restrictions for new MCDs. The Department is not amending the definition of an MCD; rather the amendments are streamlining existing controls and processes and making them consistent throughout the Planning Code (Articles 2, 7, and 8 all have MCD definitions). As with the formula retail controls described above, the Department believes that the MCD amendments will create certainty for the public and for staff.

SECTION 309

Section 309 regulates permit review in downtown districts. It was placed in the Code when the Downtown Element and Plan were adopted in 1985. Reading through this Code section, it is apparent that it is long overdue for a 'clean-up': certain processes are not regularly followed and considered to be excessive, such as notification of when a 309 permit is filed with the Department, references to the City Planning Commission proliferate, and several sections are extremely confusing to read. There are no substantive amendments to the requirements of Section 309 – all of the exceptions and design criteria are remaining unchanged. The focus of the amendments clarifies the role between the Director and the Zoning Administrator when reviewing these applications, as well as when a Planning Commission hearing is required. The Department believes that these amendments will bring Section 309 up to date while making the requirements and processes clearer.

RECOMMENDATION: Recommend Approval of Planning Code Amendments

ENVIRONMENTAL REVIEW

The proposed Ordinance is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment.

Attachments:

- Exhibit A: Draft Ordinance
- Exhibit B: 2010 Planning Code 'Clean Up' Amendments List
- Exhibit C: Proposed revision to the Formula Retail Controls
- Exhibit D: Proposed revisions to Section 309
- Exhibit E: Proposed revisions to MCD Controls
- Exhibit F: Charter Section 4.135 (Historic Preservation Commission)



SAN FRANCISCO PLANNING DEPARTMENT

Historic Preservation Commission Draft Resolution No.

Planning Code Text Changes

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Recommendation: **Approval of Planning Code Amendments**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE INITIATED BY THE PLANNING COMMISISON THAT WOULD AMEND THE PLANNING CODE TO CORRECT CLERICAL ERRORS, MAKE NONSUBSTANTIVE LANGUAGE REVISIONS AND UPDATE VARIOUS SECTIONS, INCLUDING BUT NOT LIMITED TO SECTIONS 121.2, 136.1, 145.2, 151.1, 185, 186, 201, 204.1, 204.2, 207.2(15)(C), 209.3, 209.8, 217, 243, 263.9, 303, 309, 311, 607.1, 608.8, 803.3, 890.44, 890.133, 890.140; AND VARIOUS AMENDMENTS TO ARTICLE 7 – NEIGHBORHOOD COMMERCIAL DISTRICTS, ARTICLE 10 – PRESERVATION OF HISTORICAL ARCHITECTURAL AND AESTHETIC LANDMARKS, AND ARTICLE 11 – PRESERVATION OF BUILDINGS AND DISTRICTS OF ARCHITECTURAL, HISTORICAL, AND AESTHETIC IMPORTANCE IN THE C-3 DISTRICTS; 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 as outlined in Attachment B and incorporated herein, as well as amendments to Articles 7, 10, and 11; 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 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 HPC conducted a duly noticed public hearing to consider the proposed Ordinance on July 21, 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* the proposed ordinance.

FINDINGS

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

1. The Planning Code has been amended dozens of times over the past three years. In addition to the Eastern Neighborhoods, Balboa Park, and Ocean Avenue plans being created (among others), the Board of Supervisors has regularly amended Code sections.
2. Many factors contribute to the errors that need fixing by this legislation. First, there is a delay between the effective date of a Ordinance and when the online Planning Code is updated to reflect the change.
3. In addition, amendments from the Planning Code are proposed by many sources including the Planning Department, the Board of Supervisors, the Mayor and private parties. Legislation does not march in an orderly manner through the approvals process. An Ordinance considered by the Planning Commission in the spring may sit at the Board for months before it is called to hearing before a Committee. In the meantime, other pieces of legislation may move ahead that were not considered in

the original ordinance. The most recent Code changes not yet visible online may not be used as a basis for new Code amendments.

4. As a result, many code amendments were inadvertently removed and controls were amended or omitted. The majority of this legislation addresses these issues. (Attachment B details the Code sections that are being amended and the specific changes being made).
5. With regard to the proposed changes to Articles 10 and 11, HPC was created in the fall of 2008. Articles 10 and 11 are the Planning Code chapters that outline the designation and permit review processes for historic buildings and 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. There will not be any substantive changes to the Planning Code; the amendments will only remove references to the former Landmarks Preservation Advisory Board and where appropriate, the Planning Commission, to reflect the Charter.
6. With regard to the remainder of the proposed changes to the Planning Code the proposed changes are minor in scope - typographical errors, updating and consolidating definitions, and correcting errors that were inadvertently made by subsequent code changes and/or by the publisher. This proposal contains non-substantive changes not changes in policy.
7. Therefore, the HPC recommends *approval of the proposed Ordinance*.
8. **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.

9. 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 July 21, 2010.

Linda D. Avery
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: July 21, 2010

2010 Planning Code 'Clean Up' Amendments
Planning Case No. 2010.0080T

Code Section	Subsection(s)	Description	Error(s)	Notes
121.2	(a) chart	Polk street NCD	Move back to 2,500 s/f use size (currently in 2,000s/f use size)	1yr sunset expired 2 yrs ago
136.1 186	Exemption of LCU's	allow awnings on LCU's	186: ADD 186(b)(8) to read: Any awnings on the property shall be made to comply with the requirements of awnings in Section 136.1 of this Code. 136.1: add LCU to title; 136.1(a)(1) add LCU to title; 136.1(b)(1): add LCU to canopy restrictions. 136.1(c)(1): add LCU to marquee restrictions.	
142	Screening of vehicle areas	update	Amend 142(b)(3) - change the excavation area from 50% to 200 square feet	
151	parking requirements	grocery stores	add language that retail grocery stores with over 20,000s/f are exempt from non-residential use requirements	
185(f)	continuance of NCU	Notice for NCU	Eliminate this Section dealing with ZA noticing of closure	
201	Classes of Use Districts	Update	ADD Pacific NCD to NCD list RELOCATE Hayes NCD to NCT ADD charts to incorporate all SUDs & RUDs	Make sure recent changes are incorporated Must update this section in future for all new SUDs, etc.
204.1	Accessory Uses for dwellings in R or NC districts	MCDs	add MCDs to list of prohibited uses as accessory (i) A Medical Cannabis Dispensary as defined in Section 209.3(k) and 217(k) of this Code	
204.2	Other Accessory Uses in R districts	MCDs	add MCDs to list of prohibited uses as accessory (i) A Medical Cannabis Dispensary as defined in Section 209.3(k) and 217(k) of this Code	
205	Temporary Uses, General	language is confusing; requires a construction trailer get a CU	(b) Action upon such uses shall be by the Planning Commission, subject to all the requirements for conditional uses in Sections 303 and 306 through 306.5 of this Code; except that uses listed in Section 205.1, uses listed in Section 205.2 if located in a PDR, C, or M District, and uses listed in Section 205.3 within the South of Market Mixed Use Districts and Eastern Neighborhoods Mixed Use Districts, may be authorized by the Zoning Administrator without a public hearing ADD new (d) <u>The time periods referenced in Sections 205.1 through 205.3 are consecutive hours or consecutive calendar days; they are not the total number of hours or days that the use is in operation. Therefore, a 24-hour authorization that begins at 6:00 a.m. expires at 6:00 a.m. the following day, even if the use was in operation only eight hours of that period. Similarly, a 60-day authorization expires after 60 calendar days even though the use may only have been open for business three days per week during that period. Hours or days of unused authorization cannot be stored or credited</u>	Per Working group on Temporary Uses + Food Carts
205.1(a)	Temporary Uses, 60-day limit		(a) Neighborhood carnical, eshibition, celebration or festival sponsored by an organized group of residents in the vicinity, or in <u>Neighborhood Commercial, Mixed Use</u> , PDR, C, or M Districts, sponsored by property owners or businesses in the vicinity.	Per Working group on Temporary Uses + Food Carts

205.3	Temporary uses: 24 hrs		<p>Within the <u>PDR, C, M, Neighborhood Commercial or, South of Market Mixed Use Districts and Eastern Neighborhoods</u> Mixed Use Districts, a temporary use may be authorized for a period not to exceed 24 hours per event once a month for up to 12 events per year per premises for any of the following uses:</p> <p>(a) A performance, exhibition, dance, celebration or festival requiring a liquor license, dance hall keeper or, live entertainment police permit and/or other City permit when sponsored by an organized group of residents and/or business operators in the neighborhood; or</p> <p>(b) A performance, dance or party requiring a liquor license, dance, live entertainment permit and/or other City permit, an art exhibit, or other similar exhibition in each case if sponsored by a residential or commercial tenant or group of tenants or owner-occupants of the property or structure in which the temporary use is authorized.</p> <p>Similar events or exhibitions lasting no more than 24 hours and requiring no City permits shall be permitted without authorization under this Article and without limitation as to frequency, subject to compliance with all</p>	Per Working group on Temporary Uses + Food Carts
207.2	double density	dwelling units for seniors and diabled	Eliminate "handicapped persons" where applicable b/c of recent 209.9 amendments	BOS 09-0906
207.3	second unts	disabled criteria	Eliminate "handicapped persons" b/c of recent 209.9 amendments	BOS 09-0906
209.3	Institutions		<p>209.3(a): Medical Center (a) Hospital, medical center or other medical institution which includes facilities for inpatient <u>or outpatient</u> medical care and may also include medical offices, clinics, laboratories, and employee or student dormitories and other housing, operated by and affiliated with the institution, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans.</p> <p>209.(e) & (f): Child Care facility (institutions) Amend it to conform with State Law: (e): change from 12 to 14 children (f): change to 15 or more children</p> <p>209.3(k): Medical Cannibis Dispensary Clean up defintion to make it clear. See Attachment for details.</p>	
209.8	(a), (b), (c),(d)	Need to change NC to C2 in all sections.		Error in 2008-2009 Code Clean Up
217			<p>217 (a): Medical Center: ADD outpatient (a) Hospital, medical center or other medical institution which includes facilities for inpatient <u>or outpatient</u> medical care and may also include medical offices, clinics, laboratories, and employee or student dormitories and other housing, operated by and affiliated with the institution, which institution has met the applicable provisions of Section 304.5 of this Code concerning institutional master plans.</p> <p>217(k): MCD Clean up definition. See Attachement for details.</p>	
243	Van Ness SUD	need to reference FR controls	<p>ADD 243.(c)(8)(K): <u>Formula Retail Uses. Formula Retail uses, as defined in Section 303(i) of this Code, shall be permitted, subject to a Conditional Use Authorization, in parcels zoned RC-3 or RC-4 that are within the Van Ness SUD.</u></p>	Make sure recent changes to section are incorporated

			FR controls apply to more than NCDs. Need to locate general provisions under the Conditional Use Authorization Code Section.	
303(i)	Formula Retail controls	incorporate A7 definition and criteria	See Attachment for full definition	
			Code language is outdated.	
309.1	Permit Review in Downtown Districts	Clean Up Procedures and outdated language	See Attachment for revision	
			add to 2nd paragraph:	
311(c)(2)	311 Notice to Residents	Residents of Subject Property not included in mailing	"written notice shall be mailed to the notification group which shall include the project sponsor, <u>tenants of the subject property</u> , relevant neighborhood organizations as described in Subparagraph 311(c)(2)(C) below, all individuals having made a written request for notification for a specific parcel or parcels pursuant to Planning Code Section 351 and all owners and, to the extent practical, occupants of the properties in the notification area."	
			312(c) Add back notification requirements for Self-Service, Specialty Food (790.93) - EN deleted it	
312	Notice in NCDs	Clean up	312(d) add tenants of the subject property to recipients of notice	
			Change and to OR	
317	317(e)(1)	Dwelling Unit Mergers	The Merger of Residential Units not otherwise subject to Conditional Use authorization by this Code, shall be prohibited, unless the Planning Commission approves the building permit application at a Mandatory Discretionary Review hearing, applying criteria in subsection (2) below, or the project qualifies for administrative approval and the Planning Department approves the project administratively in accordance with subsections (3) and <u>OR</u> (4) below.	
			ADD last sentence:	
602.25	Historic Theater Projecting sign		<u>602.25: For controls on the preservation, reconstruction, or replacement of these signs, refer to Section 188(e) of this Code.</u>	
602.26	Historic Theater Marquees	Need to cross reference controls to Sec. 188	<u>602.26: For controls on the preservation, reconstruction, or replacement of these features, refer to Section 188(e) of this Code.</u>	
607.1	607.1(f)(2)	Pacific Avenue NCD not referenced	need to list Pacific Ave. NCD	

702.2 702.3 702.4	Charts for NCD Special Use Districts & RUDs	Need to Update	<p>702.2: SUDS ADD: 780.2: Bayshore-Hester SUD; 780.3: North Beach SUD 702.3: RUDS ADD: 781.6: change name to NB Financial Service, Limited Financial Service, and Business or Professional Service SUD; 781.9: Haight Street Alcohol RUD; 783: Divisadero Street Alcohol RUD; 784: Lower Haight Street Alcohol RUD; 785: Excelsior Alcohol RUD; 786: Lower Haight Tobacco Paraphernalia RUD; 702.4: SUDS in Article 2 ADD: 249.51(?): Mission Alcohol RUD; 249.52(?): 117th-RI Street SUD; 249.53(?): Third Street Alcohol RUD; 249.13: Gearly Boulevard/Divisadero St. SUD; 249.21: California Street & Precidio Avenue - Community Central SUD; 249.31: Japantown SUD; 249.35A: Fulton Street Grocery Store SUD; 249.46(?) Telegraph Hill-North Beach Residential SUD; REMOVE: 236: Garment Shop SUD</p>	
703.2(a)	NCD use categories	need to update	<p>NCD Use Categories - update ADD .69B - Amusement Game Arcade (Mechanical Amusement Devices) (790.04) .69 - Tobacco Paraphernalia Est. (790.123); .85 - Service, Philanthropic Administrative (790.107);</p> <p>703.2(b)(1)(C)(iii) Take-out Accessory for Grocery Stores CHANGE TO: "Any take-out food use, as defined in Setion 790.122, except for take-out food use which occupies 400 <u>1/3 of the total floor area or up to 500 s/f</u> whichever is more restrictive or less in a general grocery or specialty grocery store; <u>This take-out food use includes the area devoted to food preparation and service and excludes storage and waiting areas.</u></p> <p>703.2(b)(c): Accessory definition - prohibit ADD <u>(vii) Medical Cannabis Dispensaries as defined in 790.141.</u></p>	
710	NC-1	clean up	Add Fringe Financial controls	
711	NC-2	clean up	Amend MCD control to update	
			Remove Garment District SUD from controls - was removed several years ago	
712	NC-3	clean up	Control Table: Change reference Code section for the <i>Mission-Harrison SUD</i> Mission Fast Food RUD: change Avenue to Street	
714	Broadway NCD	clean up	Make Specialty Food, Self-Service P Add Fringe Financial Controls Remove Garment Ctr SUD	

715	Castro NCD	clean up	Add Fringe Financial Controls	
716	Inner Clement NCD	clean up	Add Fringe Financial Controls	
717	Outter Clement NCD	clean up	Add Fringe Financial Controls	
718	Upper Fillmore	clean up	Add Fringe Financial Controls	
			Remove # signs from categories except for Full-Service Restaurants Make Self-Service Specialty Food P Add C to Tobacco Paraphernalia Establishments	
719	Haight Street NCD	clean up		
720	Hayes NCT	clean up	720.32 - add # sign to reference controls	
721	Upper Market NCD	clean up	Add Fringe Financial Controls	
			Remove controls for Walk Up Facilities - they are NP Remove Garment District SUD Add Fringe Financial Controls	
722	North Beach NCD	clean up		
724	Sacramento NCD	clean up	Add C to Tobacco Parahernalia Establishments Add Fringe Financial Controls	
			Add # to Full Service Restaurant to reference controls Correct reference # for Amusement Games Use Add Fringe Financial Controls	
725	Union Street NCD	clean up		
726	Valencia Street NCT	clean up	Add Transit to Title in Tables Fix street frontage controls	
727	24th-Mission NCT	clean up	Add Transit to Title in Tables Fix street frontage controls	
729	West Portal NCD	clean up	Add Fringe Financial Controls	
730	Inner Sunset NCD	clean up	Add # to Fringe Financial to reference controls	
			Correct Title in charts Remove # signs from certain use categories Add Fringe Financial Controls	
731	NCT-3	clean up		
732	Pacific Ave NCD	clean up	Add Fringe Financial Controls	
733	Upper Market NCT	clean up	Add Fringe Financial Controls	
			Change control table title from NCT-2 to NCT-1 NCD Use Categories - update ADD .69B - Amusement Game Arcade (Mechanical Amusement Devices) (790.04) .69 - Tobacco Paraphernalia Est. (790.123); .85 - Service, Philanthropic Administrative (790.107) Supposed to have similar MCD controls as NC-1 Add control to end: <u>Only those medical cannabis dispensaries that can demonstrate to the Planning Department they were in operation as of April 1, 2005 and have remained in continuous operation and have obtained a final permit to operate by March 1, 2008 are permitted.</u>	
733A	NCT-1	clean up	Add Fringe Financial Controls	
			NCD Use Categories - update ADD .69B - Amusement Game Arcade (Mechanical Amusement Devices) (790.04) .69 - Tobacco Paraphernalia Est. (790.123) .85 - Service, Philanthropic Administrative (790.107)	
734	NCT-2	clean up	Add Fringe Financial Controls	

			Fix Reference #'s NCD Use Categories - update ADD .69B - Amusement Game Arcade (Mechanical Amusement Devices) (790.04) .69 - Tobacco Paraphernalia Est. (790.123) .85 - Service, Philanthropic Administrative (790.107)	
735	SoMa NCT	clean up	Add Fringe Financial Controls	
			Add NCT to title in charts NCD Use Categories - update ADD .69B - Amusement Game Arcade (Mechanical Amusement Devices) (790.04) .69 - Tobacco Paraphernalia Est. (790.123); .85 - Service, Philanthropic Administrative (790.107);	
736	Mission NCT	clean up		
			Add NCT to title in charts NCD Use Categories - update ADD .69B - Amusement Game Arcade (Mechanical Amusement Devices) (790.04) .69 - Tobacco Paraphernalia Est. (790.123) .85 - Service, Philanthropic Administrative (790.107)	
737	Ocean Ave NCT	clean up	Add Fringe Financial Controls	
780.4	Mission-Harrison SUD	add back	Was accidentally removed from Code in subsequent legislation - add back	
781.8 782 781.10	Mission Alcoholic SUD Third Street Alcoholic SUD 17th-RI SUD	Move to Article 2	MOVE: 781.8: Mission Alcohol RUD --> move to 249.52(?) 781.10: 17th-RI St Grocery Store SUD --> move to 249.53(?) 782: Third Street Alcohol RUD --> move to 249.54(?)	
784	Lower Haight Alcohol RUD		Remove Sunset provision per Supervisor request - controls will be permanent	
790.22	Bar Uses	Make clear that a bar use is separate from a restaurant use	790.22: Bar A A retail use which provides on-site alcoholic beverage sales for drinking on the premises, including bars serving beer, wine and/or liquor to the customer where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC] licenses 42, 48, or 61) and drinking establishments serving liquor (with ABC licenses 47 or 49) in conjunction with other uses which admit minors, such as restaurants, movie theaters, and other entertainment. If a bar use also includes a full-service restaurant, as defined by 790.92, or a small self-service restaurant, as defined by 790.91, then these uses are considered to be separate and distinct, even though they may occupy the same retail space.	
790.44	Medical Center	update	A public or private institutional use which provides medical facilities for inpatient or outpatient medical care, medical offices, clinics, and laboratories. It may also include employee or student dormitories adjacent to medical facilities when the dormitories are operated by and affiliated with a medical institution. The institution must have met the applicable provisions of Section 304.5 of this Code concerning institutional master plans.	
790.141	MCD	Clean up definition to make it easier to read	See Attachment for revised Definition	

803.2	Uses permitted in Chinatown Mixed Use Districts		ADD 803.2(b)(B) - conditional use Formula retail controls per BOS File No. 081234; Ordinance 269-08, effective 12/25/08 ADD: Accessory Uses - prohibited uses 803.2(b)(1)(C): <u>(v) Medical Cannabis Dispensaries as defined in 890.133.</u>	
803.3	Accessory Uses in Mixed Use Districts	MCDs	ADD 803.3(b)(1)(C):(v) Medical Cannabis Dispensaries as defined in 890.133.	
803.6	Formula Retail controls	add back chinatown	Per BOS File No. 081234; Ordinance 269-08, effective 12/25/08	
890.141	MCD	Clean up definition to make it easier to read	See Attachment for revised Definition	
Article 10 & 11	Entire Articles	HPC	Incorporate Charter Section 4.135 into the Code, eliminating the LPAB and PC where necessary	

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Attachment C

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.

303(i) Formula Retail Uses.

(1) Formula Retail Use. A formula retail use is hereby defined as a type of retail sales activity or retail sales establishment which has eleven or more other retail sales establishments located in the United States. In addition to the eleven establishments, the business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

(a) Standardized array of merchandise shall be defined as 50% or more of in-stock merchandise from a single distributor bearing uniform markings.

(b) Trademark shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

(c) Servicemark shall be defined as word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

(d) Decor shall be defined as the style of interior finishings, which may include but is not limited to, style of furniture, wallcoverings or permanent fixtures.

(e) Color Scheme shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.

(f) Facade shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.

(g) Uniform Apparel shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

(h) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning Code.

(2) "Retail sales activity or retail sales establishment" shall include the following uses, as defined in Article 7 and Article 8 of this Code: "bar," "drive-up facility," "eating and drinking use," "liquor store," "restaurant, large fast-food," "restaurant, small self-service," "restaurant, full-service," "sales and service, other retail," "sales and service, retail," "movie theatre," "video store," "amusement and game arcade," "take-out food," and "specialty food, self-service."

(3) With regard to an conditional use authorization application for a formula retail use, the Planning Commission shall consider, in addition to the criteria set forth in Subsection (c) above:

(A) The existing concentrations of formula retail uses within the district.

(B) The availability of other similar retail uses within the district.

(C) The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.

(D) The existing retail vacancy rates within the district.

(E) The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.

(4) A Conditional Use Authorization shall be required for a formula retail use in the following zoning district unless explicitly exempted:

(a) All Neighborhood Commercial Districts in Article 7;

(b) All Mixed Use-General Districts in Article 8;

(c) All Urban Mixed Use Districts in Article 8;

(d) RC-3 and RC-4 zoned parcels along Van Ness Avenue;

(e) Japantown Special Use District as defined in Section 249.31;

(f) Chinatown Community Business District as defined in Section 810;

(g) Chinatown Residential/Neighborhood Commercial District as defined in 812;

(h) Western SoMa Planning Area Special Use District as defined in 802.5.

(5) Formula Retail Uses are not permitted in the following zoning districts:

(a) Hayes-Gough Neighborhood Commercial Transit District;

(b) North Beach Neighborhood Commercial District;

(c) Chinatown Visitor Retail District.

(6) Neighborhood Commercial Notification and Design Review. Any building permit application for a "formula retail use" as defined in this section and located within a Neighborhood Commercial District in Article 7 shall be subject to the Neighborhood Commercial Notification and Design Review Procedures of Section 312 of this Code.

(7) A change from one formula retail use to another requires a new Conditional Use Authorization, whether or not a Conditional Use Authorization would otherwise be required by the particular change in use in question. This Conditional Use Authorization requirement also applies in changes from one Formula Retail operator to another within the same use category.

A new Conditional Use authorization shall not apply to a change in a formula use retailer that meets the following criteria:

(a) the formula use operation remains the same in terms of its size, function and general merchandise offering as determined by the Zoning Administrator, and

(b) the change in the formula retail use operator is the result of multiple existing operations being purchased by another formula retail operator.

The new operator shall comply with all conditions of approval previously imposed on the existing operator, including but not limited to signage programs and hours of operation; and shall conduct the operation generally in the same manner and offer essentially the same services and/or type of merchandise; or seek and be granted a new Conditional Use authorization.

(8) Determination of Formula Retail Use. In those areas in which "formula retail uses" are prohibited, any building permit application determined by the City to be for a "formula retail use" that does not identify the use as a "formula retail use" is incomplete and cannot be processed until the omission is corrected. Any building permit approved that is determined by the City to have been, at the time of application, for a "formula

retail use" that did not identify the use as a "formula retail use" is subject to revocation at any time. If the City determines that a building permit application or building permit subject to this Section of the Code is for a "formula retail use," the building permit applicant or holder bears the burden of proving to the City that the proposed or existing use is not a "formula retail use."

Attachment D

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.

Sec. 309 – Permit Review in C-3 Districts

The provisions and procedures set forth in this Section shall govern the review of project authorization and building and site permit applications for 1) the construction or substantial alteration of structures in C-3 Districts, 2) the granting of exceptions to certain requirements of this Code where the provisions of this Section are invoked, and 3) ~~the approval of open space provided in compliance with Section 138, and the approval of open space and streetscape requirements of the Planning Code streetscape improvements in compliance with Section 138.1. The categories of alterations deemed to be substantial shall be established by the City Planning Commission after a public hearing.~~ When any action authorized by this Section is taken, any determination with respect to the proposed project required or authorized pursuant to CEQA may also be considered. This Section shall not require additional review in connection with a site or building permit application if review hereunder was completed with respect to the same proposed structure or alteration in connection with a project authorization application pursuant to Section 322.

(a) **Exceptions.** Exceptions to the following provisions of this Code may be granted as provided in the code sections referred to below:

- (1) Exceptions to the setback and rear yard requirements as permitted in Sections 132.1 and 134(d);
- (2) Exceptions to the ground-level wind current requirements as permitted in Section 148;
- (3) Exceptions to the sunlight to public sidewalk requirement as permitted in Section 146;
- (4) Exceptions to the limitation on residential accessory parking as permitted in Section 151.1(e);
- (5) Exceptions to the requirement of independently accessible parking spaces as permitted in Section 155(c);
- (6) Exceptions to the limitation on curb cuts for parking access as permitted in Section 155(r);
- (7) Exceptions to the limitations on above-grade residential accessory parking as permitted in Section 155(s);
- (8) Exceptions to the freight loading and service vehicle space requirements as permitted in Section 161(h);
- (9) Exceptions to the off-street tour bus loading space requirements as permitted in Section 162;
- (10) Exceptions to the height limits for vertical extensions as permitted in Section 260(b)(1)(G) and for upper tower extensions as permitted in Section 263.7;

(11) Exceptions to the height limits in the 80-130F and 80-130X Height and Bulk Districts as permitted in Section 263.6 and in the 200-400S Height and Bulk District as permitted in Section 263.8;

(12) Exceptions to the bulk requirements as permitted in Sections 270 and 272.

~~A project applicant seeking an exception shall file an application on a form provided by the Zoning Administrator.~~

(b) **Design Review. Additional Requirements.** In addition to the requirements set forth in this Code, additional *design* requirements and limitations (hereafter referred to as modifications) may be imposed on the following aspects of a proposed project, through the imposition of conditions, in order to achieve the objectives and policies of the Master Plan or the purposes of this Code:

(1) Building siting, orientation, massing and facade treatment, including proportion, scale, setbacks, materials, cornice, parapet and fenestration treatment, and design of building tops;

(2) Aspects of the project affecting views and view corridors, shadowing of sidewalks and open spaces, openness of the street to the sky, ground-level wind current, and maintenance of predominant streetwalls in the immediate vicinity;

(3) Aspects of the project affecting parking, traffic circulation and transit operation and loading points;

(4) Aspects of the project affecting its energy consumption;

(5) Aspects of the project related to pedestrian activity, such as placement of entrances, street scale, visual richness, location of retail uses, and pedestrian circulation, and location and design of open space features;

(6) Aspects of the project affecting public spaces adjacent to the project, such as the location and type of street trees and landscaping, sidewalk paving material, and the design and location of street furniture as required by Section 138.1;

(7) Aspects of the project relating to quality of the living environment of residential units, including housing unit size and the provisions of open space for residents;

(8) Aspects of the design of the project which have significant adverse environmental consequences;

(9) Aspects of the project that affect its compliance with the provisions of Sections 1109(c), 1111.2(c), 1111.6(c), and 1113 regarding new construction and alterations in conservation districts;

(10) Other aspects of the project for which modifications are justified because of its unique or unusual location, environment, topography or other circumstances.

(c) **Application Process for 309 Review.** ~~Notice of Application for Building or Site Permit. Review subject to this Section will be triggered by submittal of a Section 309 Application or submittal of a building or site permit. After receipt of an application — a project authorization or building or site permit, for new construction or substantial alteration of a structure in a C-3 District, the Zoning Administrator shall mail~~

~~*notice of the application to all owners of property immediately adjacent to the property that is the subject of the application, using for this purpose the names and addresses as shown on the citywide Assessment Roll in the Assessor's Office, and, in addition, shall publish notice at least once in an official newspaper of general circulation.*~~

(d) **Notice of Proposed Approval.** If, after a review of the Application or building or site permit, ~~a project authorization or permit application, and 1)~~ the Zoning Administrator determines that an application complies with the provisions of this Code and that no exception is sought as provided in Subsection (a), and 2) the Director of Planning determines that no additional modifications are warranted as provided in Subsection (b), and 3) the project meets the open space and streetscape requirements of the Planning Code or 4) the project sponsor agrees to the modifications as requested by the Director, that the open space requirements of Section 138 and the streetscape requirements of Section 138.1 have been complied with, the Zoning Administrator shall provide notice of the proposed approval of the application by mail to all owners of the property immediately adjacent to the property that is subject of the Application no less than 10 days before final approval. in the manner set forth in Subsection (e) and, in addition, to any person who has requested such notice in writing. If no request for City Planning Commission review pursuant to Subsection (g) is made within 10 days of such notice, the Zoning Administrator shall approve the application.

(e) Hearing and Determination of Applications for Exceptions.

(1) **Hearing.** The ~~City~~ Planning Commission shall hold a public hearing on an application for an exception as provided in Subsection (a).

(2) **Notice of Hearing.** Notice of such hearing shall be **mailed** not less than **10 days** prior to the date of the hearing to the project applicant, to property owners within 300 feet of the project that is the subject of the application, using for this purpose the names and addresses as shown on the citywide Assessment Roll in the Assessor's Office, and to any person who has requested such notice. The notice shall state that the written recommendation of the Director of Planning regarding the request for an exception will be ~~is~~ available for public review at the office of the Planning ~~Department of City Planning.~~

(3) **Decision and Appeal.** The Commission may, after public hearing and after making appropriate findings, approve, disapprove or approve subject to conditions, the application for an exception. The decision of the ~~City~~ Planning Commission may be appealed to the Board of ~~Permit~~ Appeals by any person aggrieved within 15 days after the date of the decision by filing a written notice of appeal with that Body, setting forth wherein it is alleged that there was an error in the interpretation of the provisions of this Code or abuse of discretion on the part of the ~~City~~ Planning Commission.

(4) **Decision on Appeal.** Upon the hearing of an appeal, the Board of ~~Permit~~ Appeals may, subject to the same limitations as are placed on the ~~City~~ Planning Commission by Charter or by this Code, approve, disapprove or modify the decision appealed from. If the determination of the Board differs from that of the Commission it shall, in a written decision, specify the error in interpretation or abuse of discretion on the part of the Commission and shall specify in the findings, as part of the written decision, the facts relied upon in arriving at its determination.

(f) Administrative Approval of Design Review ~~Director's Recommendations.~~

(1) **Recommendations.** If the Director of Planning determines that modifications through the imposition of conditions are warranted as provided in Subsection (b), or that the open space requirements ~~of Section 138~~ or the streetscape requirements of the Planning Code of Section 138.1

have not been complied with, the matter shall be scheduled for hearing before the ~~City~~ Planning Commission. ~~; provided, however, that:~~ If the Director determines that the open space and streetscape requirements of the Planning Code Section 138 and Section 138.1 have been complied with and the applicant does not oppose the imposition of conditions which the Director has determined are warranted, the applicant may waive the right to a hearing before the Commission in writing and agree to the conditions. ~~in which case:~~ The Zoning Administrator shall provide notice of the proposed approval of the application such fact according to the notice given for applications governed by Subsection (d), so that any person seeking additional modifications or objecting to the open space or streetscape requirements Section 138 or Section 138.1 determination may make such a request for Planning Commission review as provided in Subsection (g). If no request is made within 10 days of such notice, the Zoning Administrator shall approve the application subject to the conditions.

(2) **Notice.** ~~If the proposed application will be heard by the Planning Commission, notice of such hearing, Notice of any meeting of the City Planning Commission pursuant to this subsection shall be mailed to the project applicant, to property owners immediately adjacent to the site of the application using for this purpose the names and addresses as shown on the citywide Assessment Roll in the Assessor's Office, and to any person who has requested such notice. The notice shall state that the Director's written recommendation will be~~ is available for public review at the Planning Department of City Planning.

(3) **Commission Action.** The ~~City~~ Planning Commission may, after public hearing and after making appropriate findings, approve, disapprove or approve subject to conditions applications considered pursuant to Subsection (b) or for compliance with the open space and streetscape requirements of the Planning Code Section 138 or Section 138.1.

(g) ~~City~~ **Planning Commission Review Upon Request.**

(1) **Requests.** Within 10 days after notice of the proposed approval has been given, as provided in Subsection (d), any person may request in writing that the ~~City~~ Planning Commission impose additional modifications on the project as provided in Subsection (b) or consider the application for compliance with the open space and streetscape requirements of the Planning Code Section 138 or Section 138.1. ~~Said~~ The written request shall state why additional modifications should be imposed notwithstanding its compliance with the requirements of this Code and shall identify the policies or objectives that would be promoted by the imposition of conditions, or shall state why the open space and streetscape requirements Section 138 has have not been complied with.

(2) **Commission Consideration.** The ~~City~~ Planning Commission shall consider at a public hearing meeting each written request for additional modifications and for consideration of the open space and streetscape requirements of the Planning Code Section 138 and Section 138.1 compliance and may, by majority vote, direct that a hearing be conducted to consider such modifications or compliance, which hearing may be conducted at the same meeting that the written request is considered and decided. Notice of such hearing meeting shall be mailed to the project applicant, to property owners immediately adjacent to the site of the application using for this purpose the names and addresses as shown on the Citywide Assessment Roll in the Assessor's Office, to any person who has requested such notice, and to any person who has submitted a request for additional requirements. In determining whether to conduct such a hearing, the Commission shall determine whether, based upon a review of the project, reasonable grounds exist justifying a public hearing in order to consider the proposed additional modifications and the open space and streetscape requirements of the Planning Code Section 138 and Section 138.1 compliance.

(3) **Commission Action.** If the Commission determines to conduct a hearing to consider the imposition of additional modifications or ~~the open space and streetscape requirements Section 138 and Section 138.1~~ compliance, it may, after such hearing and after making appropriate findings, approve, disapprove, or approve subject to conditions the building or site permit or project authorization application. If the Commission determines not to conduct a hearing, the Zoning Administrator shall approve the application subject to any conditions imposed by the Director of Planning to which the applicant has consented.

(h) **Mandatory Planning Commission Hearing for Hearings on Projects Over 50,000 Square Feet of Gross Floor Area or Over 75 Feet in Height.** The ~~City~~ Planning Commission shall hold a public hearing not otherwise required by this Section on all building and site permit ~~and Section 309 project authorization~~ applications for projects which will result in a net addition of more than 50,000 square feet of gross floor area of space or which will result in a building that is greater than 75 feet in height. Notice of such hearing shall be mailed not less than 10 days prior to the date of the hearing to the project applicant, to property owners immediately adjacent to the site of the application using for this purpose the names and addresses as shown on the citywide Assessment Roll in the Assessor's Office, and to any person who has requested such notice.

(i) **Imposition of Conditions, General.** If, pursuant to the provisions of this Section, the City Planning Commission determines that conditions should be imposed on the approval of a building or site permit application, ~~or Section 309 project authorization application or an application for exceptions~~ and the applicant agrees to comply, the Commission may approve the application subject to those conditions, and if the applicant refuses to so agree, the Commission may disapprove the application.

(j) **Change of Conditions.** Authorization of a change in any condition previously imposed pursuant to this Section shall require an application for a change in conditions, which application shall be subject to the procedures set forth in this Section.

Attachment E

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike through italics Times New Roman~~.

Medical cannabis dispensary(“MCD”) as defined by Section 3301(f) of the San (k) Francisco Health Code.

~~provided that:~~ (a) Requirements. MCDs must meet all of the following requirements:

1. the parcel containing the MCD cannot located within 1,000 feet from a parcel containing:
 - a. a public or private elementary or secondary school; and
 - b. a community facility and/or a recreation center as defined in 209.4(a) that primarily serves persons under 18 years of age;
2. the MCD is not located on the same parcel as a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health;
3. no alcohol is sold or distributed on the premises for on or off-site consumption;
4. if medical cannabis is smoked on the premises the dispensary shall provide adequate ventilation within the structure such that the doors and windows are not left open for such purposes, resulting in odor emission from the premises;
5. in addition to these requirements, an MCD must meet all of the requirements in Article 33 of the San Francisco Health Code.

(b) Application and Referral Process. The Department of Public Health is the lead agency for regulating MCDs. Final City permits are issued by the Department of Public Health. No dispensary may open without final authorization from the Department of Public Health. The Planning Department will review an application for a Medical Cannabis Dispensary only upon receipt of (1) a valid referral from the Department of Public Health pursuant to Health Code Section 3304 and 3305, (2) supplemental application materials, if any, designated by the Planning Department, and (3) a building permit application.

(c) Notice. Once the Department has determined that the application is complete, a 30-day notice of application shall be mailed to owners and occupants within a 300 foot radius of the subject property. Notice shall be posted on the project site for no less than 30 days.

(d) Hearing. A Mandatory Discretionary Review hearing will be scheduled at the Planning Commission, which may choose to exercise its discretionary review powers and disapprove, modify, or approve the dispensary.

(e) Signage. Signage for the medical cannabis dispensary shall be limited to one wall sign not to exceed ten square feet in area, and one identifying sign not to exceed two square feet in area; such signs shall not be directly illuminated. Any wall sign, or the identifying sign if the medical cannabis dispensary has no exterior wall sign, shall include the following language: "Only individuals with legally recognized Medical Cannabis Identification Cards or a verifiable, written recommendation from a physician for medical cannabis may obtain cannabis from medical cannabis dispensaries." The required text shall be a minimum of two inches in height.

(f) If an MCD closes for a duration longer than 18 months or if the MCD's license is revoked by DPH pursuant to Health Code Section 3315, the MCD will be considered abandoned and any Planning Commission authorization for the parcel shall be null and void.

(g) Any permit issued for a medical cannabis dispensary shall contain the following statement in bold-face type: "Issuance of this permit by the City and County of San Francisco is not intended to and does not authorize the violation of State or Federal law."

the medical cannabis dispensary has applied for a permit from the Department of Public Health pursuant to Section 3304 of the San Francisco Health Code; (b) if medical cannabis is smoked on the premises, the parcel containing the medical cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community clubhouse that primarily serves persons under 18 years of age, or neighborhood center as defined in Section 221(e) of this Code that primarily serves persons under 18 years of age, unless not required by State law, and, regardless of whether medical cannabis is smoked on the premises, if the dispensary was not in operation as of April 1, 2005, as defined in Subsection (i), it is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community clubhouse that primarily serves persons under 18 years of age, or a neighborhood center as defined in Section 221(e) of this Code that primarily serves persons under 18 years of age; (c) if medical cannabis is smoked on the premises the dispensary shall provide adequate ventilation within the structure such that doors and/or windows are not left open for such purposes resulting in odor emission from the premises; (d) regardless of whether medical cannabis is smoked on the premises the parcel containing the medical cannabis dispensary is not located on the same parcel as a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health; (e) no alcohol is sold or distributed on the premises for on or off-site consumption; (f) upon acceptance of a complete application for a building permit for a medical cannabis dispensary the Planning Department shall cause a notice to be posted on the proposed site and shall cause written notice to be sent via U.S. Mail to all owners and occupants of properties within 300 feet of the subject lot in the same Assessor's Block and on the block face across from the subject lot as well as to all individuals or groups that have made a written request for notification regarding specific medical cannabis dispensaries; (g) all building permit applications shall be held for a period of 30 calendar days from the date of the mailed notice to allow review by residents, occupants, owners of neighborhood properties and neighborhood groups; (h) after this 30 day period, the Planning Commission shall schedule a hearing to consider whether to exercise its discretionary review powers over the building permit application for a medical cannabis dispensary. The scheduling and the mailed notice for this hearing shall be processed in accordance with Section 312(e) of this Code; (i) [Expired]; (j) any permit issued for a medical cannabis dispensary shall contain the following statement in bold-face type: "Issuance of this permit by the City and County of San Francisco is not

~~intended to and does not authorize the violation of State or Federal law.~~ (Amended by Ord. 443-78, App. 10/6/78; Ord. 115-90, App. 4/6/90; Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 225-06, File No. 060032, Effective without the signature of the Mayor; Ord. 225-07, File No. 070677, App. 10/2/2007; Ord. 90-08, File No. 080232, App. 5/21/2008; Ord. 99-08, File No. 080339, App. 6/11/2008; Ord. 298-08, File No. 081153, App. 12/19/2008)

[Creating an Historic Preservation Commission.]

CHARTER AMENDMENT

PROPOSITION _____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County of San Francisco by amending Section 4.105 and adding Section 4.135 to establish an independent Historic Preservation Commission, appointed by the Mayor, subject to the approval of the Board of Supervisors and meeting certain specified qualifications, with authority to: recommend approval, disapproval or modification to the Board of Supervisors of landmark and significant or contributory building designations under the Planning Code and historical property contracts under Chapter 71 of the Administrative Code without referral to the Planning Commission; recommend approval, disapproval or modification to the Board of Supervisors of historic district and conservation district designations under the Planning Code with comment by the Planning Commission; approve, disapprove, or modify certificates of appropriateness to landmarks buildings or historic districts; approve, disapprove, or modify permits for major and minor alterations to significant or contributory buildings or conservation districts; recommend a Preservation Element of the General Plan to the Planning Commission; and take such other actions on matters as may be prescribed by ordinance; and establishing appeal provisions; requiring referral of certain matters; and establishing budget, fees, and staffing provisions.

The Board of Supervisors hereby submits to the qualified voters of the City and County, at an election to be held on November 4, 2008, a proposal to amend the Charter of the City and County by amending Section 4.105 and adding Section 4.135 to read as follows:

Note: Additions are single-underline italics Times New Roman.
Deletions are ~~strikethrough italics Times New Roman~~.

SEC. 4.105. PLANNING COMMISSION.

GENERAL. The Planning Commission shall consist of seven members nominated and appointed pursuant to this section. Four of the members shall be nominated by the Mayor, and three of the members shall be nominated by the President of the Board of Supervisors. Charter Section 4.101 shall apply to these appointments, with particular emphasis on the geographic diversity of City neighborhoods. Vacancies shall be filled by the appointing officer.

Each nomination of the Mayor and the President of the Board of Supervisors is subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days. If the Board fails to act on the nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed approved. The appointment shall become effective on the date the Board adopts a motion approving the nomination or after 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors.

Members may be removed by the appointing officer only pursuant to Section 15.105.

In order to stagger the terms, three members shall initially serve two-year terms, and four members shall initially service four-year terms. The initial two and four-year terms of office shall be instituted as follows:

1. The respective terms of office of members of the Planning Commission who hold office on the first day of July, 2002, shall expire at 12 o'clock noon on that date, and the four members appointed by the Mayor and the three members appointed by the President of the Board of Supervisors shall succeed to said offices at that time.

2. The Clerk of the Board of Supervisors shall determine by lot which two of the four Mayoral appointees shall serve an initial two-year term, and which one of the three appointees of the President of the Board of Supervisors shall serve an initial two-year term. The remaining appointees shall serve four-year terms. All subsequent terms shall be four years.

The Commission shall provide the Mayor with at least three qualified candidates for Director of Planning, selected on the basis of administrative and technical qualifications, with special regard for experience, training and knowledge in the field of City planning.

The Commission may contract with consultants for such services as it may require subject to the fiscal provisions of this Charter.

GENERAL PLAN. The Commission shall periodically recommend to the Board of Supervisors for approval or rejection proposed amendments to the General Plan. If the Board of Supervisors fails to act within 90 days of receipt, the proposed General Plan or amendments shall be deemed approved. The General Plan which will initially consist of the Master Plan in effect immediately prior to the effective date of this Charter shall consist of goals, policies and programs for the future physical development of the City and County that take into consideration social, economic and environmental factors. In developing their recommendations, the Commission shall consult with commissions and elected officials, and shall hold public hearings as part of a comprehensive planning process. The Planning Department, in consultation with other departments and the City Administrator, shall periodically prepare special area, neighborhood and other plans designed to carry out the General Plan, and periodically prepare implementation programs and schedules which link the General Plan to the allocation of local, state and federal resources. The Planning Department may make such other reports and recommendations to the Mayor, Board of Supervisors and other offices and governmental units as it may deem necessary to secure understanding and a systematic effectuation of the General Plan.

In preparing any plans, the Planning Department may include plans for systems and areas within the Bay Region which have a planning relationship with the City and County.

REFERRAL OF CERTAIN MATTERS. The following matters shall, prior to passage by the Board of Supervisors, be submitted for written report by the Planning Department regarding conformity with the General Plan:

1. Proposed ordinances and resolutions concerning the acquisition or vacation of property by, or a change in the use or title of property owned by, the City and County;
2. Subdivisions of land within the City and County;
3. Projects for the construction or improvement of public buildings or structures within the City and County;
4. Project plans for public housing, or publicly assisted private housing in the City and County;
5. Redevelopment project plans within the City and County; and
6. Such other matters as may be prescribed by ordinance.

The Commission shall disapprove any proposed action referred to it upon a finding that such action does not conform to the General Plan. Such a finding may be reversed by a vote of two-thirds of the Board of Supervisors.

All such reports and recommendations shall be issued in a manner and within a time period to be determined by ordinance.

PERMITS AND LICENSES. All permits and licenses dependent on, or affected by, the City Planning Code administered by the Planning Department shall be approved by the Commission prior to issuance. The Commission may delegate this approval function to the Planning Department. Notwithstanding the foregoing, certificates of appropriateness for work to designated landmarks and historic districts and applications for alterations to significant or contributory buildings or properties in designated conservation districts that have been approved, disapproved, or modified by the Historic Preservation Commission shall not require approval by the Commission prior to issuance.

ENFORCEMENT. The Planning Department shall administer and enforce the City Planning Code.

ZONING AMENDMENTS. The Commission may propose for consideration by the Board of Supervisors ordinances regulating or controlling the height, area, bulk, set-back,

location, use or related aspects of any building, structure or land. An ordinance proposed by the Board of Supervisors concerning zoning shall be reviewed by the Commission. Applications for the reclassification of property may be made by interested parties and must be reviewed by the Commission. Notwithstanding the foregoing, designation of a landmark, a significant or contributory building, an historic district, or a conservation district shall be reviewed by the Commission only as provided in Section 4.135.

Notwithstanding the Commission's disapproval of a proposal from the Board of Supervisors or the application of interested parties, the Board of Supervisors may adopt the proposed ordinance; however, in the case of any proposal made by the application of interested parties, any such adoption shall be by a vote of not less than two-thirds of the Board of Supervisors.

No application of interested parties proposing the same or substantially the same ordinance as that disapproved by the Commission or by the Board of Supervisors shall be resubmitted to or reconsidered by the Commission within a period of one year from the effective date of final action upon the earlier application.

ZONING ADMINISTRATOR. The director of planning shall appoint a Zoning Administrator from a list of qualified applicants provided pursuant to the Civil Service provisions of the Charter. The Zoning Administrator shall be responsible for the determination of all zoning variances. The administrator shall have the power to grant only those variances that are consistent with the general purpose and the intent of the zoning ordinance, and in accordance with the general and specific rules of the zoning ordinance, subject to such conditions and safeguards as the Zoning Administrator may impose. The power to grant variances shall be applied only when the plain and literal interpretation and enforcement of the zoning ordinance would result in practical difficulties, unnecessary hardships or where the results would be inconsistent with the general purpose of the zoning ordinance. Decisions of the Zoning Administrator regarding zoning variances may be appealed to the Board of Appeals.

Before any such variance may be granted, there shall appear, and the Zoning Administrator shall specify in his or her findings, the facts in each case which shall establish:

(a) That there are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same district or zone;

(b) That owing to such exceptional or extraordinary circumstances the literal enforcement of the zoning ordinance would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;

(c) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, possessed by other property in the same zone and vicinity;

(d) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or district in which the property is located; and

(e) That the granting of such variance will be in harmony with the general purpose and intent of the zoning ordinance and will not adversely affect the general plan.

The determination of the Zoning Administrator shall be final except that appeals therefrom may be taken, as hereinafter provided, to the Board of Appeals, exclusively and notwithstanding any other provisions of this Charter, by any person aggrieved or by any office, agency, or department of the City and County. An appeal from a determination of the Zoning Administrator shall be filed with the Board of Appeals within ten days from the date of such determination. Upon making a ruling or determination upon any matter under his or her jurisdiction, the Zoning Administrator shall thereupon furnish a copy thereof to the applicant and to the Director of Planning. No variance granted by the Zoning Administrator shall become effective until ten days thereafter. An appeal shall stay all proceedings in furtherance of the action appealed from.

CONDITIONAL USE. The Commission shall have the power to hear and decide conditional use applications. An appeal may be taken to the Board of Supervisors from a decision of the Commission to grant or deny a conditional use application. The Board of Supervisors may disapprove the decision of the Commission by a vote of not less than two-thirds of the members of the Board.

SEC. 4.135. HISTORIC PRESERVATION COMMISSION.

GENERAL. There is hereby created a Historic Preservation Commission, which shall advise the City on historic preservation matters, participate in processes that involve historic or cultural resources, and take such other actions concerning historic preservation as may be prescribed by ordinance. The Historic Preservation Commission shall consist of seven members nominated by the Mayor and subject to approval by a majority of the Board of Supervisors.

The term and tenure of all members sitting on the Landmarks Preservation Advisory Board, created under Article 10 of the Planning Code, as of the effective date of this section shall terminate on December 31, 2008. Of the original appointments to the Historic Preservation Commission, four shall be for a four-year term and three for a two-year term as follows: the odd-numbered seats shall be for four-year terms and the even-numbered seats shall be for two-year terms. After the expiration of the original terms, all appointments shall be for four-year terms, provided however, that a member may holdover until a successor has been nominated by the Mayor and approved by the Board of Supervisors. There shall be no limit on the number of terms a member may serve.

The original nominations shall be made no later than 31 days after the date of the election creating this section. If the Mayor fails to nominate an original appointment within said period, the nomination for the original appointment may be made by the President of the Board of Supervisors, subject to the approval of a majority of the Board of Supervisors.

Within 60 days of the expiration of a term or other vacancy the Mayor shall nominate a qualified person to fill the vacant seat for the term, or the remainder of the term, subject to approval by a majority of the Board of Supervisors who shall hold a public hearing and vote on the nomination within 60 days of the Mayor's transmittal of the nomination to the Clerk of the Board of Supervisors. If the Mayor fails to make such nomination within 60 days, the nomination may be made by the President of the Board of Supervisors, subject to the approval of a majority of the Board of Supervisors. The appointment shall become effective on the date the Board of Supervisors adopts a motion approving the nomination or after 60 days from the date the Mayor transmits the nomination to the Clerk of the Board of Supervisors if the Board of Supervisors fails to act.

Members may be removed by the appointing officer only pursuant to Section 15.105.

QUALIFICATIONS. In addition to the specific requirements set forth below, members of the Historic Preservation Commission shall be persons specially qualified by reason of interest, competence, knowledge, training and experience in the historic, architectural, aesthetic, and cultural traditions of the City, interested in the preservation of its historic structures, sites and areas, and residents of the City. Six of the members of the Historic Preservation Commission shall be specifically qualified in the following fields:

1. Seats 1 and 2: licensed architects meeting the Secretary of the Interior's Professional Qualifications Standards for historic architecture;
2. Seat 3: an architectural historian meeting the Secretary of the Interior's Professional Qualifications Standards for architectural history with specialized training and/or demonstrable experience in North American or Bay Area architectural history;
3. Seat 4: an historian meeting the Secretary of the Interior's Professional Qualifications Standards for history with specialized training and/or demonstrable experience in North American or Bay Area history;

4. Seat 5: an historic preservation professional or professional in a field such as law, land use, community planning or urban design with specialized training and/or demonstrable experience in historic preservation or historic preservation planning.

5. Seat 6 shall be specially qualified in one of the following fields or in one of the fields set forth for Seats 1, 2, or 3:

a. A professional archeologist meeting the Secretary of the Interior's Professional Qualification Standards for Archeology;

b. A real estate professional or contractor who has demonstrated a special interest, competence, experience, and knowledge in historic preservation;

c. A licensed structural engineer with at least four years of experience in seismic and structural engineering principals applied to historic structures; or

d. A person with training and professional experience with materials conservation.

Seat 7 shall be an at large seat subject to the minimum qualifications set forth above.

LANDMARK AND HISTORIC DISTRICT DESIGNATIONS. The Historic Preservation Commission shall have the authority to recommend approval, disapproval, or modification of landmark designations and historic district designations under the Planning Code to the Board of Supervisors. The Historic Preservation Commission shall send recommendations regarding landmarks designations to the Board of Supervisors without referral or recommendation of the Planning Commission. The Historic Preservation Commission shall refer recommendations regarding historic district designations to the Planning Commission, which shall have 45 days to review and comment on the proposed designation, which comments, if any, shall be forwarded to the Board of Supervisors together with the Historic Preservation Commission's recommendation. Decisions of the Historic Preservation Commission to disapprove designation of a landmark or historic district shall be final unless appealed to the Board of Supervisors.

CERTIFICATES OF APPROPRIATENESS. The Historic Preservation Commission shall approve, disapprove, or modify certificates of appropriateness for work to designated landmarks

or within historic districts. For minor alterations, the Historic Preservation Commission may delegate this function to staff, whose decision may be appealed to the Historic Preservation Commission.

For projects that require multiple planning approvals, the Historic Preservation Commission must review and act on any Certificate of Appropriateness before any other planning approval action. For projects that (1) require a conditional use permit or permit review under Section 309, et seq., of the Planning Code and (2) do not concern an individually landmarked property, the Planning Commission may modify any decision on a Certificate of Appropriateness by a 2/3 vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code.

For projects that are located on vacant lots, the Planning Commission may modify any decision on a Certificate of Appropriateness by a two-thirds vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code.

The Historic Preservation Commission's or Planning Commission's decision on a Certificate of Appropriateness shall be final unless appealed to the Board of Appeals, which may modify the decision by a 4/5 vote; provided, however, that if the project requires Board of Supervisors approval or is appealed to the Board of Supervisors as a conditional use, the decision shall not be appealable to the Board of Appeals, but rather to the Board of Supervisors, which may modify the decision by a majority vote.

SIGNIFICANT OR CONTRIBUTORY BUILDING AND CONSERVATION DISTRICT DESIGNATIONS IN THE C-3 DISTRICTS. The Historic Preservation Commission shall have the authority to recommend approval, disapproval, or modification of Significant or Contributory building and Conservation District designations under the Planning Code to the Board of Supervisors. The Historic Preservation Commission shall send recommendations regarding Significant or Contributory Buildings to the Board of Supervisors without referral or recommendation of the Planning Commission. The Historic Preservation Commission shall

refer recommendations regarding Conservation District designations to the Planning Commission, which shall have 45 days to review and comment on the proposed designation, which comments, if any, shall be forwarded to the Board of Supervisors together with the Historic Preservation Commission's recommendation. Decisions of the Historic Preservation Commission to disapprove designation of a Significant or Contributory building or Conservation District shall be final unless appealed to the Board of Supervisors.

ALTERATION OF SIGNIFICANT OR CONTRIBUTORY BUILDINGS OR BUILDINGS IN CONSERVATION DISTRICTS IN THE C-3 DISTRICTS. The Historic Preservation Commission shall have the authority to determine if a proposed alteration is a Major Alteration or a Minor Alteration. The Historic Preservation Commission shall have the authority to approve, disapprove, or modify applications for permits to alter or demolish designated Significant or Contributory buildings or buildings within Conservation Districts. For Minor Alterations, the Historic Preservation Commission may delegate this function to staff, whose decision may be appealed to the Historic Preservation Commission.

For projects that require multiple planning approvals, the Historic Preservation Commission must review and act on any permit to alter before any other planning approval action. For projects that (1) require a conditional use permit or permit review under Section 309, et seq., of the Planning Code and (2) do not concern a designated Significant (Categories I and II) or Contributory (Category III only) building, the Planning Commission may modify any decision on a permit to alter by a 2/3 vote, provided that the Planning Commission shall apply all applicable historic resources provisions of the Planning Code.

For projects that are 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.

The Historic Preservation Commission's or Planning Commission's decision on a permit to alter shall be final unless appealed to the Board of Appeals, which may modify the decision by

a 4/5 vote; provided, however, that if the project requires Board of Supervisors approval or is appealed to the Board of Supervisors as a conditional use, the decision shall not be appealable to the Board of Appeals, but rather to the Board of Supervisors, which may modify the decision by a majority vote.

MILLS ACT CONTRACTS. The Historic Preservation Commission shall have the authority to recommend approval, disapproval, or modification of historical property contracts to the Board of Supervisors, without referral or recommendation of the Planning Commission.

PRESERVATION ELEMENT OF THE GENERAL PLAN. The Historic Preservation Commission shall recommend to the Planning Commission a Preservation Element of the General Plan and shall periodically recommend to the Planning Commission proposed amendments to such Preservation Element of the General Plan. Other objectives, policies, and provisions of the General Plan and special area, neighborhood, and other plans designed to carry out the General Plan, and proposed amendments thereto, that are not contained within such Preservation Element but that concern historic preservation shall be referred to the Historic Preservation Commission for its comment and recommendations prior to action by the Planning Commission. When the Planning Commission recommends to the Board of Supervisors for approval or rejection proposed amendments to the General Plan that concern historic preservation, any recommendation or comments of the Historic Preservation Commission on such proposed amendments shall be forwarded to the Board of Supervisors for its information.

REFERRAL OF CERTAIN MATTERS. The following matters shall, prior to passage by the Board of Supervisors, be submitted for written report by the Historic Preservation Commission regarding effects upon historic or cultural resources: ordinances and resolutions concerning historic preservation issues and historic resources; redevelopment project plans; waterfront land use and project plans; and such other matters as may be prescribed by ordinance. If the Planning Commission is required to take action on the matter, the Historic

Preservation Commission shall submit any report to the Planning Commission as well as to the Board of Supervisors; otherwise, the Historic Preservation Commission shall submit any report to the Board of Supervisors.

OTHER DUTIES. For proposed projects that may have an impact on historic or cultural resources, the Historic Preservation Commission shall have the authority to review and comment upon environmental documents under the California Environmental Quality Act and the National Environmental Policy Act. The Historic Preservation Commission shall act as the City's local historic preservation review commission for the purposes of the Certified Local Government Program, may recommend properties for inclusion in the National Register of Historic Places, and may review and comment on federal undertakings where authorized under the National Historic Preservation Act. The Historic Preservation Commission shall review and comment upon any agreements proposed under the National Historic Preservation Act where the City is a signatory prior to any approval action on such agreement. The Historic Preservation Commission shall have the authority to oversee and direct the survey and inventory of historic properties.

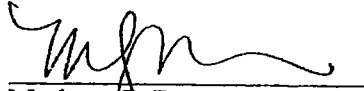
Once a quorum of members of the Historic Preservation Commission has been originally appointed and approved, the Historic Preservation Commission shall assume any powers and duties assigned to the Landmarks Preservation Advisory Board until the Municipal Code has been amended to reflect the creation of the Historic Preservation Commission.

BUDGET, FEES, DEPARTMENT HEAD, AND STAFF. The provisions of Charter subsections 4.102(3), 4.102(4), 4.102(5), and 4.102(6) shall not apply to the Historic Preservation Commission. The Historic Preservation Commission may review and make recommendations on the Planning Department budget and on any rates, fees, and similar charges with respect to appropriate items coming within the Historic Preservation Commission's jurisdiction to the department head of the Planning Department or the Planning Commission. The department head of the Planning Department shall assume the powers and duties that would

otherwise be executed by an Historic Preservation Commission department head. The Planning Department shall render staff assistance to the Historic Preservation Commission.

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

By:


Marlena G. Byrne
Deputy City Attorney