[Planning Code – Amendments to the Van Ness & Market Downtown Residential Special Use District]

Ordinance amending the Planning Code to amend the Van Ness & Market Downtown Residential Special Use District, to encourage more housing and uses that support the neighborhood residents and business, and to give effect to amendments to the Market and Octavia Area Plan; and amending Planning Code Sections 145.4, 151.1, 207.6, 249.33, 261.1, 263.19, 270, 270.2, 309, 401, 411A.5, 416.3, 421.5, 424.1, 424.3, 424.4, and 424.5; and making environmental findings, including adopting a statement of overriding considerations, and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code Section 302.

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

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

Section 1. Environmental and Planning Code Findings.

(a) On _______, 2020, after a duly noticed public hearing, the Planning Commission certified the Final Environmental Impact Report (EIR) for the proposed Hub Plan, 30 Van Ness Avenue Project, 98 Franklin Street Project, and Hub Housing Sustainability District (the Project) by Motion No. _______, finding the Final EIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, contains no significant revisions to the Draft EIR, and the content of the report and the
procedures through which the Final EIR was prepared, publicized, and reviewed comply with
the provisions of the California Environmental Quality Act (California Public Resources Code
Sections 21000 et seq.), the CEQA Guidelines (14 Cal. Code Regs. Section 15000 et seq.),
and Chapter 31 of the San Francisco Administrative Code. Copies of the Planning
Commission Motion and Final EIR are on file with the Clerk of the Board of Supervisors in File
No. ___ and is incorporated herein by reference. The Board affirms this determination.

(b) The Project evaluated in the Final EIR includes the proposed amendments to the
Planning Code as well as amendments to the General Plan and other related amendments.
The proposed Planning Code amendments set forth in this ordinance are within the scope of
the Project evaluated in the Final EIR.

(c) On ___________, the Planning Commission, in Resolution No. ___________,
adopted findings under CEQA regarding the Project’s environmental impacts, the disposition
of mitigation measures, and project alternatives, as well as a statement of overriding
considerations (CEQA Findings) and adopted a mitigation monitoring reporting program
(MMRP).

(d) On ___________, the Planning Commission, in Resolution No. ___________,
recommended the proposed Planning Code amendments for approval and adopted findings
that the actions contemplated in this ordinance are consistent, on balance, with the City’s
General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts
these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of
Supervisors in File No. ___________, and is incorporated herein by reference.

(e) On ___________, the Planning Commission, in Resolution No. ___________,
adopted findings that the actions contemplated in this ordinance will serve the public
necessity, convenience, and welfare. The Board adopts these findings as its own. A copy of
said Resolution is on file with the Clerk of the Board of Supervisors in File No. ___________.
and is incorporated herein by reference.

(f) The Board of Supervisors has reviewed and considered the Final EIR and the environmental documents on file referred to herein. The Board of Supervisors has reviewed and considered the CEQA Findings, and hereby adopts them as its own and incorporates them by reference as though such findings were fully set forth in this Ordinance.

(g) The Board of Supervisors adopts the MMRP as a condition of this approval, and endorses those mitigation measures that are under the jurisdiction of other City Departments, and recommends for adoption those mitigation measures that are enforceable by agencies other than City agencies, all as set forth in the CEQA Findings and MMRP.

(h) The Board of Supervisors finds that no substantial changes have occurred in the proposed Project that would require revisions in the Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, no substantial changes have occurred with respect to the circumstances under which the proposed Project is to be undertaken that would require major revisions to the Final EIR due to the involvement of new environmental effects or a substantial increase in the severity of effects identified in the Final EIR, and no new information of substantial importance to the proposed Project has become available which indicates that (1) the Project will have significant effects not discussed in the Final EIR, (2) significant environmental effects will be substantially more severe, (3) mitigation measure or alternatives found not feasible that would reduce one or more significant effects have become feasible or (4) mitigation measures or alternatives that are considerably different from those in the Final EIR would substantially reduce one or more significant effects on the environment.

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Section 2. Articles 1, 2 and 4 of the Planning Code are hereby amended by revising Sections 145.4, 151.1, 207.6, 249.33, 261.1, 263.19, 270, 270.2, 309, 401, 411A.5, 416.3, 421.5, 424.1, 424.3, 424.4, 424.5.

SEC. 145.4 REQUIRED GROUND FLOOR COMMERCIAL USES

* * * *

(3) Van Ness Avenue, in the Van Ness and Market-Downtown Residential Special Use District, from Fell Street to Market Street;

* * * *

SEC. 151.1 SCHEDULE OF PERMITTED OFF-STREET PARKING SPACES IN SPECIFIED DISTRICTS.

* * * *

Table 151.1
OFF-STREET PARKING PERMITTED AS ACCESSORY

<table>
<thead>
<tr>
<th>Use or Activity</th>
<th>Number of Off-Street Car Parking Spaces or Space Devoted to Off-Street Car Parking Permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>RESIDENTIAL USES</td>
<td></td>
</tr>
<tr>
<td>* * * *</td>
<td></td>
</tr>
<tr>
<td>Dwelling Units in the Van Ness and Market Downtown Residential Special Use District</td>
<td>P up to one car for each four Dwelling Units; C-up to 0.5 cars for each Dwelling Unit, subject to the criteria and procedures of Section 151.1(e); NP above two cars for each four Dwelling Units; above .25 cars for each Dwelling Unit.</td>
</tr>
</tbody>
</table>
SEC. 207.6. REQUIRED MINIMUM DWELLING UNIT MIX IN RTO, RCD, NCT, DTR, EASTERN NEIGHBORHOODS MIXED USE DISTRICTS, VANNESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT, AND THE POLK STREET AND PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICTS.

(a) Purpose. In order to foster flexible and creative infill development while maintaining the character of the district, dwelling unit density is not controlled by lot area in RTO, NCT, and Eastern Neighborhoods Mixed Use Districts but rather by the physical constraints of this Code (such as height, bulk, setbacks, open space, and dwelling unit exposure). However, to ensure an adequate supply of family-sized units in existing and new housing stock, new residential construction must include a minimum percentage of units of at least two bedrooms. In the Pacific Avenue and Polk Street Neighborhood Commercial Districts, and the Van Ness & Market Residential Special Use District, a dwelling unit mix requirement addresses the need for family-sized housing production in these districts.

(b) Applicability.

(1) This Section shall apply in the RTO, RCD, NCT, DTR, Eastern Neighborhoods Mixed Use Districts, Van Ness & Market Residential Special Use District, and the Pacific Avenue and Polk Street NCDs.

(2) This Section shall apply to all applications for building permits and/or Planning Commission entitlements that propose the creation of five or more Dwelling Units.

(3) This Section does not apply to buildings for which 100 percent of the residential uses are: Group Housing, Dwelling Units that are provided at below market rates pursuant to Section 406(b)(1) of this Code, Single Room Occupancy (SRO) Units, Student Housing (all as defined in Section 102 of this Code) or housing specifically and permanently designated for seniors or persons with physical disabilities.
(c) **Controls.** For all RTO, RCD and NCT districts, as well as DTR, Eastern Neighborhoods Mixed Use Districts, *Van Ness & Market Residential Special Use District*, and the Pacific Avenue and Polk Street NCDs, one of the following three must apply:

(1) no less than 40% of the total number of proposed Dwelling Units shall contain at least two bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of Dwelling Units, or

(2) no less than 30% of the total number of proposed Dwelling Units shall contain at least three bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of Dwelling Units, or

(3) no less than 35% of the total number of proposed Dwelling Units shall contain at least two or three bedrooms with at least 10% of the total number of proposed Dwelling Units containing three bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of Dwelling Units.

(d) **Modifications.**

(1) In NCT, RCD, RTO and the Pacific Avenue and Polk Street NC Districts, these requirements may be waived or modified with Conditional Use Authorization. In addition to those conditions set forth in Section 303, the Planning Commission shall consider the following criteria:

(A) The project demonstrates a need or mission to serve unique populations, or

(B) The project site or existing building(s), if any, feature physical constraints that make it unreasonable to fulfill these requirements.

(2) In Eastern Neighborhoods Mixed Use Districts, these requirements may be waived in return for provision of family-sized affordable units, pursuant to Section 419et seq. To receive this waiver, 100 percent of the total number of inclusionary units required under
Section 415et seq. or Section 419et seq. shall contain at least two bedrooms. Also in Eastern
Neighborhoods Mixed Use Districts, these requirements may be waived or modified through
the Variance process set forth in Section 305, or in the case of projects subject to Section
329, through the procedures of that section.

(3) In DTR Districts, these requirements may be modified per the procedures of
Section 309.1.

(4) In the Van Ness & Market Residential Special Use District, these requirements may
only be modified pursuant to the procedures of Section 309, regardless of the underlying zoning
district.

* * * *

SEC. 249.33. Van Ness & Market Downtown Residential Special Use District.

(a) Purpose. There shall be a Van Ness & Market Downtown Residential Special Use
District, which is comprised of the parcels zoned C-3-G in the Market Octavia Better
Neighborhoods Plan area, and whose boundaries are designated on Sectional Map Nos.
SU02 and SU07 of the Zoning Map of the City and County of San Francisco. This District is
generally comprised of parcels focused at the intersections of Van Ness Avenue at Market
Street and South Van Ness Avenue at Mission Street, along with parcels on both sides of
Market and Mission Streets between 24th and Division 24th Streets. This District is intended
to be a transit-oriented, high-density mixed-use neighborhood with a significant residential
presence and a mix of neighborhood serving uses. New development and major expansions must be
predominantly residential. Other non-residential uses are allowed and encouraged, including arts,
institutional and retail uses. Retail controls allow for smaller retail use sizes in order to emphasize
neighborhood serving character. These uses compliment the transit rich infrastructure in the area,
which includes the Van Ness MUNI Metro Station and the intersection of several major transit
corridors including Van Ness BRT, Market Street, Mission Street and other major bus lines. This area is encouraged to transition from largely a back-office and warehouse support function to downtown into a more cohesive downtown mixed-use residential district, and serves as a transition zone to the lower scale residential and neighborhood commercial areas to the west and south of the C-3. A notable amount of large citywide commercial and office activity will remain in the area, including government offices supporting the Civic Center and City Hall. The area was initially identified in the Downtown Plan of the General Plan as an area to encourage housing adjacent to the downtown. As part of the city's Better Neighborhoods Program, this concept was fully articulated in the Market and Octavia Area Plan, and is described therein.

(b) Use Controls.

(1) Non-residential Uses. For newly-constructed buildings or additions which exceed 20 percent or more of an existing structure's gross floor area, non-residential uses are not permitted above the fourth story, and at least two three occupied square feet of residential use shall be provided for each occupied square foot of non-residential use. In order to accommodate local government office uses near City Hall, publicly-owned or leased buildings or lots are exempted from the requirements of this Subsection. Replacement of existing office uses on the same parcel and other Public Facility and Art Activities, as defined in Section 102, are exempt from the requirements of this subsection (b)(1).

* * * *

(3) Residential Affordable Housing Program. All projects in this District shall be subject to all the terms of Section 415 and following of the Inclusionary Affordable Housing Program. Notwithstanding the foregoing, projects within the Van Ness and Market Downtown Residential Special Use District shall at a minimum fulfill the requirements to the levels specified in this section. Should Section 415 require greater contributions to the affordable
housing program, those requirements shall {supersede} this section. Proposed exceptions to these requirements due to hardships associated with construction type, specifically heights above 120 feet, are not applicable in this Special Use District because parcels are receiving an up zoning through increased density and benefits through the general transformation of the district to a transit oriented neighborhood with a mixed use character. Requirements and administration of this program shall follow the conditions outlined in Section 415 of this Code unless otherwise specified in this Section.

* * * *

(5) Lot Coverage. The rear yard requirements of Section 134 of this Code shall not apply. Lot coverage is limited to 80 percent at all residential levels containing a dwelling unit or group housing bedroom except on levels in which all residential units face onto a public right-of-way. The unbuilt portion of the lot shall be open to the sky except for those obstructions permitted in yards per Section 136(c) of this Code. Exceptions to the 20 percent open area may be granted pursuant to the procedures of Section 309 for conversions of existing non-residential structures where it is determined that provision of 20 percent open area would require partial demolition of the existing non-residential structure. 

* * * *

(7) Retail Use Size. P up to 5,999 gross square feet; C 6,000 gross square feet and above.

(8) Formula Retail. Formula Retail Uses, as defined in Section 102, shall require a Conditional Use Authorization as set forth in Section 303.1.

(9) Micro-Retail. “Micro-Retail” shall mean a Retail Use, other than a Formula Retail Use, measuring no less than 100 gross square feet, no greater than 1,000 gross square feet and a 10 foot minimum depth from the front façade.
(A) Applicability. Micro-Retail controls shall apply to projects with new construction or alterations to greater than 50% of an existing building if located on a lot of at least 20,000 square feet.

(B) Controls.

(i) Amount. Applicable development projects shall have at least one Micro-Retail unit for every 20,000 gross square feet of lot area, rounded to the nearest unit.

(ii) Location and Design. All Micro-Retail units shall be on the ground floor, independently and directly accessed from a public right-of-way or a publicly-accessible open space, and designed to be accessed and operated independently from other spaces or uses on the subject property. For projects adjacent to POPOS, free standing kiosks are allowed to meet this requirement through Planning Commission approval through a 309 exception.

(iii) Exemption. Any projects providing ground floor uses that are larger than 1,000 gross square feet and defined as Arts Activities, Child Care Facility, Social Service, Community Facility, or Public Facility are exempt from the Micro-Retail requirement.

(iv) Exceptions. Exceptions to the micro-retail requirement may be granted pursuant to the procedures of Section 309.

(10) Accessory Parking. For projects that provide 25% or more on-site affordable housing units as defined in Section 415, accessory non-residential parking may be used jointly as accessory residential parking for residential uses within the same project, so long as the following criteria is met:

(i) the total number of independently accessible parking stalls (whether residential or non-residential) provided in such project shall not exceed the sum of the maximum amount of accessory residential and accessory non-residential parking spaces permitted by the Planning Code and:
(ii) the total number of parking spaces used as residential accessory parking shall not exceed 0.4 spaces per each Dwelling Unit.

(11) Cannabis-Related Land Uses. All Cannabis Related Uses, which includes Cannabis Retail (Retail Sales and Service Category), Medical Cannabis Dispensary, Industrial Agriculture, Agriculture and Beverage Processing 2, Light Manufacturing, Laboratory, Wholesale, or Parcel Delivery Service, as defined in Section 102 shall follow the land use controls of the NCT-3 Moderate-Scale Neighborhood Commercial Transit District.

(12) Living Roofs and Living Walls.

(A) Definitions. For the purpose of this subsection (b)(12), all terms shall be as defined in Sections 102 and 149.

(B) Applicability. The requirements of this subsection (b)(10) shall apply to any building and development project that meet all of the following criteria:

(i) The development project lot size is 5,000 square feet or larger;

(ii) The building constitutes a Large Development Project or Small Development Project under the Stormwater Management Ordinance (Public Works Code Sections 147-147.6), and

(iii) The building height is 120 feet or less.

(C) Requirements.

(i) Notwithstanding the requirements of Section 149, at least fifty percent of the roof area shall be covered by one or more Living Roofs.

(ii) The Living Roof shall be considered in determining compliance with the Stormwater Management Ordinance.

(iii) The Planning Department, after consulting with the Public Utilities Commission and the Department of the Environment, shall adopt rules and regulations to implement this subsection (b)(10) and shall coordinate with those departments to ensure compliance with the


Stormwater Management Ordinance.

(iv) Projects that consist of multiple buildings may choose to locate the Living Roofs required in subsection (b)(10)(B)(i) on any rooftops within the subject project site, including on buildings that are not subject to these requirements, provided that the project as a whole provides the square footage of Living Roofs required by subsection (b)(10)(B)(i).

(v) Project sponsors are encouraged to incorporate vertical living walls on building facades, composed of climate-appropriate, native, and non-invasive plantings.

(D) Waiver. If the project sponsor demonstrates to the Zoning Administrator's satisfaction that it is physically infeasible to meet the Living Roof requirements that apply to the project, the Zoning Administrator may, in their sole discretion and pursuant to the procedures set forth in Planning Code Section 307(h), reduce the requirement stated in subsection (b)(10)(B)(i) from fifty percent to thirty-three percent.

(13) Option for In-Kind Provision of Transportation Sustainability Fee. Development projects in this District may propose to provide transportation improvements to the City directly. In such a case, the City, at its sole discretion, may enter into an In-Kind Improvements Agreement with the sponsor and issue a fee waiver for the TSF from the Municipal Transportation Agency Board of Directors (the "MTA" and the "MTA Board," respectively), subject to the following rules and requirements:

(A) Approval criteria. The City shall not enter into an In-Kind Agreement unless the proposed in-kind improvements meet an identified community need and where they substitute for improvements that could be provided by the TSF Expenditure Program (as described in Section 411A.6). No physical improvement or provision of space otherwise required by the Planning Code or any other City Code shall be eligible for consideration as part of this In-Kind Improvements Agreement.
(B) Valuation. The Director of Transportation, in consultation with the Director of Planning, shall determine the appropriate value of the proposed in-kind improvements. For the purposes of calculating the total value, the development project shall provide the Planning Department and MTA with a cost estimate for the proposed in-kind improvement(s) from two independent sources or, if relevant, real estate appraisers. If the City has completed a detailed site-specific cost estimate for a planned improvement this may serve as one of the cost estimates, provided it is indexed to current cost of construction.

(C) Content of the In-Kind Improvements Agreement. The In-Kind Improvements Agreement shall include at least the following items:

(i) A description of the type and timeline of the proposed in-kind improvements.

(ii) The appropriate value of the proposed in-kind improvement, as determined in subsection (2) above.

(iii) The legal remedies in the case of failure by the development project to provide the in-kind improvements according to the specified timeline and terms in the agreement. Such remedies shall include the method by which the City will calculate accrued interest.

(D) Approval Process. The MTA Board, with the advice of the Director of Planning and the Director of Transportation, must approve the material terms of an In-Kind Agreement. Prior to the parties executing the Agreement, the City Attorney must approve the agreement as to form and to substance. The Director of Transportation is authorized to execute the Agreement on behalf of the City. If the MTA Board approves the In-Kind Agreement, it shall waive the amount of the TSF by the value of the proposed In-Kind Improvements Agreement, as determined by the Director of Transportation and the Director of Planning. No credit shall be made for land value unless ownership of the land is transferred to the City or a permanent public easement is granted, the acceptance of which is at the sole discretion of the City. The maximum value of the In-Kind Improvements Agreement
shall not exceed the required TSF.

(E) Administrative Costs. Development projects that pursue an In-Kind
Improvements Agreement will be billed time and materials for any administrative costs that the
Planning Department or any other City entity incurs in negotiating, drafting, and monitoring
compliance with the In-Kind Improvements Agreement.

(14) Option for Provision of Affordable Housing Fees. Development projects in this
District may pay the affordable housing fees required under sections 416 and 424 by choosing any of
the alternatives set forth in Section 415.5(g), provided that nothing in this subsection shall be
interpreted to change any obligations established by contract with the City.

(15) Required Minimum Dwelling Unit Mix. Development projects in this District
shall comply with Section 207.6.

(c) In the event of a conflict between the provisions of this Section 249.33 and the provisions of
Section 249.81, 1629 Market Street Special Use District, the provisions of Section 249.81 shall control.

(d) In the event of a conflict between the provisions of this Section 249.33 and the provisions of
Section 249.12, 1500 Mission Street Special Use District, the provisions of Section 249.12 shall
control.

SEC. 261.1. ADDITIONAL HEIGHT LIMITS FOR NARROW STREETS AND ALLEYS
IN, RTO, NC, NCT, AND EASTERN NEIGHBORHOODS MIXED USE DISTRICTS

* * * *

(B) any building frontage in an RH-2, RH-3, RM, RTO, NC, NCT, Van
Ness & Market Residential Special Use District, or Eastern Neighborhood Mixed Use District that
abuts a Narrow Street and that is more than 60 feet from an intersection with a Street wider
than 40 feet.
(3) "East-West Narrow Streets" shall mean all Narrow Streets, except those
created pursuant to Section 270.2, that are oriented at 45 degrees or less from a true east-
west orientation or are otherwise named herein: Elm, Redwood, Ash, Birch, Ivy, Linden,
Hickory, Lily, Rose, Laussat, Germania, Clinton Park, Brosnan, Hidalgo, and Alert Streets.

(4) "North-South Narrow Streets" shall mean all Narrow Streets, except those
created pursuant to Section 270.2, that are oriented at 45 degrees or less from a true north-
south orientation.

(c) **Applicability.** The controls in this Section shall apply in all RTO, NC, NCT, and
Eastern Neighborhoods Mixed Use Districts, *and the Van Ness & Market Residential Special Use
District*, except in the Bernal Heights Special Use District. Notwithstanding the foregoing, in
the CS Bulk District these controls shall only apply on certain frontages as described in
Section 270(h).

* * * *

SEC. 263.19. HEIGHT LIMITS: PERMITTED PODIUM AND TOWER HEIGHTS IN
THE R BULK DISTRICTS.

(a) **Intent.** As described in Section 827(a), "The general development concept for Rineon
Hill R Bulk Districts is of podium buildings up to 85, that vary from 65 to 170 feet in height
depending on the district and location, with adequately spaced slender towers up to 550 650 feet
in height rising above the podium buildings. In South Beach, towers up to 200 feet in height are
permitted to rise in limited locations above a podium height that varies from 65 to 105 feet. This urban
form is implemented in the R-height and bulk district, mapped in all portions of the Rineon Hill and
South Beach Downtown Residential Districts where towers are permitted.

(b) **Maximum Height Controls for Podiums and Towers.** In the R bulk districts,
which include the R, R-2, and R-3 bulk districts as designated on Sectional Map No. HT01 HH,
HT02 and HT07 of the Zoning Map, maximum permitted building heights for both podiums and
towers are expressed as two numbers separated by a slash, including 65/200-R, 105/200-R, 85/150-R, 85/200-R, 85/250-R, 65/400-R, 85/400-R, 45/450-R, and 45/550-R. The number preceding the slash represents the height limit for podium buildings. The number following the slash represents the height limit for towers. No building may exceed the podium height limit except for towers meeting the bulk and tower spacing controls established in Section 270(e) and (f).

(c) Maximum Height Controls for Podiums and Towers in the R-2 Bulk District and the Van Ness and Market Residential Special Use District. In the R-2 bulk district and within the Van Ness and Market Residential Special Use District, maximum permitted building heights for both podiums and towers are expressed as two sets of numbers separated by a double slash in the format described above, in subsection (b). Each set of numbers represents the maximum heights for podium and tower applicable to the parcel and as regulated per subsection (b) above as follows: The first set of numbers represents the principally permitted height limits for the parcel, both for the podium and for the tower. The second set of numbers after the double slash represents the maximum height limits for podium and tower that can be granted by the Planning Commission for that parcel through an exception pursuant to the procedures and findings of Section 309(a)(17).

SEC. 270 Bulk Limits: Measurement

* * * *

(f) Van Ness and Market Downtown Residential Special Use District. In Bulk District R-2, (Van Ness and Market Downtown Residential Special Use District), bulk limitations are as follows:

(1) Tower Bulk and Spacing. In height districts In the R-2 bulk district 120/200-R-2, 20/300-R-2, 120/320-R-2, and 120/400-R-2, there are no bulk limitations below the podium height 120 feet in height, and structures above 120 feet in the podium height shall meet the bulk limitations described in subsection (e)(2)(A)-(E). In height district 85/250-R-2 there are no bulk
limitations below 85 feet in height, and structures above 85 feet in height shall meet the bulk limitations described in subsections (e)(2)(A)–(F). To ensure tower sculpting, the gross floor area of the top one-third of the height of the tower shall be reduced by not less than 10 percent from the maximum floor plates described in subsections (e)(2)(A)–(E) above and the average diagonal of the top one-third by not less than 13% from the average diagonal of the tower, unless the overall tower volume is reduced by an equal or greater volume.

(2) Exceptions. In the R-2 bulk district, the Planning Commission may grant bulk exceptions through the procedures and findings of Section 309(a)(17) to increase the allowed bulk of buildings up to the limits described in subsections (A)–(D) below. The procedures for granting exceptions to bulk limits described in Section 272 shall not apply.

(A) Towers up to 350 feet in height may not exceed an average floor area of 10,000 square feet.

(B) Towers taller than 350 feet may not exceed an average floor area of 12,000 square feet, maximum plan length of 150 feet, and maximum diagonal dimension of 190 feet.

(C) Towers taller than 550 feet in height districts of 590 feet and greater may not exceed an average floor area of 18,500 square feet between a podium height of 140 feet and 170 feet. Building mass above 140 feet shall be set back at least 10 feet from the property line for a minimum of 90% of all street frontages.

(D) Exceptions to the tower sculpting requirements described in subsection (1) above may be considered up to the limits as follows:

(i) For towers less than 400 feet, the provision may be fully waived.

(ii) For Towers taller than 400 feet in height, at least one-quarter of the tower’s floors shall be reduced by not less than 9% from the maximum floor areas described in (2)(B) above.

(iii) For towers between 500 and 550 feet in height, the average diagonal of the upper one-third of the height of the tower shall be reduced by not less than 5% of maximum diagonal dimension
described in subsection (e).

(23) In order to provide adequate sunlight and air to streets and open spaces, a minimum distance of 115 feet must be preserved between all structures above 120 feet in height at all levels above 120 feet in height the applicable podium height for the subject development lot. Spacing shall be measured horizontally from the outside surface of the exterior wall of the subject building to the nearest point on the closest structure above 120 feet in height.

(34) No Exceptions shall be permitted as described in section (2) (a-c) above. The procedures for granting special exceptions to bulk limits described in Section 272 shall not apply.

* * * *

SEC. 270.2. SPECIAL BULK AND OPEN SPACE REQUIREMENT: MID-BLOCK ALLEYS IN LARGE LOT DEVELOPMENT IN THE EASTERN NEIGHBORHOODS MIXED USE DISTRICTS, SOUTH OF MARKET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT, FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT, REGIONAL COMMERCIAL DISTRICT, C-3 DISTRICT, AND DTR DISTRICT.

* * * *

(d) Requirements.

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(3) For new construction within the Van Ness & Market Residential Special Use District on lots with greater than 300 linear feet of street frontage, the project shall provide a publicly-accessible mid-block alley between any two frontages that have at least 200 feet of length each. Such alley shall be subject to all requirements of this Section 270.2, except that the requirements of subsection 270.2(e)(14) shall not apply. A project subject to this subsection 270.2(d)(3) may seek an

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exception to the requirements of Section 270.2(e)(6) pursuant to the procedures and findings of Section 309(a)(18).

* * * *

SEC. 309. PERMIT REVIEW IN C-3 DISTRICTS.

* * * *

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

* * * *

(16) Exceptions to the Micro-Retail requirements as permitted in Section 249.33.

(17) Exceptions to the height and bulk limits for parcels within the Van Ness & Market Residential Special Use District as defined by Section 270(f)(2). In considering such exceptions, the Planning Commission shall consider the extent to which the project achieves the following: (A) sculpts the building massing to achieve an elegant and creative tower form that enhances the skyline; (B) reduces or minimizes potential impacts on winds and shadows; (C) provides community-serving uses, including neighborhood-oriented retail, arts, social services or public-serving uses, particularly on the ground floor; and (D) maximizes housing density within the allowed envelope.

(18) Exceptions to the percent coverage requirements of Section 270.2(e)(6) for projects within the Van Ness & Market Residential Special Use District. The Planning Commission shall only grant such exceptions if the Planning Commission finds that: (A) the proposed mid-block alley and percent coverage do not negatively affect the use and purpose of the alley as a means of creating a more efficient pedestrian network, as described in subsections 270.2(a)-(b); and (B) the proposed percent coverage does not negatively impact the quality of the mid-block alley as an area of pedestrian and retail activity and public open space. An exception shall not be granted for any mid-block alley
that is less than 35 percent open to the sky.

(19) Exceptions to the required minimum dwelling unit mix in Section 207.6 for projects within the Van Ness & Market Residential Special Use District. In considering such exceptions, the Planning Commission shall consider the following criteria:

(i) whether the project demonstrates a need or mission to serve unique populations; or

(ii) whether the project site or existing building(s), if any, feature physical constraints that make it unreasonable to fulfill the requirements of Section 207.6 or subsection 309(a)(19)(i).

SEC. 401. DEFINITIONS.

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"Market and Octavia Community Improvements Program." The program intended to implement the community improvements identified in the Market and Octavia Area Plan, as articulated in the Market and Octavia Community Improvements Program Document on file with the Clerk of the Board in File No. 071157- , and as updated in the revised Market and Octavia Community Improvements Program Document, identified as part of the amendments to the Market and Octavia Area Plan for the area known as the Hub, on file with the clerk of the board in File No. XXXX.

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SEC. 411A.5. TSF SCHEDULE.

(a) Development Projects subject to the TSF shall pay the following fees, as adjusted annually in accordance with Planning Code Section 409(b).

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(b) Development Projects in the Market & Van Ness Residential Special Use District may propose to pay their TSF in kind, as set forth in Section 249.33.
SEC. 416.3. APPLICATION OF AFFORDABLE HOUSING FEE REQUIREMENT.

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(b) Other Fee Provisions. This additional affordable housing fee shall be subject to the inflation adjustment provisions of Section 409 and the waiver and reduction provisions of Section 406. This additional affordable housing fee may not be met through the in-kind provision of community improvements or Community Facilities (Mello Roos) financing options of Sections 421.3(d) and (e). Pursuant to Section 249.33, in the Van Ness & Market Downtown Residential Special Use District this fee may be paid in any of the alternatives set forth in Section 415.5(g).

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SEC. 421.5. MARKET AND OCTAVIA COMMUNITY IMPROVEMENTS FUND

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(b) Use of Funds. The Fund shall be administered by the Board of Supervisors.

(1) Infrastructure. All monies deposited in the Fund shall be used to design, engineer, acquire, improve, and develop neighborhood open spaces, pedestrian and streetscape improvements, bicycle infrastructure, childcare facilities, and other improvements that result in new publicly-accessible facilities and related resources within the Market and Octavia Plan Area or within 250-1,250 feet of the Plan Area and within the Upper Market Street Neighborhood-Commercial-Transit District, portions of which are located outside the plan area.

Funds may be used for childcare facilities that are not publicly owned or publicly-accessible. The improvements, where applicable, shall be consistent with the Market and Octavia Civic Streets and Open Space System as described in Map 45 of the Market and Octavia Area Plan of the General Plan, and Market and Octavia Community Improvements Plan Program. The funds shall be allocated in accordance with Table 421.5A.

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SEC. 424.1. FINDINGS SUPPORTING THE VAN NESS AND MARKET AFFORDABLE HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.

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(c) **Public Improvements.** The public improvements acceptable in exchange for granting the FAR bonus, and that would be necessary to serve the additional population created by the increased density, are listed below. All public improvements shall be consistent with the Market and Octavia Area Plan.

1. **Open Space Acquisition and Improvement.** *Brady-Park Open Spaces* (as described in the Market and Octavia Area Plan), or other open space of comparable size and performance. Open space shall be dedicated for public ownership or permanent easement for unfettered public access and improved for public use, including landscaping, seating, lighting, and other amenities.

2. **Complete Streets.** Pedestrian and Streetscape improvements and Bicycle Infrastructure within the Special Use District as described in the Market and Octavia Area Plan, including Van Ness and South Van Ness Avenues, Gough, Mission, McCoppin, *Market*, Otis, Oak, Fell, *Valencia, 11th, and 12th Streets, 13th Streets*, along with adjacent alleys. Improvements include sidewalk widening, landscaping and trees, lighting, seating and other street furniture (e.g., newsracks, kiosks, bicycle racks), signage, transit stop and subway station enhancements (e.g., shelters, signage, boarding platforms), roadway and sidewalk paving, and public art and living alleys.

3. **Affordable Housing.** The type of affordable housing needed in San Francisco is documented in the City's Consolidated Plan and the *Residence Housing* Element of the General Plan. New affordable rental housing and ownership housing affordable to households earning less than the median income is greatly needed in San Francisco.
SEC. 424.3. APPLICATION OF VAN NESS AND MARKET AFFORDABLE HOUSING AND NEIGHBORHOOD INFRASTRUCTURE FEE AND PROGRAM.

(a) Application. Section 424.1 et seq. shall apply to any development project located in the Van Ness and Market Downtown Residential Special Use District, as established in Section 249.33 of this Code. The Fee is due and payable to the Development Fee Collection Unit at DBI at the time of and in no event later than issuance of the first construction document, with an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be paid into the appropriate fund in accordance with Section 107A.13.3 of the San Francisco Building Code.

(b) Amount of Fee.

(i) All uses in any development project within the Van Ness and Market Downtown Residential Special Use District shall pay $30.00 per net additional gross square foot of floor area in any portion of building area exceeding the base development site FAR of 6:1 up to a base development site FAR of 9:1.

(ii) All uses in any development project within the Van Ness and Market Downtown Residential Special Use District shall pay $15.00 per net additional gross square foot of floor area in any portion of building area exceeding the base development site FAR of 9:1.

(c) Option for In-Kind Provision of Infrastructure Improvements and Fee Credits. Project sponsors may propose to directly provide community improvements to the City. In such a case, the City may enter into an In-Kind Improvements Agreement with the sponsor and issue a fee waiver from the neighborhood infrastructure portion ($15.00 per net additional gross square foot of floor area) of the Van Ness and Market Downtown Residential Special Use District Affordable Housing and Neighborhood Infrastructure Fee from the Planning
Commission, subject to the following rules and requirements:

(1) **Approval Criteria.** The City shall not enter into an In-Kind Agreement unless the proposed in-kind improvements meet an identified community need as analyzed in the Van Ness and Market Affordable Housing and Neighborhood Infrastructure Program and where they substitute for improvements that could be provided by the Van Ness and Market **Downtown** Residential Special Use District Infrastructure Fee Fund (as described in Section 424.5). The City may reject in-kind improvements if they are not consistent with the priorities identified in the Van Ness and Market Affordable Housing and Neighborhood Infrastructure Program. No physical improvement or provision of space otherwise required by the Planning Code or any other City Code shall be eligible for consideration as part of this In-Kind Improvements Agreement.

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(4) **Approval Process.** The Planning Commission must approve the material terms of an In-Kind Agreement. Prior to the parties executing the Agreement, the City Attorney must approve the agreement as to form and to substance. The Director of Planning is authorized to execute the Agreement on behalf of the City. If the Planning Commission approves the In-Kind Agreement, it shall waive the amount of the neighborhood infrastructure portion of the Van Ness and Market **Downtown** Residential Special Use District Affordable Housing and Neighborhood Infrastructure Fee by the value of the proposed In-Kind Improvements Agreement as determined by the Director of Planning. No credit shall be made for land value unless ownership of the land is transferred to the City or a permanent public easement is granted, the acceptance of which is at the sole discretion of the City. The maximum value of the In-Kind Improvements Agreement shall not exceed the required neighborhood infrastructure portion of the Van Ness and Market Affordable Housing and Neighborhood Infrastructure Fee.
SEC. 424.4. VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT AFFORDABLE HOUSING FUND.

(a) That portion of gross floor area subject to the $30.00 per gross square foot fee referenced in Section 424.3(b)(i) above shall be deposited into the special fund maintained by the Controller called the Citywide Affordable Housing Fund established by Section 413.10. Except as specifically provided in this Section, collection, management, enforcement, and expenditure of funds shall conform to the requirements related to in-lieu fees in Planning Code Section 415.1et seq., specifically including, but not limited to, the provisions of Section 415.7.

(b) Priorities for SUD Affordable Housing Fees Implementation. In order to increase the supply of housing affordable to qualifying households in the Market and Octavia Plan Area, the Upper Market NCT District, and to the City, the following is the prioritization of the use of these fees:

(1) First, to increase the supply of housing affordable to qualifying households in the Van Ness & Market Special Use District;

(2) Second, to increase the supply of housing affordable to qualifying households with in 1 mile of the boundaries of the Market and Octavia Area Plan;

(3) Third, to increase the supply of housing affordable to qualifying households in the City and County of San Francisco.

SEC. 424.5. VAN NESS AND MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT INFRASTRUCTURE FUND.

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(1) All monies deposited in the Fund, plus accrued interest, shall be used solely to design, engineer, acquire and develop neighborhood recreation and open space, pedestrian amenities and streetscape improvements, and bicycle infrastructure that result in
new publicly-accessible facilities. First priority should be given to projects within the Van Ness and Market Downtown Residential Special Use District or the area bounded by 10th Street, Howard Street, South Van Ness Avenue, the northeastern line of the Central Freeway, Market Street, Franklin Street, Hayes Street, and Polk Street. Second Priority should be given to projects within the Market and Octavia Plan or within 1,250 of the Plan Area. These improvements shall be consistent with the Market and Octavia Area Plan of the General Plan and any Plan that is approved by the Board of Supervisors in the future for the area covered by the Van Ness and Market Downtown Residential Special Use District, except that monies from the Fund may be used by the Planning Commission to commission studies to revise the fee above, or to commission landscape, architectural or other planning, design and engineering services in support of the proposed public improvements.

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Section 3. Effective Date.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under

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the official title of the ordinance.

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

By:

ANDREA RUIZ-ESQUIDE
Deputy City Attorney

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