Memo to the
Historic Preservation Commission
HEARING DATE: JANUARY 18, 2012
Continued from the December 7, 2011

Date: January 12, 2011
Project Name: Amendments relating to:
  Parking, Awning, Signs, Exposure, Open Space, and Limited
  Conforming Uses.
Case Number: 2011.0532T [Board File No. 11-0548]
Initiated by: Supervisor Chiu / Introduced May 3, 2011
Staff Contact: Aaron Starr, Legislative Affairs
  aaron.starr@sfgov.org, 415-558-6362
Recommendation: Approval w/ modifications

BACKGROUND
This item was originally presented to the Historic Preservation Commission (HPC) on December 7, 2011. The proposed legislation would make numerous changes to the Planning Code, most of which are not relevant to Articles 10 or 11, or historic resources. The changes that would impact Articles 10 and 11, and historic resources are called out in the original staff report; a copy of which is attached to this memo.

At the December 7th hearing, the HPC continued the item to January 18, 2012 so that it could have additional time to review the proposed legislation and consider other preservation incentives, specifically those offered in Portland, Oregon. The HPC also requested copies of Planning Code Section 187, which is being deleted from the Planning Code by the proposed legislation, and Planning Code Section 608.14, which covers Vintage Signs. A list of the various preservation incentives from Portland Oregon as well as the text from Planning Code Sections 187 and 608.14 are attached to this memo for the Commission’s review. Please note that Section 187 is proposed for deletion because it is no longer necessary; further, it is not relevant to Articles 10 or 11.

The Planning Commission had its second hearing on the proposed legislation on December 15th, 2011 and continued the item until February 9, 2012.

CURRENT PROPOSAL
Please see the original staff report attached to this memo.

REQUIRED COMMISSION ACTION
The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.
Memo to Historic Preservation Commission
CASE NO. 2011.0532T
Hearing Date: January 18, 2012
Parking, Awning, Signs, Exposure, Open Space, and LCUs

RECOMMENDATION: Approve with modifications

Attachments:
Summary of Portland Historic Preservation Zoning Incentives
Text from Planning Code Sections 187 and 608.14
Original case packet including the staff report and draft motion
Portland’s Zoning Code includes special provisions that encourage new historic listings and increase the potential for historic structures to be renovated and rehabilitated by increasing land use flexibility and redevelopment options. The incentives are not applicable in every situation and some apply only to certain types of resources. Many require a land use review and a covenant with the City. The summaries below include references to specific Zoning Code sections which include more detail. The code is available on the Bureau of Planning and Sustainability’s website:
http://www.portlandonline.com/bps/.

1. **Transfer of density or floor area ratio (FAR).** Allows unused development potential on a site with a Landmark to be transferred or sold to another site. Relieves redevelopment pressure and provides a potential source of income for historic buildings. See 33.445.610, 33.120.205.E, 33.130.205.C and 33.140.205.C.

2. **Additional density in single-dwelling zones.** Allows Landmarks in single-dwelling zones to be used as multi-dwelling structures. No additional parking is required. Provides an opportunity for more economic use of historic buildings. See section 33.445.610.

3. **Additional density in multi-dwelling zones.** Allows additional dwelling units in Landmarks and contributing properties in historic districts beyond what would normally be allowed, with no maximum density. Increases a property’s income potential and discourages demolition. See section 33.445.610.

4. **Exemption from minimum housing density requirements.** Eliminates minimum housing density requirements in Landmarks and contributing properties in historic districts. Increases building reconfiguration options by allowing development proposals to establish or reestablish residential densities lower than existing requirements. See section 33.445.610.

5. **Daycare in residential zones.** Waives the requirement for a conditional use review for daycare uses in Landmarks and contributing properties in historic districts in residential zones, eliminating the uncertainty and expense of that process. See section 33.445.610.

6. **Nonresidential uses in the RH, R1 and R2 zones.** Allows nonresidential uses, such as retail, office and others, in up to 100 percent of the floor area in a Landmark or contributing property in a historic district, if the structure has not been in residential use. Requires a land use review to minimize potential impacts on nearby residences. Encourages renovation and reuse of historic building types that do not lend themselves to reuse as dwellings (e.g., churches, meeting halls, and commercial storefront buildings). Promotes preservation by increasing redevelopment options and increasing income potential. See sections 33.445.610 and 33.846.050.

7. **Nonresidential uses in the RX zone.** Allows nonresidential uses, such as retail, office and others, in up to 100 percent of the floor area in a Landmark or contributing property in a historic district. Requires a land use review to minimize potential impacts on nearby residences. Increases development options and income potential. See sections 33.445.610 and 33.846.050.

8. **Conditional uses in residential, commercial and employment zones.** Allows requests for land uses in a Landmark or contributing property in a historic district that are only allowed through a conditional use review (for instance group living facilities or industrial services) to be processed through a Type II procedure, which is less expensive and time-consuming than the otherwise required Type III procedure. See section 33.445.610.
9. **Commercial allowances in Central City industrial zones.** Allows office and retail uses in individual National Register properties and contributing properties in National Register historic districts in zones where non-industrial uses are otherwise more restricted. Encourages preservation and reuse of historic, sometimes functionally obsolete buildings by providing additional development flexibility and higher income potential. See chapter 33.510.

10. **Commercial allowances in employment and industrial zones.** Increases allowances for office and retail uses in historic landmarks in areas where non-industrial use allowances are otherwise more restricted. Encourages reuse of historic, sometimes functionally obsolete industrial buildings by providing more development flexibility and income potential. See chapter 33.140.

11. **Increased maximum parking ratios for historic properties in the Central City.** Increases the maximum parking ratio for individual National Register buildings and contributing buildings in National Register historic districts in the Central City Core Parking Area. Allows “underparked” historic buildings to find new parking options and attract tenants. See section 33.510.263.

12. **Commercial allowances in the Guild’s Lake Industrial Sanctuary District.** Increases allowances for office and retail uses in historic landmarks in an area where non-industrial use allowances are otherwise more restricted. Encourages reuse of historic landmarks and provides additional development flexibility and higher income potential. See chapter 33.531.

For more information on the preservation incentives and to find out how you might benefit, contact the Bureau of Development Services: 503-823-7526. For more information on how to designate a property as a landmark, contact Liza Mickle, Bureau of Planning and Sustainability, 503-823-7666.

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**Preservation Incentive Success Story:**

**1914 Hibernian Hall Becomes the Wonder Ballroom**

After purchasing the 1914 Hibernian Hall on N Russell Street in June 2004, the new owners faced zoning restrictions that would have prohibited the performance space, art gallery and restaurant they had envisioned for the building. Seeing an opportunity, they applied for local historic landmark designation, which would allow them to apply for a recently adopted incentive that allows commercial uses in landmark structures in residential zones. With support from the neighborhood association, the landmark designation and zoning incentive were approved. The newly renovated and renamed Wonder Ballroom, now also listed on the National Register, opened in the summer of 2005, providing a new lease on life for an architectural and historical treasure and adding a new multi-faceted asset to Portland’s cultural landscape.
SEC. 187. GARMENT SHOPS AND GARMENT FACTORIES AS NONCONFORMING USES.

(a) A garment shop or a garment factory (as defined in the Building Code), existing on January 1, 1960, and located either in a commercial district or in a building having legal nonconforming commercial status under provisions of the City Planning Code in force on that date, shall be regarded as a legal nonconforming use under provisions of the City Planning Code becoming effective on May 2, 1960, if such shop or factory was brought into compliance with all applicable codes and ordinances prior to January 1, 1961. Permits of Occupancy must have been obtained prior to January 1961, by such shop or factory, and any shop or factory which failed to comply with all applicable codes and ordinances prior to that date shall have closed and discontinued all operations.

(b) Garment shops and garment factories located in an R District, except those having legal nonconforming status, shall have closed and ceased all operations by January 1, 1961.

(c) Garment shops and garment factories having legal nonconforming status in R, NC, and C Districts shall be subject to the provisions of Sections 180 through 185 of this Code as nonconforming uses. No such use shall be intensified by installation of additional machines.

(Added by Ord. 443-78, App. 10/6/78; amended by Ord. 69-87, App. 3/13/87)

SEC. 608.14. VINTAGE SIGNS.

(a) Restoration and Maintenance. Notwithstanding the provisions of Section 604(h) of this Code, signs which depict in text or graphic form a particular residential, business, cultural, economic, recreational, or other valued resource which is deemed by the Planning Commission to be a cultural artifact that contributes to the visual identity and historic character of a City neighborhood or the City as a whole shall be considered a vintage sign and allowed to be restored, reconstructed, maintained and technologically improved on a property by Conditional Use authorization of the Planning Commission provided that: (a) the vintage sign to be restored, reconstructed or technologically improved depicts a use, person, place, thing, cultural icon or other valued character or characteristics of the City or a City neighborhood that, at the time of the vintage sign authorization, is at least 40 years old; (b) at least 50 percent of the area of the sign remains legible, (c) the sign does not visually obstruct or significantly impair or detract from, by glare or any other means, a City landmark or public vista; (d) the sign is not larger than the sign that existed prior to the vintage sign authorization and does not appear to be more visually prominent than the sign that existed prior to the vintage sign authorization; and (e) the sign is maintained in good condition, repair and working order. Designation as a vintage sign under this Section does not by itself protect the sign from being obscured or removed by future development projects.

(b) Application for Vintage Sign Authorization. Prior to the scheduling of the Conditional Use hearing before the Planning Commission required by subsection (a), the applicant for a vintage sign authorization shall provide to the Department evidence in the form of photographs and/or documents demonstrating that:
(1) the sign proposed for vintage sign authorization is at least 40 years old; and

(2) the sign is a cultural artifact that depicts a particular residential, business, cultural, economic, recreational, or other valued resource of the past that contributes to the visual identity and character of a City neighborhood or the City as a whole.

(c) Application of Other Article 6 Requirements. Once a sign is authorized as a vintage sign under this Section, it is subject only to the requirements of this Section 608.14 and is exempt from all other provision of Article 6. However, any change of copy from the vintage-copy authorized by the Planning Commission or any enlargement or alteration shall be considered an abandonment of the vintage sign authorization and the sign shall then be considered a new sign subject to all the provisions of this Article 6. The addition of a frame to a painted wall sign shall not be considered an enlargement or alteration under this section.

(d) Removal of Vintage Sign. Once designated as a vintage sign under this Section, the sign may not be removed without Conditional Use authorization of the Planning Commission.

(e) Relocation. A three-dimensional vintage sign may be relocated to a new location with Conditional Use authorization of the Planning Commission. Relocation of a general advertising sign is subject to the provisions of Section 2.21 of the San Francisco Administrative Code and may not be relocated under this Section 608.14.

(f) Referral to Historic Preservation Commission. If the application for a vintage sign authorization under this Section 608.14 is not otherwise required to be referred to the Historic Preservation Commission under the San Francisco Charter or this Code, it is not required to be referred.


AMENDMENT HISTORY

Section header and section amended; Ord. 160-11, Eff. 8/31/2011.
Executive Summary

Code Text Change

HEARING DATE: DECEMBER 7, 2011

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

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

Initiated by: Supervisor Chiu / Introduced May 3, 2011

Staff Contact: Aaron Starr, Legislative Affairs
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Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
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Recommendation: Approval w/ modifications

PLANNING CODE AMENDMENT

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

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

Reduce off-street parking requirements in dense, mixed-use neighborhoods located near transit. San Francisco’s Code has provided for reduced parking requirements in dense and transit-rich neighborhoods since the 1960s, as a way of reducing traffic congestion, encouraging walking, cycling, and public transit, and making efficient use of scarce land. Code changes in the past decade have eliminated minimum parking requirements in many transit-rich areas of the City, including Rincon Hill (2005), Downtown (2006), The Market & Octavia Plan area (2008), Eastern Neighborhoods (2008), Balboa Park (2009) and for
residential uses in Chinatown, North Beach, and Telegraph Hill (2010). This proposed ordinance removes
the remaining parking requirements in Chinatown, North Beach, and lower Broadway areas, and reduces
residential parking requirements in the Van Ness corridor, which Proposition K (2003) designated as a
bus rapid transit corridor. The proposed ordinance would also permit administrative exceptions from
minimum parking requirements in the Fisherman’s Wharf area (Waterfront SUD #2), and facilitates
conversion of automobile service stations located on transit and pedestrian streets to other compatible
uses.

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

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

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

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

Hearing Date: December 7, 2011

Parking, Awning, Signs, Exposure, Open Space, & LCUs

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

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

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

PROPOSED CHANGES CONCERNING THE HISTORIC PRESERVATION COMMISSION

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

Limited Commercial Uses1 (LCUs):

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

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

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

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

Transfer of Development Rights (TDRs):

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

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

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1 “Limited Commercial Uses” are defined in Code § 186 as nonconforming uses and can be beneficial to or accommodated in Residential Districts. They are not permitted uses, but typically existed prior to changes in the Code that made them noncomplying.
and many districts in downtown have been built out, it’s necessary to liberalize the controls in order to
equalize the supply and demand ratio and keep the program alive.

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

Non Conforming Uses:

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

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

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

Historic Signs

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

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

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

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

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

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2 A "Nonconforming Use" is a use which was legally permitted at the time it was established, but which
currently fails to conform to one or more of the use limitations in the Code.
The proposed legislation would expand the ZA’s authority by allowing him to waive Dwelling Unit Exposure requirements for Article 11 buildings, consistent with the ZA’s current authority to waive Dwelling Unit Exposure requirements for Article 10 buildings. For Article 10 and 11 buildings it would also permit the ZA to allow off-site publicly accessible open space to be credited toward the residential open space requirements. The proposed legislation would also permit the ZA to waive or modify exposure requirements, rear yard requirements and open space requirements when converting a non-conforming use to a residential use, with certain restrictions and criteria.

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

REQUESTED COMMISSION ACTION

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

ENVIRONMENTAL REVIEW

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

PUBLIC COMMENT

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

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

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

The Port of San Francisco contacted the Department about how the proposed project would affect their properties. The Port has concerns about how some of the proposed amendments would apply to land under the jurisdiction of the Port Commission, especially in the context of the Port Commission’s duties and responsibilities under the San Francisco Charter and Burton Act. The Burton Act is the state...
legislation which promulgated the transfer of former State tidelands to the City and County of San Francisco. A more detailed response to the legislation will be coming from the Port in a separate letter.

Attachments:
Exhibit A: Draft Resolution
Exhibit B: Excerpts from Board of Supervisors File No. 11-0548

Please note, a full copy of Board File No. 11-0548 can be found by following this link:

PREAMBLE

Whereas, on May 3, 2011 Supervisor Chiu introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 11-0548 which would amend the San Francisco Planning Code by
repealing Sections 136.2, 136.3, 158, 187, 249.15, 263.2, 263.3, 602.25, 602.26, 607.3 and 607.4 and amending various other Code sections to (1) increase the amount of principally permitted parking spaces for dwellings in RC-4 and C-3 Districts, (2) make off-street parking requirements in the Van Ness Special Use District and RC-3 Districts consistent with those of RC-4 Districts, (3) eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts, (4) allow exceptions from required parking under specified circumstances, (5) amend the restrictions on off-street parking rates and extend them to additional zoning districts, (6) revise sign, awning, canopy and marquee controls in specified zoning districts, (7) increase the permitted use size for limited corner commercial uses in RTO and RM districts, and allow reactivation of lapsed limited commercial uses in R districts, (8) revise the boundaries of and modify parking and screening requirements in the Washington-Broadway and Waterfront Special Use Districts, (9) modify controls for uses and accessory uses in Commercial and Residential-Commercial Districts, (10) permit certain exceptions from exposure and open space requirements for historic buildings, and (11) modify conformity requirements in various use districts; and

Whereas, on January 18, 2012, the San Francisco Historic Preservation Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider aspects in the proposed Ordinance that directly impact Articles 10 and 11 buildings, and historic resources; and

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

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

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

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

COMMENTS

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

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2.

3.

4.
General Plan Compliance. The proposed Certificate of Appropriateness is, on balance, consistent with the following Objectives and Policies of the General Plan:

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

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

OBJECTIVE 1
EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

POLICY 1.3
Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2
CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4
Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2.5
Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

POLICY 2.7
Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco’s visual form and character.

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

Priority Policies. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:
The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

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

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

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

The City’s supply of affordable housing will be preserved and enhanced:

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

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

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

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.*

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

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

That landmark and historic buildings will be preserved:

*The proposed ordinance would allow Landmark and historic buildings to be adaptively reused more easily by exempting them from certain provisions in the Planning Code, which would reduce the amount of change that is required to add housing to historic buildings and help preserve them for the future.*
H) Parks and open space and their access to sunlight and vistas will be protected from development:

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

I hereby certify that the foregoing Motion was ADOPTED by the Historic Preservation Commission at its regularly scheduled meeting on January 18, 2012

Linda D. Avery
Commission Secretary

PRESENT:
ABSENT:
ADOPTED: January 18, 2012
Planning Commission  
Attn: Linda Avery 
1660 Mission Street, 5th Floor 
San Francisco, CA 94103

Dear Commissioners:

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

File No. 110548

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

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

Angela Calvillo, Clerk of the Board

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

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

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through italics Times New Roman. Board amendment additions are double-underline; Board amendment deletions are strikethrough normal.
Section 1. Findings.

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

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

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

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

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

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

(a) Awnings. All portions of any permitted awning shall be not less than eight feet above the finished grade, excluding any valance which shall not be less than seven feet above the finished grade. No portion of any awning shall be higher than the windowsill level of the lowest story (if any), exclusive
or east curbline of The Embarcadero (generally 60 feet inland from the waterfront line) and the Pier Head Line with boundaries as set by the Port Commission in any agreement entered into with a developer.

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

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

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

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

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

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

SEC. 602.25. HISTORIC MOVIE THEATER PROJECTING SIGN.

may occur with a change of ownership, change of A projecting business sign attached to a Qualified Movie Theater, as defined in Section 188(e)(1), when such sign was originally constructed in association with the Qualified Movie Theater or similar historic use. Such signs are typically characterized by (i) perpendicularity to the primary facade of the building, (ii) fixed display of the name of the establishment, often in large lettering descending vertically throughout the length of the sign, (iii) a narrow width that extends for a majority of the vertical distance of a building's facade, typically terminating at or slightly above the roofline, and (iv) an overall scale and nature such that the sign comprises a significant and character-defining architectural feature of the building to which it is
attached. Elimination or change of any lettering or other inscription from a movie theater projecting
sign, such as that which use, or closure does not preclude classification of the sign under this Section.

SEC. 602.26. HISTORIC MOVIE THEATER MARQUEE.

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

SEC. 607.3. VAN NESS SPECIAL SIGN DISTRICT.

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

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

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

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

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

<table>
<thead>
<tr>
<th>District</th>
<th>Lot Size Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chinatown Community Business</td>
<td></td>
</tr>
<tr>
<td>Chinatown Residential/Neighborhood Commercial</td>
<td></td>
</tr>
<tr>
<td>Chinatown Visitor Retail</td>
<td></td>
</tr>
</tbody>
</table>

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

1. The mass and facade of the proposed structure are compatible with the existing scale of the district.
2. The facade of the proposed structure is consistent with design features of adjacent facades that contribute to the positive visual quality of the district.

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

(a) Definitions.

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

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

3. "Preservation Lot." A parcel of land on which is either (i) a Significant or Contributory building (as designated pursuant to Article 11); or (ii) a Category V Building that has complied with the eligibility requirement for transfer of TDR as set forth in Section
1109(c); or (iii) a structure designated an individual landmark pursuant to Article 10 of this Code. The boundaries of the Preservation Lot shall be the boundaries of the Assessor's lot on which the building is located at the time the ordinance or, as to Section 1109(c), resolution, making the designation is adopted, unless boundaries are otherwise specified in the ordinance.

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

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

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

(b) **Amount of TDR Available for Transfer.** The maximum TDR available for transfer from a Transfer Lot consists of the difference between (i) the allowable gross floor area permitted on the Transfer Lot by Section 124 and (ii) the gross floor area of the development located on the Transfer Lot.
(c) **Eligibility of Development Lots and Limitation on Use of TDR on Development Lots.** TDR may be used to increase the allowable gross floor area of a development on a Development Lot if the following requirements and restrictions are satisfied:

1. Transfer of Development Rights shall be limited to the following:
   1. The Transfer Lot and the Development Lot are located in the same a C-3 Zoning District; or
   2. the Transfer Lot is located in a C-3-O, or C-3-R District and the Development Lot is located in the C-3-O(SD)-Special Development District; or
   3. the Transfer Lot contains a Significant building and is located in the South of Market Extended Preservation District, as set forth in Section 819, or a C-3-O or C-3-S District and the Development Lot is located in the C-3-O(SD)-Special District; or
   4. the Transfer Lot is in a C-3-R District or a District designated C-3-O(SD) in the Yerba Buena Center Redevelopment Plan and is located in the Yerba Buena Center Redevelopment Project Area and the Development Lot is located in a C-3-O District; or
   5. the Transfer Lot is in a P District adjacent to a C-3 District and meets the requirements established in subsection (a)(4) above and the Development Lot is located in a C-3 District; or
   6. the Transfer Lot is located in any C-3 District and contains an individual landmark designated pursuant to Article 10 and the Development Lot is located in any C-3 District but not within a Redevelopment Agency Plan Area.

2. TDR may not be transferred for use on any lot on which is or has been located a Significant or Contributory building; provided that this restriction shall not apply if the designation of a building is changed to Unrated; nor shall it apply if the City Planning Commission finds that the additional space resulting from the transfer of TDR is essential to make economically feasible the reinforcement of a Significant or Contributory building to meet
the standards for seismic loads and forces of the Building Code, in which case TDR may be transferred for that purpose subject to the limitations of this Section and Article 11, including Section 1111.6. Any alteration shall be governed by the requirements of Sections 1111 to 1111.6

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

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

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

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

(1) In order to obtain a determination of whether a lot is a Transfer Lot and, if it is, of the amount of TDR available for transfer, the owner of record of the lot may file an application with the Zoning Administrator for a Statement of Eligibility. The application for a Statement of Eligibility shall contain or be accompanied by plans and drawings and other information which the Zoning Administrator determines is necessary in order to determine whether a Statement...
of Eligibility can be issued. Any person who applies for a Statement of Eligibility prior to expiration of the time for request of reconsideration of designation authorized in Section 1105 shall submit in writing a waiver of the right to seek such reconsideration.

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

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

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

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

(3) If after an appeal to the Board of Permit Appeals it is determined that an unlawful alteration or demolition has occurred, or if no appeal is taken of the determination by the Zoning Administrator of such a violation, the Zoning Administrator shall record in the Office of the County Recorder a Notice of Cancellation of Eligibility for the lot, and shall mail to the property owner a conformed copy of the recorded Notice. In the case of demolition of a
Significant or Contributory Building, the Zoning Administrator shall record a Notice of Special
Restriction noting the restriction on the floor area ratio of the Preservation Lot pursuant to the
provisions of Section 1114, and shall mail to the owner of record a certified copy of the Notice.
If after an appeal to the Board of Permit Appeals it is determined that no unlawful alteration or
demolition has occurred, the Zoning Administrator shall issue and record a Notice of
Revocation of Suspension of Eligibility and, if applicable, a Notice of Revocation of the Notice
of Special Restriction pursuant to Section 1114, and shall mail conformed copies of the
recorded notices to the owner of record.

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

(g) Procedure for Transfer of TDR.

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

(2) When TDR are transferred, they shall be identified in each Certificate of Transfer
by a number. A single unit of TDR transferred from a Transfer Lot shall be identified by the
number "1." Multiple units of TDR transferred as a group for the first time from a Transfer Lot
shall be numbered consecutively from "1" through the number of units transferred. If a fraction
of a unit of TDR is transferred, it shall retain its numerical identification. (For example, if 5,000-
1/2 TDR are transferred in the initial transfer from the Transfer Lot, they would be numbered
"1 through 5,000 and one-half of 5,001.") TDR subsequently transferred from the Transfer Lot shall be identified by numbers taken in sequence following the last number previously transferred. (For example if the first units of gross floor area transferred from a Transfer Lot are numbered 1 through 10,000, the next unit transferred would be number 10,001.) If multiple units transferred from a Transfer Lot are subsequently transferred separately in portions, the seller shall identify the TDR sold by numbers which correspond to the numbers by which they were identified at the time of their transfer from the Transfer Lot. (For example, TDR numbered 1 through 10,000 when transferred separately from the Transfer Lot in two equal portions would be identified in the two Certificates of Transfer as numbers 1 through 5,000 and 5,001 through 10,000.) Once assigned numbers, TDR retain such numbers for the purpose of identification through the process of transferring and using TDR. The phrase "numerical identification," as used in this section, shall mean the identification of TDR by numbers as described in this Subsection.

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

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

(aa) Execution and acknowledgement by the original owner of TDR as the transferor(s) of the TDR; and

(bb) Execution and acknowledgment by the Zoning Administrator; and

(cc) A notice, prominently placed and in all capital letters, preceded by the underlined heading "Notice of Restriction," stating that the transfer of TDR from the Transfer Lot permanently reduces the development potential of the Transfer Lot by the amount of TDR transferred, with reference to the provisions of this Section.

(ii) For all transfers:

(aa) The address, legal description, Assessor's Block and Lot, and C-3 use district of the Transfer Lot from which the TDR originates; and

(bb) The amount and sale price of TDR transferred; and

(cc) Numerical identification of the TDR being transferred; and

(dd) The names and mailing addresses of the transferors and transferees of the TDR; and

(ee) Execution and acknowledgment by the transferors and transferees of the TDR; and

(ff) A reference to the Statement of Eligibility, including its recorded instrument number and date of recordation, and a recital of all previous transfers of the TDR, including the names of the transferors and transferees involved in each transfer and the recorded instrument number and date of recordation of each Certificate of Transfer involving the TDR, including the transfer from the Transfer Lot which generated the TDR.

(5) When a Certificate of Transfer for the transfer of TDR from a Transfer Lot is presented to the Zoning Administrator for execution, that officer shall not execute the document if a transfer of the TDR would be prohibited by any provision of this Section or any
other provision of this Code. The Zoning Administrator shall, within five business days from the date that the Certificate of Transfer is submitted for execution, either execute the Certificate of Transfer or issue a written determination of the grounds requiring a refusal to execute the Certificate.

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

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

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

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

(i) Information necessary to enable the Zoning Administrator to prepare the Notice of Use of TDR, which information shall be at least the following:
(aa) The address, legal description, Assessor's Block and Lot, and zoning classification of the Development Lot;

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

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

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

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

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

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

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

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

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

(2) If the Zoning Administrator determines that the TDR have not been and will not be
used on the Development Lot based on the reasons set forth in subsection (i)(1), the Zoning
Administrator shall prepare the Cancellation of Notice of Use of TDR. If only a portion of the
TDR which had been acquired are not being used, the applicant may identify which TDR will
not be used and the Cancellation of Notice of Use of TDR shall apply only to those TDR. The Zoning Administrator shall obtain on the Cancellation of Notice of Use of TDR the signature and acknowledgment of the owner of record of the Development Lot as to which the Notice of Use of TDR was recorded, shall execute and acknowledge the document, and shall record it in the office of the County Recorder.

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

(j) Erroneous Notice of Use; Revocation of Permit. If the Zoning Administrator determines that a Notice of Use of TDR was issued or recorded in error, that officer may direct the Superintendent Director of the Bureau Department of Building Inspection to suspend any permit issued for a project using such TDR, in which case the Superintendent Director of the Department of Building Inspection shall comply with that directive. The Zoning Administrator shall thereafter conduct a noticed hearing in order to determine whether the Notice of Use of TDR was issued or recorded in error. If it is determined that the Notice of Use of TDR was issued or recorded in error, the Superintendent of the Bureau Department of Building Inspection shall revoke the permit; provided, however, that no permit authorizing such project shall be revoked if the right to proceed thereunder has vested under California law. If it is determined
that the Notice of Use of TDR was not issued or recorded in error, the permit shall be reinstated.

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

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

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

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

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

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

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

(cc) a construction schedule; and

(dd) any other such information as the Department may require to determine compliance of this subsection 128(l).
All such work, shall comply with the Secretary of the Interior’s Standards for the Treatment of Historic Properties. The requirements of the approved Plan shall be recorded along with the final Statement of Eligibility in the Office of the County Recorder.

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

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

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

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

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

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

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

(b) Access. Usable open space shall be as close as is practical to the dwelling unit
(or bedroom in group housing) for which it is required, and shall be accessible from such
dwelling unit or bedroom as follows:
Section 166, and to promote and encourage those tenants and their employees to prioritize the use of car-share services for activities that necessitate automobile travel, including the promotion and sale of individual and business memberships in certified car-sharing organizations, as defined by Section 166(b)(2).

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

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

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

SEC. 182. NONCONFORMING USES: CHANGES OF USE.

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

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

(b) Except as limited in this Subsection, a nonconforming use may be reduced in size, extent or intensity, or changed to a use that is more widely permitted by the use districts of the
City than the existing use, subject to the other applicable provisions of this Code. Except as otherwise provided herein, the new use shall still be classified as a nonconforming use.

(1) Nonconforming commercial and industrial uses in a Residential or Residential Enclave District shall be subject to the requirements of Section 186 (other than a Residential Commercial Combined District or an RED District), which use is located more than ¼ mile from the nearest Individual Area Neighborhood Commercial District or Restricted Use Subdistrict described in Article 7 of this Code, may change to another use which is permitted as a principal use at the first story and below in an NC-1 District, or it may change to another use which is permitted as a conditional use at the first story and below in an NC-1 District only upon approval of a conditional use application pursuant to the provisions of Article 3 of this Code. If the nonconforming use is seeking to change in use to a retail sales activity or retail sales establishment which is also a formula retail use, as defined in Section 703.3 of this Code, it shall comply with the provisions of Section 703.3 of this Code. The nonconforming use shall comply with other building standards and use limitations of NC-1 Districts, as set forth in Sections 710.10 through 710.95 of this Code.

If the nonconforming use is located within ¼ mile from any Individual Area Neighborhood Commercial District or Restricted Use Subdistrict described in Article 7 of this Code, the nonconforming use may change to another use which is permitted as a principal use at the first story and below in an NC-1 District and in the Individual Area Neighborhood Commercial District or Restricted Use Subdistrict or Districts within ¼ mile of the use, or it may change to another use which is permitted as a conditional use at the first story and below in an NC-1 District and in the Individual Area Neighborhood Commercial District or Districts within ¼ mile of the use only upon approval of a conditional use application pursuant to the provisions of Article 3 of this Code. If the nonconforming use is seeking to change in use to a retail sales activity or retail sales establishment which is also a formula retail use, as defined in Section 703.3 of this Code, it shall comply with the provisions of Section 703.3 of this Code. The nonconforming use shall comply with other building standards and use limitations of NC-1 Districts, as set forth in Sections 710.10 through 710.95 of this Code.
limitations of NC-1 Districts and any Individual Area NC District or Districts located within 1/4 mile of the use, as set forth in Article 7 of this Code.

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

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

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

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

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

(d) A nonconforming use may be changed to a use listed in Articles 2, 7 or 8 of this Code as a principal use for the district in which the property is located, subject to the other...
applicable provisions of this Code, and the new use may thereafter be continued as a permitted principal use.

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

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

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

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

(2) Within any South of Market Mixed Use District, any area occupied by a nonconforming office use which is changed to an arts, home and/or business service use falling within zoning categories 102.2 or 816.42 through 816.47 or a wholesale, storage or
light manufacturing use falling within zoning categories 816.64 through 816.67 shall be
allowed to return to its former nonconforming office use.

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

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

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

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

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

(b) Any use of a type first permitted as a principal or conditional use in an NC, C or M
District or in a Residential-Commercial Combined District, when occupying a building in an R
District other than a Residential-Commercial Combined District that has an assessed valuation
not in excess of $500 on the effective date of this Code or such later date as the use becomes
nonconforming, with the following exceptions:

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

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

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

The purpose of this Section is to provide for the further continuance in RH, RM, RTO,
and RED Districts of nonconforming uses of a limited commercial and industrial character, as
herein described, which are beneficial to, or can be accommodated within, the residential
areas in which they are located. It is hereby found and declared that, despite the general
incompatibility of nonconforming uses with the purposes of this Code, and with other nearby
uses, these limited commercial uses may be tolerated in residential areas, and tend to provide
convenience goods and services on a retail basis to meet the frequent and recurring needs of
neighborhood residents within a short distance of their homes or, within the South of Market
RED Districts, tend to provide jobs and continuation of small scale service and light industrial
activities. These uses tend to be small in scale, to serve primarily a walk-in trade, and cause a
minimum of interference with nearby streets and properties. Accordingly, this Section
recognizes the public advantages of these uses and establishes conditions for their continued
operation.

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

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

2. Any nonconforming use in an RH or RM District which is located within ¼ mile from
   any Individual Area Neighborhood Commercial District or restricted use subdistrict and which
   complies with the most restrictive use limitations specified for the first story and below of:
   (A) NC-1 District, as set forth in Sections 710.10 through 710.95 of this Code; and
   (B) Any Individual Area Neighborhood Commercial District within ¼ mile of the use, as
   set forth in Sections 714.10 through 729.95 of this Code;
   (C) Any Restricted Use Subdistrict within ¼ mile of the use, as set forth in Sections
   781 through 781.7 of this Code.

3. In the RED Districts, any nonconforming use which is a personal service use falling
   within zoning category 816.31; home and business service use falling within zoning categories
816.42 through 816.47; live/work unit falling within zoning category 816.55; wholesale sales, storage or light manufacturing uses falling within zoning categories 816.64 through 816.67.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. the subject space is located on or below the ground floor, and was in commercial or
   industrial use prior to January 1, 1960;
2. the subject space has not been converted to a dwelling unit; and
3. the proposed commercial use meets all the requirements of this section, and other
   applicable sections of this Code.

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

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

**SEC. 188. NONCOMPLYING STRUCTURES; ENLARGEMENTS, ALTERATIONS AND
RECONSTRUCTION.**
approving installation of the garage, the Commission shall find that: (1) the proposed garage opening/addition of off-street parking will not cause the "removal" or "conversion of residential unit," as those terms are defined in Section 317 of this Code; (2) the proposed garage opening/addition of off-street parking will not substantially decrease the livability of a dwelling unit without increasing the floor area in a commensurate amount; (3) the building has not had two or more "no-fault" evictions, as defined in 37.9(a)(7)—(13) of the San Francisco Administrative Code, with each eviction associated with a separate unit(s) within the past ten years, (4) the garage would not front on a public right-of-way narrower than 41 feet, and (5) the proposed garage/addition of off-street parking installation is consistent with the Priority Policies of Section 101.1 of this Code.

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

SEC. 262. ADDITIONAL HEIGHT LIMITS APPLICABLE TO SIGNS.

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

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

SEC. 307. OTHER POWERS AND DUTIES OF THE ZONING ADMINISTRATOR.
In addition to those specified in Sections 302 through 306, and Sections 316 through 316.8 of this Code, the Zoning Administrator shall have the following powers and duties in administration and enforcement of this Code. The duties described in this Section shall be performed under the general supervision of the Director of Planning, who shall be kept informed of the actions of the Zoning Administrator.

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

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

(c) **Inspection of Premises.** In the performance of any prescribed duties, the Zoning Administrator and employees of the Planning Department authorized to represent the Zoning Administrator shall have the right to enter any building or premises for the purposes of investigation and inspection; provided, that such right of entry shall be exercised only at reasonable hours, and that in no case shall entry be made to any building in the absence of the owner or tenant thereof without the written order of a court of competent jurisdiction.
(d) **Code Maintenance.** The Zoning Administrator shall periodically review and study the effectiveness and appropriateness of the provisions of this Code, for the purpose of recommending necessary changes to the Director of Planning and the Planning Commission.

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

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

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

(1) **Applicability.**

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

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

(C) **Residential Open Space for Historic Buildings.** For a landmark building designated per Article 10 of this Code, a contributing building located within a designated historic district per Article 10, or any building designated Category I-IV per Article 11 of this Code, the provision of off-site
(publicly accessible open space, meeting the requirements of Section 135(h), may be credited toward the residential usable open space requirement.

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

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

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

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

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

(i) **Criteria for the Reduction or Modification of Off-Street Parking Requirements.** In approving a reduction or modification of off-street requirements authorized by this Code, the Zoning Administrator or the Planning Commission shall consider and apply the following criteria:

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

SEC. 309.1 PERMIT REVIEW IN DOWNTOWN RESIDENTIAL DISTRICTS.

The provisions and procedures set forth in this Section shall govern the review of project authorization and building and site permit applications for the construction or substantial alteration of structures in Downtown Residential districts, the granting of exceptions to requirements of this Code, and the imposition of modifications necessary to achieve the objectives and policies of the General Plan and the purposes of this Code as provided for in Section 827 and elsewhere. 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.

(a) Design Review.

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

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

SEC. 602.9. HISTORIC SIGNS AND HISTORIC SIGN DISTRICTS.

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

(b) Definitions.

(1) Historic Sign. An Historic Sign is a sign that depicts a land use, a business activity, a public activity, a social activity or historical figure or an activity or use that recalls the City’s historic past, as further defined in Section 608.14 of this Code, and as permitted by Sections 303 and 608.14 of this Code.
An historic sign district is a specific geographic area depicted on the Zoning Map of the City and County of San Francisco, pursuant to Section 302 of this Code, within which historic signs may be permitted by conditional use authorization by the Planning Commission pursuant to Sections 303 and 608.14 of this Code.

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

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

(2) **Qualified Movie Theater.** A building that: (A) is currently or has been used as a movie theater; and (B) is listed on or eligible for listing on the National Register of Historic Places or the California Register of Historical Resources, designated a City Landmark or a contributor to a City Landmark District under Article 10, or designated as a Significant or Contributory Building under Article 11.
(c) **Application for Historic Sign Authorization.** Prior to the scheduling of the Conditional Use hearing before the Planning Commission required by subsection (a), the applicant for a historic sign authorization shall provide to the Department evidence in the form of photographs and/or documents demonstrating that:

1. the sign proposed for historic authorization is at least 40 years old; and
2. the sign depicts a particular residential, business, cultural, economic, recreational, or other valued resource of historic value and contributes to the visual identity and historic character of a City neighborhood or the City as a whole.

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

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

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

2. **Relocation.** A Historic Sign may be relocated elsewhere on the building to accommodate a new sign. A Historic Sign may also be relocated to a public space inside the building, such as in the...
lobby or above the bar in a restaurant. This option is less preferable than keeping the sign outside the building, but preserves the sign on site, and leaves open the possibility of putting it back in its historic location.

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

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

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

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

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

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

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

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

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

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

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

SEC. 602.24. WINDOW SIGN.

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

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

(b) **Applicability of Section.** The provisions of this Section 604 shall apply to work of the above types on all signs unless specifically exempted by this Code, whether or not a permit for such sign is required under the San Francisco Building Code. In cases in which permits are not required under the Building Code, applications for permits shall be filed with the Central Permit Bureau of the Department of Building Inspection on forms prescribed by the
Planning Department of Planning, together with a permit fee of $5.00 for each sign, and the permit number shall appear on the completed sign in the same manner as required by the Building Code.

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

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

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

(f) **Change of Copy.** A mere change of copy on a sign the customary use of which involves frequent and periodic changes of copy shall not be subject to the provisions of this Section 604, except that a change from general advertising to nongeneral advertising sign copy or from nongeneral advertising to general advertising sign copy or an increase in area including, but not limited to, any extensions in the form of writing, representation, emblem or any figure of similar character shall in itself constitute a new sign subject to the provisions of this Section 604. In the case of signs the customary use of which does not involve frequent and periodic changes of copy, a change of copy shall in itself constitute a new sign subject to
the provisions of this Section 604 if the new copy concerns a different person, firm, group, organization, place, commodity, product, service, business, profession, enterprise or industry.

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

(h) **Nonconforming Signs; Replacement, Alteration, Reconstruction, Relocation, Intensification, or Expansion.** Unless otherwise provided in this Code or in other Codes or regulations, a lawfully existing sign which fails to conform to the provisions of this Article 6 shall be brought into conformity may remain until when the activity for which the sign has been posted ceases operation or moves to another location, when a new building is constructed, or at the end of its normal life. Such sign may not, however, be replaced, altered, reconstructed, relocated, intensified or expanded in area or in any dimension except in conformity with the provisions of this Code, including Subsection (i) below and Section 602.9 for historic signs. Ordinary maintenance and minor repairs shall be permitted, but such maintenance and repairs shall not include replacement, alteration, reconstruction, relocation, intensification or expansion of the sign; provided, however, that alterations of a structural nature required to reinforce a part or parts of a lawfully existing sign to meet the standards of seismic loads and forces of the Building Code, to replace a damaged or weathered signboard, to ensure safe use and maintenance of that sign, to remediate hazardous materials, or any combination of the above alterations shall be considered ordinary maintenance and shall be allowed. A sign which is damaged or destroyed by fire or other calamity shall be governed by the provisions of Sections 181(d) and 188(b) of this Code.
A sign which is voluntarily destroyed or removed by its owner or which is required by law to be removed may be restored only in full conformity with the provisions of this Code, except as authorized in Subsection (i) below. A general advertising sign that has been removed shall not be reinstalled, replaced, or reconstructed at the same location, and the erection, construction, and/or installation of a general advertising sign at that location to replace the previously existing sign shall be deemed to be a new sign in violation of Section 611(a) of this Code; provided, however, that such reinstallation, replacement, or reconstruction pursuant to a permit duly issued prior to the effective date of this requirement shall not be deemed a violation of Section 611(a) and shall be considered a lawfully existing nonconforming general advertising sign; and further provided that this prohibition shall not prevent a general advertising sign from being relocated to that location pursuant to a Relocation Agreement and conditional use authorization under Sections 611 and 303(l) of this Code and Section 2.21 of the San Francisco Administrative Code.

(i) Business Signs. When the activity for which a business sign has been posted has ceased operation for more than 90 days, all signs pertaining to that business activity shall be removed after that time. A lawfully existing business that is relocating to a new location within 300 feet of its existing location within the North Beach Neighborhood Commercial District described in Sections 702.1 and 722.1 of this Code may move to the new location within said North Beach Neighborhood Commercial District one existing business sign together with its associated sign structure, whether or not the sign is nonconforming in its new location; provided, however, that the sign is not intensified or expanded in area or in any dimension except in conformity with the provisions of this Code. With the approval of the Zoning Administrator, however, the sign structure may be modified to the extent mandated by the Building Code. In no event may a painted sign or a sign with flashing, blinking, fluctuating or other animated light be relocated unless in conformity with current code requirements applicable to its new location. In addition,
the provisions of Articles 10 and 11 of this Code shall apply to the relocation of any sign to a
location regulated by the provisions of said Articles.

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

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

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

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

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

SEC. 606. RESIDENTIAL DISTRICTS.

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

(a) General Provisions for All Signs.
LEGISLATIVE DIGEST

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

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

Amendments to Current Law

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

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

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

Accessory uses in Commercial, Residential-Commercial, and Industrial Districts
Section 204.3 is amended to:
• Increase the maximum permitted size of an accessory use in Commercial and Industrial Districts from one-quarter to one-third of the gross floor area.
• Remove limitations on the number of employees for an accessory use in a C-2 district.
• Remove maximum horsepower permitted for machines in accessory uses in Commercial Districts.
• Require that mechanical noise, vibration, or unhealthful emissions from accessory uses in Commercial Districts not extend outside the premises.
• Subject accessory uses in RC districts to the requirements of Commercial Districts rather than those of Residential Districts.

Parking and Automotive Uses
Sections 151, 151.1, 155, 155.1, 155.4, 156, 157, 157.1, 158, 158.1, 161, 163, 223, 228, and 243 are amended to:
• Increase the number of principally permitted parking spaces from one for every four units to one for every two units in C-3 Districts, and from 3 for every 8 units to one for every two units in RC Districts.
• Decrease the minimum number parking spaces required in RC-3 Districts and the Van Ness Special Use District from one space per unit to one space for every four units.
• Eliminate minimum parking requirements for the Chinatown Mixed Use Districts and North Beach Neighborhood Commercial Districts.
• Permit exceptions from parking requirements where providing required parking would remove a transit stop, compromise a building’s earthquake safety or create a geologic hazard.
• Amend the pricing requirements for commuter parking to permit a discounted daily rate for use outside commute hours, and to extend these requirements to commuter parking in Residential-Commercial and South of Market Mixed Use Districts and the Washington-Broadway Special Use District.
• Expand bicycle parking requirements to include all uses.
• Extend transportation brokerage requirements to all non-residential projects over 100,000 square feet in Commercial and Mixed Use Districts.
• Consolidate various automotive use definitions in C, M, and PDR Districts with those for Mixed-Use Districts.
• Remove exceptions permitting non-accessory parking above the ground floor, and permitting exceptions from parking screening requirements, in C-3 Districts.
• Consolidate the conditional use findings for non-accessory parking in C-3 Districts in a single section.
• Allow automobile service stations on transit-priority and major pedestrian streets to be converted to another use without conditional use authorization, and amend the
conditional use criteria for conversion to include consideration of transportation impacts of the existing and proposed use.

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

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

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

**Limited Commercial Uses in Residential Districts**

Sections 186, 209.9, and 231 are amended to:

- Increase the maximum size of new limited corner commercial uses permitted in RTO, RM-3 and RM-4 districts from 1250 to 2500 square feet, and permit them to extend more than 50’ from a street corner.
- Require conditional use authorization to convert all or part of a dwelling to a limited corner commercial use.
- Permit Limited Commercial Uses to be reestablished in spaces which were in a commercial use before 1960, which have not been converted to a dwelling, and which conform to current code requirements, with Conditional Use authorization.
- Define commercial uses conditionally permitted in historic buildings in Residential Districts those permitted in an NC-1 district rather than an RC-1 district.
Washington-Broadway and Waterfront Special Use Districts.
Sections 161, 239, 240, 240.1, 240.2, and 240.3 are amended to:
- Consolidate the two Washington-Broadway SUDs into a single district, limited to the C-2 zoned areas between Washington and Broadway Streets.
- Permit exceptions from parking requirements in Waterfront SUD #3.
- Remove parking screening requirements for the Waterfront Special Use Districts, so that the citywide screening requirements of Section 143 apply.
- Delete height limit exceptions for buildings on piers in 84’ height districts, as such height limits no longer exist on the historic piers.

Conformity, Changes of Use, and Other Building Requirements
Sections 136, 138.1, 135, 140, 182, 184, and 307 are amended to:
- Expand the exception from residential density limits and minimum parking requirements when converting non-conforming uses in existing buildings to residential uses in all districts where residential uses are principally permitted.
- Permit exceptions from dwelling unit exposure and residential open space requirements when converting historic buildings to residential use.
- Remove the exception for parking lots in C-3 districts from the conformity requirements for uses not in an enclosed building.
- Construction of basement spaces under public streets and alleys is no longer permitted.
- Permit the Planning Department to require, as a condition of approval, that non-conforming encroachments onto public rights-of-way be removed or brought into conformity with current standards when projects are newly constructed or undergo major additions or major changes of use.
- Extend rooftop screening requirements to Chinatown Mixed Use Districts.
- Permit Dwellings to face onto alleys as narrow as 20’, rather than 25’.

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

Background

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

Reduce off-street parking requirements in dense, mixed-use neighborhoods located near transit. San Francisco’s Planning Code has provided for reduced parking requirements in dense and transit-rich neighborhoods since the 1960s, as a way of reducing traffic congestion, encouraging walking, cycling, and public transit, and making efficient use of scarce land. Planning Code changes in the past decade have eliminated minimum parking
requirements in many transit-rich areas of the City, including Rincon Hill (2005), Downtown (2006), The Market & Octavia Plan area (2008), Eastern Neighborhoods (2008), Balboa Park 2009) and for residential uses in Chinatown, North Beach, and Telegraph Hill (2010). This ordinance removes the remaining parking requirements in Chinatown, North Beach, and lower Broadway areas, and reduces residential parking requirements in the Van Ness corridor, which Proposition K (2003) designated as a bus rapid transit corridor. The ordinance also permits administrative exceptions from minimum parking requirements in the Fisherman’s Wharf area (Waterfront SUD #2), and facilitates conversion of automobile service stations located on important transit and pedestrian streets to other compatible uses.

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

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

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

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

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

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