

BOARD of SUPERVISORS



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MEMORANDUM

Date: October 11, 2023
To: Planning Department / Commission
From: John Carroll, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230863 - SUBSTITUTED
Planning Code - Exceptions from Limits on Conversion of Production, Distribution
and Repair, Institutional Community, and Arts Activities Uses in Eastern
Neighborhood Plans Areas

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure
- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan
 - Planning Code, Section 101.1
 - Planning Code, Section 302
- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

1 [Planning Code - Exceptions from Limits on Conversion of Production, Distribution and
2 Repair, Institutional Community, and Arts Activities Uses in Eastern Neighborhood Plans
Areas]

3 **Ordinance amending the Planning Code to exempt from the limitations on conversion**
4 **of certain Production, Distribution and Repair (“PDR”), Institutional Community, and**
5 **Arts Activities uses in the Eastern Neighborhoods Plans Areas (Mission, Eastern SoMa,**
6 **Western SoMa, and Central SoMa), changes of use from one of those uses to another**
7 **of those uses or to Institutional uses; affirming the Planning Department’s**
8 **determination under the California Environmental Quality Act; and making public**
9 **necessity, convenience, and welfare findings under Planning Code, Section 302, and**
10 **findings of consistency with the General Plan, and the eight priority policies of**
11 **Planning Code, Section 101.1.**

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

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

19 Section 1. Environmental and Land Use Findings.

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

1 (b) On _____, the Planning Commission, in Resolution No. _____,
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
5 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
7 amendments will serve the public necessity, convenience, and welfare for the reasons set
8 forth in Planning Commission Resolution No. _____, and the Board adopts such
9 reasons as its own. A copy of said resolution is on file with the Clerk of the Board of
10 Supervisors in File No. _____ and is incorporated herein by reference.

11
12 Section 2. Article 2 of the Planning Code is hereby amended by revising Section
13 202.8, to read as follows:

14 **SEC. 202.8. LIMITATION ON CONVERSION OF PRODUCTION, DISTRIBUTION,**
15 **AND REPAIR USE, INSTITUTIONAL COMMUNITY USE, AND ARTS ACTIVITIES USE.**

16 The following controls shall apply in the following Eastern Neighborhoods Plans Areas:
17 Mission; Eastern SoMa; Western SoMa; and, if adopted, Central SoMa. Notwithstanding any
18 other provision of this Code, conversion of building space where the prior use in such space
19 was a Production, Distribution, and Repair (PDR) use of at least 5,000 square feet, an
20 Institutional Community use of at least 2,500 square feet, or an Arts Activities use, all as
21 defined in Section 102, through change in use or any other removal, including but not limited
22 to demolition of a building that is not unsound, shall be subject to the following requirements;
23 except that this Section 202.8 shall not apply to conversions of any use listed above to any other use
24 listed above, or to Institutional uses, in the areas that, as of July 1, 2016, were zoned SALI, MUO, SLI,
25 MUG, or MUR:

1 (a) To preserve the existing stock of building space suitable for PDR, Institutional
2 Community, and Arts Activities uses, such conversion shall, if located within the following
3 zoning districts, require conditional use authorization under Section 303 and the space
4 proposed for conversion shall be replaced in compliance with the following criteria:

5 * * * *

6 (6) In the UMU, Rreplacement space for PDR and Arts Activities use may be
7 used for either PDR or Arts Activities use, regardless of which of those uses is proposed for
8 conversion. Replacement space for Institutional Community use shall be used for Institutional
9 Community use.

10 * * * *

11
12 Section 3. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor’s veto of the ordinance.

16
17 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
18 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
19 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
20 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
21 additions, and Board amendment deletions in accordance with the “Note” that appears under
22 the official title of the ordinance.

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1 Section 5. In accordance with subsection (i) of Planning Code Section 202.8, which
2 was enacted by the voters as Proposition X at the November 8, 2016 election, passage of this
3 ordinance requires at least a two-thirds vote (i.e., eight members) of the Board of Supervisors.
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6 APPROVED AS TO FORM:
7 DAVID CHIU, City Attorney

8 By: /s/ Andrea Ruiz-Esquide
9 ANDREA RUIZ-ESQUIDE
Deputy City Attorney

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LEGISLATIVE DIGEST

(Substituted 10/3/2023)

[Planning Code - Exceptions from Limits on Conversion of Production, Distribution and Repair, Institutional Community, and Arts Activities Uses in Eastern Neighborhood Plans Areas]

Ordinance amending the Planning Code to exempt from the limitations on conversion of certain Production, Distribution and Repair (“PDR”), Institutional Community, and Arts Activities uses in the Eastern Neighborhoods Plans Areas (Mission, Eastern SoMa, Western SoMa, and Central SoMa), changes of use from one of those uses to another of those uses or to Institutional uses; affirming the Planning Department’s determination under the California Environmental Quality Act; and making public necessity, convenience, and welfare findings under Planning Code, Section 302, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Section 202.8 of the Planning Code sets forth limitations on conversion of Production, Distribution, and Repair (“PDR”) uses, Institutional Community uses, and Arts Activities uses in the Eastern Neighborhoods Plans Areas of Mission, Eastern SoMa, Western SoMa, and Central SoMa. With some exemptions, it requires specific replacement requirements for conversion of building space where the prior use was:

- a PDR use of at least 5,000 square feet,
- an Institutional Community use of at least 2,500 square feet, or
- an Arts Activities use, as these terms are defined in Section 102 of the Planning Code.

The replacement requirements apply to conversions carried out “through change in use or any other removal, including but not limited to demolition of a building that is not unsound.” The Code defines “unsound” for these purposes as “a building for which rehabilitation to comply with City Codes for continued use as PDR, Institutional Community, or Arts Activities use, as applicable, would cost 50% or more of the cost to construct a comparable building.”

Amendments to Current Law

This ordinance amends Section 202.8 to exempt from the replacement requirements changes of use from one listed use (that is, PDR, Institutional Community, or Arts Activities uses) to another listed use, or to Institutional uses, in the areas that, as of July 1, 2016, were zoned SALI, MUO, SLI, MUG or MUR.

Background Information

Section 202.8 of the Planning Code was enacted by the voters as Proposition X at the November 8, 2016 election. Proposition X authorizes the Board of Supervisors to amend Section 202.8, with a supermajority vote (i.e., eight members) of the Board of Supervisors.

This ordinance is substitute legislation for the ordinance in Board of Supervisors File No. 230863, which was introduced by Supervisor Dorsey on July 25, 2023.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor: