

1 [Planning Code - Including Financial Services Within Definition of Formula Retail]

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3 **Ordinance amending the San Francisco Planning Code by: 1) amending Section**
4 **703.3(c) to include financial services within the uses subject to formula retail controls**
5 **in Neighborhood Commercial Districts; 2) amending Section 806.3(c) including**
6 **financial services within the uses subject to formula retail controls in Mixed Use**
7 **Districts; 3) amending Section 303.3(i) making conforming amendments; and 4) making**
8 **findings, including environmental findings, Planning Code Section 302 findings, and**
9 **findings of consistency with the General Plan and with the Priority Policies of Planning**
10 **Code Section 101.1.**

11 NOTE: Additions are *single-underline italics Times New Roman*;
12 deletions are ~~*strike-through italics Times New Roman*~~.
13 Board amendment additions are double-underlined;
14 Board amendment deletions are ~~strike through normal~~.

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

16 Section 1. Findings.

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

21 (b) Pursuant to Planning Code Section 302, this Board finds that the actions
22 contemplated in this ordinance will serve the public necessity, convenience, and welfare for
23 the reasons set forth in Planning Commission Resolution No. _____ and the Board
24 incorporates such reasons herein by reference. A copy of Planning Commission Resolution
25 No. _____ is on file with the Clerk of the Board of Supervisors in File No. _____.

1 (c) This Board finds that the actions contemplated in this ordinance are consistent with
2 the General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons
3 set forth in Planning Commission Resolution No. _____ and the Boar hereby
4 incorporates such reasons herein by reference.

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6 Section 2. The San Francisco Planning Code is hereby amended by amending Section
7 703.3(c), to read as follows:

8 **SEC. 703.3. FORMULA RETAIL USES.**

9 (c) "Retail ~~s~~Sales ~~a~~Activity or ~~r~~Retail ~~s~~Sales ~~e~~Establishment" shall include the following
10 uses, as defined in Article 7 of this Code: "bar," "drive-up facility," "eating and drinking use,"
11 "liquor store," "restaurant, large fast-food," "restaurant, small self-service," "restaurant, full-
12 service," "sales and service, other retail," "sales and service, retail," "service, financial,"
13 "movie theatre," "video store," "amusement and game arcade," "take-out food," and "specialty
14 food, self-service."

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16 Section 3. The San Francisco Planning Code is hereby amended by amending Section
17 803.6(c), to read as follows:

18 **SEC. 803.6. FORMULA RETAIL USES IN THE CHINATOWN MIXED USE**
19 **DISTRICTS AND IN THE WESTERN SOMA PLANNING AREA SPECIAL USE**
20 **DISTRICT.**

21 (c) Formula Retail Use Defined. Formula retail use is hereby defined as a type of
22 retail sales activity or retail sales establishment which, along with eleven or more other retail
23 sales establishments located in the United States, maintains two or more of the following
24 features: a standardized array of merchandise, a standardized façade, a standardized décor
25 and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

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

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

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

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

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

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

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

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

20 (9) "~~Retail~~ ~~Sales~~ ~~Activity~~ or ~~Retail~~ ~~Sales~~ ~~Establishment~~" shall include the following
21 uses, as defined in Article 8 of this Code: "bar," "drive-up facility," "eating and drinking use,"
22 "restaurant, large fast-food," "restaurant, small fast-food," "restaurant, full-service," "sales and
23 services, other retail," "sales and services, nonretail," "service, financial," "movie theater,"
24 "amusement game arcade," and "take-out food."
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1 Section 4. The San Francisco Planning Code is hereby amended by amending Section
2 303(i), to read as follows:

3 **SEC. 303. CONDITIONAL USES.**

4 **(i) Formula Retail Uses.**

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

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

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

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

19 (D) Decor shall be defined as the style of interior furnishings, which may include but is
20 not limited to, style of furniture, wall coverings or permanent fixtures.

21 (E) Color Scheme shall be defined as selection of colors used throughout, such as on
22 the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

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

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

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

6 **(2) “Retail ~~s~~Sales ~~a~~Activity or ~~r~~Retail ~~s~~Sales ~~e~~Establishment.”** *For the purposes of*
7 *subsection (i), a A retail sales activity or retail sales establishment shall include the following*
8 *uses, as defined in Article 7 and Article 8 of this Code: “bar,” “drive-up facility,” “eating and*
9 *drinking use,” “liquor store,” “restaurant, large fast-food,” “restaurant, small self-service,”*
10 *“restaurant, full-service,” “sales and service, other retail,” “sales and service, retail,” “service,*
11 *financial,” “movie theatre,” “video store,” “amusement and game arcade,” “take-out food,” and*
12 *“specialty food, self-service.”*

13 **(3) Conditional Use Criteria.** With regard to a conditional use authorization
14 application for a formula retail use, the Planning Commission shall consider, in addition to the
15 criteria set forth in Subsection (c) above:

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

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

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

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

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

23 **(4) Conditional Use Authorization Required.** A Conditional Use Authorization shall
24 be required for a formula retail use in the following zoning districts unless explicitly exempted:

25 (A) All Neighborhood Commercial Districts in Article 7;

- 1 (B) All Mixed Use-General Districts in Article 8;
- 2 (C) All Urban Mixed Use Districts in Article 8;
- 3 (D) RC-3 and RC-4 zoned parcels along Van Ness Avenue;
- 4 (E) Japantown Special Use District as defined in Section 249.31;
- 5 (F) Chinatown Community Business District as defined in Section 810;
- 6 (G) Chinatown Residential/Neighborhood Commercial District as defined in 812;
- 7 (H) Western SoMa Planning Area Special Use District as defined in 802.5.

8 **(5) Formula Retail Uses Not Permitted.** Formula Retail Uses are not permitted in
9 the following zoning districts:

- 10 (A) Hayes-Gough Neighborhood Commercial Transit District;
- 11 (B) North Beach Neighborhood Commercial District;
- 12 (C) Chinatown Visitor Retail District.

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

17 **(7) Change in Use.** A change from one formula retail use to another requires a new
18 Conditional Use Authorization, whether or not a Conditional Use Authorization would
19 otherwise be required by the particular change in use in question. This Conditional Use
20 Authorization requirement also applies in changes from one Formula Retail operator to
21 another within the same use category. A new Conditional Use Authorization shall not apply to
22 a change in a formula use retailer that meets the following criteria:

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

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1 (B) the change in the formula retail use operator is the result of the business being
2 purchased by another formula retail operator who will retain all components of the existing
3 retailer and make minor alterations to the establishment(s) such as signage and branding.

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

9 **(8) Determination of Formula Retail Use.** In those areas in which “formula retail
10 uses” are prohibited, any building permit application determined by the City to be for a
11 “formula retail use” that does not identify the use as a “formula retail use” is incomplete and
12 cannot be processed until the omission is corrected. Any building permit approved that is
13 determined by the City to have been, at the time of application, for a “formula retail use” that
14 did not identify the use as a “formula retail use” is subject to revocation at any time. If the City
15 determines that a building permit application or building permit subject to this Section of the
16 Code is for a “formula retail use,” the building permit application or holder bears the burden of
17 proving to the City that the proposed or existing use is not a “formula retail use.”
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19 Section 5. Effective Date. This ordinance shall become effective 30 days from the
20 date of passage.

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22 Section 6. This section is uncodified. In enacting this Ordinance, the Board intends to
23 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
24 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
25 explicitly shown in this legislation as additions, deletions, Board amendment additions, and

1 Board amendment deletions in accordance with the "Note" that appears under the official title
2 of the legislation.

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

6 By: _____
7 ANDREA RUIZ-ESQUIDE
8 Deputy City Attorney

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