

BOARD of SUPERVISORS



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MEMORANDUM

TO: Katy Tang, Director
Small Business Commission, City Hall, Room 448

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: August 7, 2025

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 250816

Ordinance amending the Planning Code to reduce restrictions on Formula Retail uses by 1) modifying the definition of a Formula Retail use; 2) eliminating the Conditional Use Authorization requirement for Formula Retail Accessory Uses, Formula Retail Temporary Uses, and certain changes of use for Formula Retail uses; 3) eliminating the prohibition on changes of use for non-conforming Formula Retail uses; 4) eliminating the requirement for an economic impact study for specified large Formula Retail uses; 5) eliminating the restrictions regarding Formula Retail use concentration in the Upper Market Street Neighborhood Commercial District; 6) allowing one or more Formula Retail Restaurants or Limited Restaurants inside a General Grocery store under a single Conditional Use authorization; and 7) principally permitting Formula Retail uses in spaces larger than 10,000 square feet in the RC (Residential-Commercial) and RTO (Residential Transit Oriented) Districts; and 8) to eliminate use size limits for Retail Sales and Service uses, other than Gyms, in the Potrero Center Mixed-Use Special Use District; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c:
Office of Chair Melgar
Kerry Birnbach, Senior Policy Analyst/Commission Secretary

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission

[Planning Code - Formula Retail]

Ordinance amending the Planning Code to reduce restrictions on Formula Retail uses by 1) modifying the definition of a Formula Retail use; 2) eliminating the Conditional Use Authorization requirement for Formula Retail Accessory Uses, Formula Retail Temporary Uses, and certain changes of use for Formula Retail uses; 3) eliminating the prohibition on changes of use for non-conforming Formula Retail uses; 4) eliminating the requirement for an economic impact study for specified large Formula Retail uses; 5) eliminating the restrictions regarding Formula Retail use concentration in the Upper Market Street Neighborhood Commercial District; 6) allowing one or more Formula Retail Restaurants or Limited Restaurants inside a General Grocery store under a single Conditional Use authorization; and 7) principally permitting Formula Retail uses in spaces larger than 10,000 square feet in the RC (Residential-Commercial) and RTO (Residential Transit Oriented) Districts; and 8) to eliminate use size limits for Retail Sales and Service uses, other than Gyms, in the Potrero Center Mixed-Use Special Use District; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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

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

1 Section 1. Environmental and Land Use Findings.

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

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

12 (c) Pursuant to Planning Code Section 302, this Board finds that this ordinance will
13 serve the public necessity, convenience, and welfare for the reasons set forth in Planning
14 Commission Resolution No. _____, and incorporates such reasons by this reference
15 thereto. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File
16 No. _____.

17
18 Section 2. General Findings.

19 (a) Formula retailers, or chain stores, are businesses with multiple locations that
20 share standardized features or a recognizable appearance.

21 (b) While Formula Retail provides clear branding, it can conflict with General Plan
22 Policies that prioritize preserving and enhancing unique community identity.

23 (c) To preserve neighborhood individuality, certain zoning districts restrict or prohibit
24 Formula Retail stores.

1 (d) The City's Formula Retail controls have evolved through various ordinances
2 over the last two decades and have broadened the definition of Formula Retail, extended
3 restrictions to more areas, and lowered the threshold for businesses to be considered
4 Formula Retail.

5 (e) Currently, a business is subject to the City's Formula Retail controls if it has
6 certain standardized features, such as a signage, uniform apparel, or color scheme; has 11 or
7 more locations worldwide; and is one of several enumerated uses.

8 (f) The City first adopted Formula Retail controls in 2004 with Ordinance No. 62-04,
9 which defined Formula Retail as, "a type of retail sales activity or retail sales establishment
10 which, along with 11 or more other retail sales establishments located in the United States,
11 maintains two or more of the following features: a standardized array of merchandise, a
12 standardized facade, a standardized decor and color scheme, a uniform apparel,
13 standardized signage, a trademark or a servicemark."

14 (g) Ordinance No. 62-04 also provided that a "retail sales activity or retail sales
15 establishment" subject to the Formula Retail controls included the following uses, as defined
16 in Article 7 of the Planning Code: bar, drive-up facility, eating and drinking uses, liquor store,
17 restaurant, large fast food, small self-service restaurant, full-service restaurant, other retail
18 sales and service, retail sales and service, movie theatre, video store, amusement and game
19 arcade, and take-out food.

20 (h) In 2006, San Francisco voters passed Proposition G, which required that
21 Formula Retail controls, including Conditional Use authorization, be applied in all
22 Neighborhood Commercial Districts.

23 (i) Over time, the Formula Retail controls were adjusted, including changes to
24 make the controls more restrictive, add specificity to the existing requirements, add to the list
25 of covered uses, or conform to other updates to the Planning Code, such as reorganizations.

1 (j) For example, Financial Service was added to the list of covered uses in 2012
2 pursuant to Ordinance No. 106-12, and new uses like Tobacco Paraphernalia Establishment
3 and Cannabis Retail were added after the City adopted new use definitions.

4 (k) In 2014, the City adopted Ordinance No. 235-14, substantially reorganizing the
5 Formula Retail controls and making them more restrictive.

6 (l) Economic impact studies conducted by several City agencies accompanied
7 many of the legislative efforts over the years; many reports found that over-restriction of
8 Formula Retail uses could have unintended negative consequences. For example, a June
9 2014 report produced for the Planning Department found that:

10 (1) Nearly 85% of San Francisco's Formula Retail businesses occupy spaces
11 larger than 3,000 square feet, while 80% of independent retailers operate in smaller spaces,
12 suggesting that small local businesses are less likely to seek the larger spaces;

13 (2) In general, pharmacies, grocery stores, banks, and other uses that serve
14 residents' daily needs account for much of the Formula Retail in districts where Formula Retail
15 is subject to additional controls;

16 (3) There does not appear to be a consistent relationship between new
17 Formula Retail establishments and the subsequent direction of local rents and vacancies; and

18 (4) While Formula Retail businesses could potentially afford to pay higher
19 rents in some individual transactions, retail market trends over time are primarily related to
20 regional and national economic cycles.

21 (m) These findings highlight the complexity of Formula Retail regulations and their
22 broader economic implications; while restrictions aim to support local businesses, overly
23 limiting Formula Retail may unintentionally hinder commercial vitality and access to essential
24 services.

1 (n) The expanded retail controls may have avoided potential overconcentration of
2 Formula Retail, but were developed at a time when San Francisco had one of the lowest retail
3 vacancy rates in the United States (4.5% in 2013), and there were legitimate concerns that
4 the continual expansion of Formula Retail would negatively impact the character of many
5 neighborhoods, displacing businesses and residents.

6 (o) Today, San Francisco's economic recovery is sluggish, including a retail
7 vacancy rate of approximately 8%, resulting from pandemic-era economic harm, as well as
8 the ever-increasing popularity of online retail.

9 (p) While some neighborhood commercial corridors have fared better with
10 vacancies, many of the storefronts exceeding 5,000 square feet that were previously occupied
11 by Formula Retail businesses like pharmacies, grocery stores, and banks have been difficult
12 to fill. Large, longer-term vacancies can negatively impact a corridor and drive down economic
13 activity for all the businesses in the vicinity and result in vandalism or blight. Successful
14 shopping districts are often anchored by a large retailer that drives foot traffic and business to
15 smaller, local shops and restaurants.

16 (q) Many businesses have reported finding it cost-prohibitive to open brick-and-
17 mortar stores in San Francisco; allowing more flexibility and certainty will reduce the barriers
18 to entry and could help fill or prevent longer-term vacancies, especially for larger spaces.

19 (r) By reverting the Formula Retail definition back to 11 stores nationwide, as
20 opposed to worldwide, San Francisco can also be more competitive in attracting global brands
21 that are seeking to establish their flagship in the United States, while also supporting
22 homegrown, local businesses in expanding before reaching the 11-store threshold.

23
24 Section 3. Articles 1.7, 2, and 3 of the Planning Code are hereby amended by revising
25 Sections 178, 182, 202.2, 205, 209.3, 209.4, 249.40, 303, and 303.1, to read as follows:

1 **SEC. 178. CONDITIONAL USES.**

2 * * * *

3 **(c) Enlargement, Alteration, or Intensification.**

4 * * * *

5 (3) **Formula Retail.** With regard to Formula Retail uses, a change of owner or
6 operator of a Formula Retail establishment is determined to be an intensification of use and a
7 new Conditional Use authorization shall be required if one or more of the following occurs:

8 ~~(A) A change of use from one use to another, including but not limited to a~~
9 ~~change from one use to another within the use category Retail Sales and Service, and within the sub-~~
10 ~~categories of uses in the definition of General Retail Sales and Service in Section 102 and Other Retail~~
11 ~~Sales and Service in and Section 890.102 of this Code;~~

12 ~~(B)~~ Expansion of ~~use size;~~ Non-Residential Use Size by more than 20% of
13 Gross Floor Area.

14 ~~(C)~~ Change to a Formula Retail establishment that has more locations
15 in the United States than the existing Formula Retail establishment, with the exception of a change
16 to a General Grocery or Pharmacy Use.

17 ~~(D) Installation of a commercial kitchen, including but not limited to: ovens,~~
18 ~~open ranges or stoves, fryers, oven hoods or kitchen ventilation systems, heating stations, steam tables~~
19 ~~or cabinets, cold food storage, increased food preparation areas or self-service drink dispensers.~~

20 * * * *

21
22 **SEC. 182. NONCONFORMING USES: CHANGES OF USE.**

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

25 * * * *

(h) If a nonconforming use is a Formula Retail use in a District that prohibits Formula Retail uses, the Formula Retail use is deemed abandoned if it is discontinued for a period of 18 months or more, or otherwise abandoned. The Formula Retail use shall not be restored.

~~(4)~~ Change of one nonconforming Formula Retail use to another Formula Retail use that is determined to not be an enlargement or intensification of use, as defined in Subsection 178(c), is subject to the Commission's adopted Performance-Based Design Guidelines for Formula Retail, which may be applied and approved administratively by the Planning Department. Non-conformance with the Performance-Based Design Guidelines for Formula Retail as required by the Department may result in termination of the nonconforming Formula Retail use.

~~(2) Change of one nonconforming Formula Retail use to another Formula Retail use that is determined to be an enlargement or intensification of use, as defined in Subsection 178(c), is not permitted.~~

SEC. 202.2. LOCATION AND OPERATING CONDITIONS.

(a) **Retail Sales and Service Uses.** The Retail Sales and Service Uses listed below shall be subject to the corresponding conditions:

* * * *

(9) Food Halls within General Grocery Uses. A General Grocery Use may co-locate on one Lot with a food hall consisting of one or more Restaurants or Limited Restaurants ("Food Hall"), pursuant to Section 202.2(j). Where the Food Hall is located within the General Grocery Use's Gross Floor Area and comprises no more than 49% of the General Grocery Use's Gross Floor Area, the Food Hall may contain one or more Formula Retail Restaurants or Limited Restaurants, subject to Conditional Use authorization for the Formula Retail use. The Conditional Use authorization for the Formula Retail use, and for the Use if required by the zoning controls for the District, shall be

applicable to the entire Food Hall. Each Restaurant or Limited Restaurant is not required to obtain a separate Conditional Use authorization for the Use or the Formula Retail use. The Food Hall shall be treated as one singular business for the purposes of signage allowance.

(b) **Automotive Uses.** The Automotive Uses listed below shall be subject to the corresponding conditions:

* * * *

(j) **Multiple Uses.** Multiple Uses may exist simultaneously on one Lot or in one Structure. If there are two or more Uses on a Lot, any Use classified under this Code as an Accessory Use will be subject to applicable provisions concerning Accessory Uses. Any Use not classified as an Accessory Use will be considered separately as an independent Principal, Conditional, or temporary Use, subject to applicable provisions of this Code concerning each independent Use.

SEC. 205. TEMPORARY USES, GENERAL.

* * * *

(b) **Temporary Uses Authorized.** The authorized temporary uses listed in Sections 205 et seq. may be authorized as provided herein, up to the time limits indicated. In the event of a conflict between the controls in Sections 205 et seq. and the controls of the applicable District, ~~excluding~~ *including* any voter initiative, Sections 205 et seq. shall apply; provided that, pursuant to Section 703.4, Formula Retail uses ~~are not permitted as Temporary Uses~~ in Neighborhood Commercial Districts shall comply with the controls of the applicable District, including any voter initiative.

* * * *

(h) **Additional Permits.** Authorization of a temporary use under Sections 205 et seq. does not waive the requirement to obtain any additional authorization that may be required by

the San Francisco municipal Code, including but not limited to permits required by the Health Code or Building Code.

*(i) **Formula Retail.** Temporary uses authorized as provided in Section 205 et seq. that are Formula Retail uses shall not require Conditional Use authorization; provided that, pursuant to Section 703.4, in Neighborhood Commercial Districts, the Use shall comply with the controls of the applicable District, including any voter initiative.*

SEC. 209.3. RC (RESIDENTIAL-COMMERCIAL) DISTRICTS.

* * * *

Table 209.3

ZONING CONTROL TABLE FOR RESIDENTIAL-COMMERCIAL DISTRICTS

| Zoning Category | § References | RC-3 | RC-4 |
|--|---------------|--|--|
| * * * * | | | |
| NON-RESIDENTIAL STANDARDS AND USES | | | |
| * * * * | | | |
| <u>Commercial</u> Use Characteristics | | | |
| * * * * | | | |
| Formula Retail | §§ 102, 303.1 | C (14) <u>up to 10,000 square feet; P 10,001 square feet and above</u> | C (14) <u>up to 10,000 square feet; P 10,001 square feet and above</u> |
| * * * * | | | |

* * * *

SEC. 209.4. RTO (RESIDENTIAL TRANSIT ORIENTED) DISTRICTS.

* * * *

Table 209.4

ZONING CONTROL TABLE FOR RTO DISTRICTS

| Zoning Category | § References | RTO | RTO-M |
|---|----------------------|---|-------|
| * * * * | | | |
| NON-RESIDENTIAL STANDARDS AND USES | | | |
| * * * * | | | |
| Commercial Use Characteristics | | | |
| <u>Formula Retail</u> | <u>§§ 102, 303.1</u> | <u>C up to 10,000 square feet; P 10,001 square feet and above</u> | |
| Hours of Operation | §§ 102, 186, 231 | For Limited Corner Commercial Uses under § 231 and limited commercial uses under § 186: P 6:00 a.m. to 10:00 p.m.; C 10:00 p.m. to 12:00 a.m.; NP 12:00 a.m. to 6:00 a.m. | |
| * * * * | | | |

* * * *

SEC. 249.40. POTRERO CENTER MIXED-USE SPECIAL USE DISTRICT.

(a) **Purpose.** The Potrero Center Mixed-Use Special Use District is intended to facilitate the continued operation of the shopping center located at 2300 16th Street, which is characterized by large formula retail sales and services, while providing an appropriate regulatory scheme for a potential phased mixed-use redevelopment of the shopping center in the future.

* * * *

(c) **Controls.** All provisions of the Planning Code shall continue to apply, except for the following:

* * * *

(2) **Use Size Limitations for Retail Sales and Services and Gyms.** The use size limitations and ratio requirements applicable to Retail Sales and Service ~~Uses~~ and Gym ~~Uses~~ of Sections 121.6(a), 803.9(g), ~~843.45~~ and ~~843.51~~ 838 shall not apply. Retail Sales and

1 Service ~~Use~~ and Gym ~~Use~~ are principally permitted, and the replacement of one such
2 ~~Use~~ or tenant by another such ~~Use~~ or tenant in an existing store or gym, regardless of its
3 size, is permitted. Newly constructed space for ~~Retail Sales and Service uses or~~ Gym ~~Use~~
4 larger than 25,000 gross square feet per use or the expansion of an existing ~~Retail Sales and~~
5 ~~Services use or~~ Gym use by more than 25,000 new gross square feet per ~~Use~~ shall require
6 ~~e~~Conditional ~~Use~~ authorization pursuant to the provisions of Section 303.

7 (3) **Formula Retail.** The Formula Retail requirements of Sections 303.1 and
8 ~~843.46-838~~ shall not apply. Formula Retail uses shall be permitted, ~~unless the use is otherwise~~
9 ~~and shall not require Conditional Use authorization for the Formula Retail use; provided that, the Use~~
10 ~~may be~~ prohibited or requires ~~e~~Conditional ~~Use~~ authorization pursuant to ~~other subsections the~~
11 ~~zoning controls~~ of Section ~~843-838~~.

12 * * * *

14 SEC. 303. CONDITIONAL USES.

15 * * * *

16 (i) **Large-Scale Retail Uses.** With respect to applications for the establishment of
17 large-scale retail uses under Section 121.6, in addition to the criteria set forth in subsections
18 (c) and (d) above, the Commission shall consider the following:

19 (1) The extent to which the retail use's parking is planned in a manner that creates
20 or maintains active street frontage patterns;

21 (2) The extent to which the retail use is a component of a mixed-use project or is
22 designed in a manner that encourages mixed-use building opportunities;

23 (3) The shift in traffic patterns that may result from drawing traffic to the location of
24 the proposed use; and

1 (4) The impact that the employees at the proposed #U~~se~~ will have on the demand
2 in the City for housing, public transit, childcare, and other social services, ~~and~~

3 ~~(5) **An economic impact study.** The Planning Department shall prepare an economic~~
4 ~~impact study using qualified City staff or shall select a consultant from a pool of pre-qualified~~
5 ~~consultants to prepare the economic impact study required by this subsection (i)(5). The analysis, in the~~
6 ~~form of a study, shall be considered by the Planning Commission in its review of the application. The~~
7 ~~applicant shall bear the cost of paying the consultant for the consultant's work preparing the economic~~
8 ~~impact study, and any necessary documents prepared as part of that study. The study shall evaluate the~~
9 ~~potential economic impact of the applicant's proposed project, including:~~

10 ~~(A) **Employment Analysis.** The report shall include the following employment~~
11 ~~information: a projection of both construction-related and permanent employment generated by the~~
12 ~~proposed project, and a discussion of whether the employer of the proposed project will pay a living~~
13 ~~wage, inclusive of non-salary benefits expected to be provided, relative to San Francisco's cost of~~
14 ~~living.~~

15 ~~(B) **Fiscal Impact.** The report shall itemize public revenue created by the proposed~~
16 ~~project and public services needed because of the proposed project, relative to net fiscal impacts to the~~
17 ~~General Fund. The impacts to the City's public facilities and infrastructure shall be estimated using the~~
18 ~~City's current assumptions in existing nexus studies (including area plan, transit, open-space in-lieu fee~~
19 ~~and other impact fees), and should account for any contributions the proposed project would make~~
20 ~~through such impact fee payments.~~

21 ~~(C) **Leakage Analysis Study.** This portion of the report shall be twofold: both~~
22 ~~quantitative and qualitative. The quantitative portion shall provide an analysis of whether the proposed~~
23 ~~project will result in a net increase or decrease in the capture of spending by area residents on items~~
24 ~~that would otherwise be purchased outside the area. The area to be studied for potential economic~~
25 ~~impacts of the proposed project shall be determined by the City in consultation with the expert~~

conducting the study as different sizes of study areas would be pertinent depending on a multitude of factors, including but not limited to, size and type of the proposed store. This quantitative leakage analysis should be paired with a qualitative assessment of whether the proposed use would complement existing merchandise selection in the area by adding greater variety of merchandise, bolstering the strength of an existing retail cluster, or matching evolving consumer preferences.

* * * *

SEC. 303.1. FORMULA RETAIL USES.

* * * *

(b) **Definition.** A Formula Retail use is hereby defined as a type of retail sales or service activity or retail sales or service establishment that has ~~eleven~~ 11 or more other retail sales establishments ~~in operation, or with local land use or permit entitlements already approved,~~ located ~~anywhere in the world~~ in the United States and. ~~In addition to the eleven establishments either in operation or with local land use or permit entitlements approved for operation, the business~~ maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.

* * * *

(c) **“Retail Sales or Service Activity or Retail Sales or Service Establishment.”**

For the purposes of this Section 303.1, a retail sales or service activity or retail sales or service establishment shall include the ~~following~~ uses listed in this subsection (c), whether functioning as a Principal or Accessory Use, as defined in Articles 1, ~~2, 7,~~ and 8 of this Code.

Amusement Game Arcade (a General Entertainment use)

Bar

Cannabis Retail

- 1 Drive-up Facility
- 2 Eating and Drinking Use
- 3 Gift Store-Tourist Oriented
- 4 Grocery, General
- 5 Grocery, Specialty
- 6 Gym
- 7 Jewelry Store
- 8 Laundromat
- 9 Liquor Store
- 10 Massage Establishment
- 11 Movie Theater
- 12 Non-Auto Vehicle Sales or Rental
- 13 Pharmacy
- 14 Restaurant
- 15 Restaurant, Limited
- 16 Retail Sales and Service, General and Sales and Service, Other Retail
- 17 Sales and Service, Retail
- 18 Service, Fringe Financial
- 19 Service, Personal
- 20 Tobacco Paraphernalia Establishment
- 21 Video Store (a General Retail Sales and Service use)
- 22 ~~—Bar § 102;~~
- 23 ~~—Drive-up Facility §§ 102, 890.30;~~
- 24 ~~—Eating and Drinking Use § 102;~~
- 25 ~~—Liquor Store § 102;~~

~~—Sales and Service, Other Retail § 890.102 and Retail Sales and Service, General;~~
~~—Restaurant § 102;~~
~~—Limited Restaurant § 102;~~
~~—Sales and Service, Retail §§ 102, 890.104;~~
~~—Service, Financial §§ 102, 890.110;~~
~~—Movie Theater §§ 102, 890.64;~~
~~—Amusement Game Arcade § 890.4;~~
~~—Service, Limited Financial, except single automated teller machines at the street front that~~
~~meet the Commission's adopted Performance-Based Design Guidelines and automated teller machines~~
~~located within another use that are not visible from the street § 102;~~
~~—Service, Fringe Financial §§ 102, 890.113;~~
~~—Tobacco Paraphernalia Establishment §§ 102, 890.123;~~
~~—Massage Establishment §§ 102, 890.60;~~
~~—Service, Personal §§ 102, 890.116~~
~~—Service, Instructional § 102;~~
~~—Gym; § 102~~
~~—General Grocery § 102;~~
~~—Specialty Grocery § 102;~~
~~—Pharmacy § 102;~~
~~—Jewelry Store §§ 102, 890.51;~~
~~—Tourist Oriented Gift Store §§ 102, 890.39;~~
~~—Non-Auto Vehicle Sales or Rental §§ 102, 890.69; and~~
~~—Cannabis Retail §§ 102, 890.125.~~

(d) **Conditional Use Criteria.** With regard to a Conditional Use authorization application for a Formula Retail use, the Planning Commission shall consider, in addition to

1 the criteria set forth in Section 303, the criteria below and the Performance-Based Design
2 Guidelines adopted by the Planning Commission to implement the criteria below.

3 (1) The existing concentrations of Formula Retail uses within the district and
4 within the vicinity of the proposed project. To determine the existing concentration, the
5 Planning Commission shall consider the percentage of the total linear street frontage within a
6 300-foot radius or a quarter of a mile radius, at the Planning Department's discretion, from the
7 subject property that is occupied by Formula Retail and non-Formula Retail businesses. The
8 Department's review shall include all parcels that are wholly or partially located within the 300-
9 foot radius or quarter-mile radius. If the subject property is a corner parcel, the 300-foot radius
10 or quarter mile radius shall include all corner parcels at the subject intersection. For each
11 property, the Planning Department shall divide the total linear frontage of the lot facing a
12 public-right of way by the number of storefronts, and then calculate the percentage of the total
13 linear frontage for Formula Retail and non-Formula Retail. Half percentage points shall be
14 rounded up.

15 ~~For the Upper Market Street Neighborhood Commercial District only, if the application would~~
16 ~~bring the formula retail concentration within a 300 foot radius to a concentration of 20% or above,~~
17 ~~Planning Department staff shall recommend disapproval of the application to the Planning~~
18 ~~Commission. If the application would not bring the formula retail concentration within the 300 foot~~
19 ~~radius to a concentration of 20% or above, Planning Department staff shall assess the application~~
20 ~~according to all the other criteria listed in this Subsection 303.1(d), and recommend approval or~~
21 ~~disapproval to the Planning Commission, according to its discretion and professional judgment. In~~
22 ~~either case, the Planning Commission may approve or reject the application, considering all the~~
23 ~~criteria listed in this Subsection 303.1(d).~~

24 * * * *

1 ~~(7) For Formula Retail uses of 20,000 gross square feet or more, except for General or~~
2 ~~Specialty Grocery stores as defined in Articles 2, 7 and 8 of this Code, the contents of an economic~~
3 ~~impact study prepared pursuant to Section 303(i) of this Code.~~

4 (87) Notwithstanding anything to the contrary contained in Planning Code
5 Article 6 limiting the Planning Department's and Planning Commission's discretion to review
6 signs, the Planning Department and Planning Commission may review and exercise
7 discretion to require changes in the time, place and manner of the proposed signage for the
8 proposed Formula Retail use, applying the Performance-Based Design Guidelines.

9 * * * *

10 (j) **Change of Use.** ~~Changes of Formula Retail establishments are generally described~~
11 ~~below, except that a change of a Formula Retail use that is also a nonconforming use pursuant to~~
12 ~~Section 182 is prohibited. In all other instances, changes of Formula Retail establishments from one~~
13 ~~use category to another, including a change from one use to another within the sub-categories of uses~~
14 ~~set forth in the definition of Retail Sales and Services in Section 102 and in Section 890.102 for Mixed~~
15 ~~Use Districts, require a new Conditional Use authorization as a new Formula Retail use. Changes of~~
16 ~~Formula Retail owner or operator within the same use category that are determined to be an An~~
17 enlargement or intensification of a Formula Retail use pursuant to subsection 178(c) ~~are~~ is
18 required to obtain Conditional Use authorization and shall meet the Commission's adopted
19 Performance-Based Design Guidelines for Formula Retail. In cases determined not to be an
20 enlargement or intensification of use, the Performance-Based Design Guidelines for Formula
21 Retail may be applied and approved administratively by the Planning Department, unless the
22 applicant requests a Conditional Use hearing at the Planning Commission. The applicant shall
23 also pay an administrative fee to compensate Planning Department and City staff for its time
24 reviewing the project under this subsection (j), ~~as set forth in Section 360 of this Code. The fee to~~
25 provide performance review for Formula Retail uses as required by Section 303.1 shall be the standard

1 building permit fee or the Project Application (PRJ) fee, as applicable, plus time and materials as set
2 forth in Section 350(g).

3 (k) **Accessory Uses.** Formula Retail uses that are Accessory Uses to a Principally
4 Permitted Use or a Conditional Use that is a Formula Retail use shall not require separate Conditional
5 Use authorization for the Formula Retail Accessory Use. ~~Conditional Use authorization shall be~~
6 ~~required for all Accessory Uses within those use categories subject to Formula Retail controls as~~
7 ~~defined in this Section 303.1, except for the following:~~

8 ~~(1) Single automated teller machines falling within the definition of Limited Financial~~
9 ~~Services that are located at the street front that meet the Commission's adopted Performance-Based~~
10 ~~Design Guidelines for automated teller machines;~~

11 ~~(2) Automated teller machines located within another use that are not visible from the~~
12 ~~street;~~

13 ~~(3) Vending machines that do not exceed 15 feet of street frontage or occupy more than~~
14 ~~200 square feet of area facing a public right of way.~~

15
16 Section 4. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board
19 of Supervisors overrides the Mayor's veto of the ordinance.

20
21 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
22 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
23 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
24 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
25

1 additions, and Board amendment deletions in accordance with the “Note” that appears under
2 the official title of the ordinance.

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4
5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

7 By: /s/ HEATHER GOODMAN
8 HEATHER GOODMAN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Formula Retail]

Ordinance amending the Planning Code to reduce restrictions on Formula Retail uses by 1) modifying the definition of a Formula Retail use; 2) eliminating the Conditional Use Authorization requirement for Formula Retail Accessory Uses, Formula Retail Temporary Uses, and certain changes of use for Formula Retail uses; 3) eliminating the prohibition on changes of use for non-conforming Formula Retail uses; 4) eliminating the requirement for an economic impact study for specified large Formula Retail uses; 5) eliminating the restrictions regarding Formula Retail use concentration in the Upper Market Street Neighborhood Commercial District; 6) allowing one or more Formula Retail Restaurants or Limited Restaurants inside a General Grocery store under a single Conditional Use authorization; and 7) principally permitting Formula Retail uses in spaces larger than 10,000 square feet in the RC (Residential-Commercial) and RTO (Residential Transit Oriented) Districts; and 8) to eliminate use size limits for Retail Sales and Service uses, other than Gyms, in the Potrero Center Mixed-Use Special Use District; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Existing Law

The Planning Code regulates Formula Retail uses, also known as chain stores. A use is defined as Formula Retail if it is a retail sales and service use with 11 or more other establishments worldwide. The Planning Code provides a list of uses included in the definition of Formula Retail, specifically: Bar; Drive-up Facility; Eating and Drinking Use; Liquor Store; Sales and Service, Other Retail and Retail Sales and Service, General; Restaurant; Limited-Restaurant; Retail Sales and Service; Movie Theater; Amusement Game Arcade; Financial Service; Limited Financial Service, except specified ATMs; Fringe Financial Service; Tobacco Paraphernalia Establishment; Massage Establishment; Personal Service; Instructional Service; Gym; General Grocery; Specialty Grocery; Pharmacy; Jewelry Store; Tourist Oriented Gift Store; Non-Auto Vehicle Sales or Rental; and Cannabis Retail.

Formula Retail uses may be principally permitted, conditionally permitted, or not permitted, as specified for each zoning district. Each individual Formula Retail use must obtain its own Conditional Use authorization, including any Formula Retail accessory uses. Formula Retail Temporary Uses are prohibited in Neighborhood Commercial Districts (NCDs). Formula Retail is conditionally permitted in the RC (Residential-Commercial) district; the RTO (Residential Transit-Oriented) district is silent regarding Formula Retail.

Generally, when a Formula Retail use pursues a change of use, the use cannot be intensified without new Conditional Use authorization. Intensification includes changing from one use to

another, any expansion of size, changing to an establishment that has more locations, or installing a commercial kitchen. Where the existing Formula Retail use is a nonconforming use, a change of use deemed an intensification is not permitted.

Specified large Formula Retail uses require an economic impact study. In the Upper Market Street NCD, there are restrictions regarding Formula Retail use concentration.

In the Potrero Center Mixed-Use Special Use District (SUD), new construction or expansion of Retail Sales and Service uses or Gyms over 25,000 square feet requires Conditional Use authorization, and Formula Retail uses are permitted.

Amendments to Current Law

This ordinance loosens some of the restrictions on Formula Retail uses. The definition of Formula Retail is amended to include uses with 11 or more other locations in the United States. The list of Formula Retail uses is modified to remove Financial Services and Limited Financial Services, and to update the list to conform to current defined uses in the Planning Code (removing Instructional Service; adding Laundromat, formerly categorized as General Retail Sales and Service; adding Video Store, categorized as General Retail Sales and Service).

Where a principal use is a Formula Retail use, any accessory Formula Retail uses will not require separate Conditional Use authorization. Additionally, a grocery store may include one or more restaurants on-site, up to 49% of the grocery store's space, without each restaurant requiring separate Conditional Use authorization. In the NCDs, Formula Retail Temporary Uses are either permitted, conditionally permitted, or prohibited, as specified for the underlying use in each zoning district; Conditional Use authorization is not required for the Formula Retail use characteristic. In the RC and RTO districts, Formula Retail is principally permitted in larger spaces and conditionally permitted in smaller spaces (over or under 10,000 square feet, respectively).

For changes of use, the criteria for intensification are revised such that a change from one use to another use or installing a commercial kitchen are no longer deemed intensification. Expansions are only deemed intensification if they are over 20%. A change to a Formula Retail use with more locations incorporates the revised Formula Retail definition (the establishment must have more locations in the United States); grocery stores and pharmacies are exempt from this intensification criteria. For nonconforming Formula Retail uses, changes of use that qualify as intensification are no longer prohibited.

An economic impact study is no longer required for certain large Formula Retail uses. In the Upper Market Street NCD, the restrictions regarding Formula Retail use concentration are eliminated.

In the Potrero Center Mixed-Use SUD, this ordinance eliminates the Conditional Use requirement for Retail Sales and Service uses over 25,000 square feet and retains the requirement for Gyms. The ordinance clarifies that Conditional Use authorization is not required solely because a use is a Formula Retail use; the underlying use may require Conditional Use authorization or may be prohibited.

Background Information

The City first enacted Formula Retail regulations in 2004 in Ordinance No. 62-04. In 2006, San Francisco voters passed Proposition G, codifying certain Formula Retail regulations, including requiring Conditional Use authorization for Formula Retail in the NCDs. Financial Service was added to the list of specifically enumerated Formula Retail uses in 2012 by Ordinance No. 106-12. In 2014, the City adopted ordinance No. 235-14, reorganizing most of the Formula Retail regulations into Section 303.1, adding Limited Financial Service to the list of enumerated Formula Retail uses, and adding additional restrictions.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

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

- ☐ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ☐ 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor inquires..."
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ☐ 8. Substitute Legislation File No.
- ☐ 9. Reactivate File No.
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
- ☐ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- ☐ Yes ☐ No

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

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: