

1 [Mid-Market Special Use District.]

2 **Ordinance amending the San Francisco Planning Code by adding Sections 249.27,**  
3 **145.4, 155.5, 166, 167, and 263.18 and by amending Sections 123 (Maximum Floor Area**  
4 **Ratio), 153 (Rules for Calculation of Required Spaces), 204.3 (Accessory Uses in C and**  
5 **M Districts), and 309 (Permit Review in C-3 Districts) in order to create a Mid-Market**  
6 **Special Use District consistent with the Mid-Market Redevelopment Plan as an overlay**  
7 **to existing use, height and bulk controls; imposing a variety of use, density, design**  
8 **and other controls to promote the development of a mix of uses including new housing**  
9 **of a range of types and affordable to a variety of income levels, to support the**  
10 **development of arts, cultural and entertainment uses by among other things allowing**  
11 **additional square footage of development in return for contributions to a Mid-Market**  
12 **Arts Space Fund through the purchase of Arts Credits pursuant to a subsequently**  
13 **enacted ordinance, to encourage the adaptive reuse of historic resources, to**  
14 **encourage active uses along Market Street and other public rights-of-way, to further**  
15 **the City's Transit First Policy by limiting accessory parking, discouraging long-term**  
16 **parking, imposing requirements for bicycle parking and car sharing, and separating**  
17 **parking costs from housing costs; adopting environmental findings and findings of**  
18 **consistency with the General Plan and the eight priority policies of Planning Code**  
19 **Section 101.1.**

20 Note: Additions are *single-underline italics Times New Roman*;  
21 deletions are ~~*strikethrough italics Times New Roman*~~.  
22 Board amendment additions are double underlined.  
22 Board amendment deletions are ~~strikethrough normal~~.

23 Section 1. Findings. (a) On June 23, 2005, at a duly noticed public hearing, the  
24 Planning Commission adopted Motion No. 17050, Resolution No. 17051, and Resolution No.  
25 17052, recommending various actions to the Board of Supervisors concerning the Mid-Market

1       Redevelopment Plan, the Mid-Market Special Use District, and Zoning Map Amendments  
2       related to the Mid-Market Redevelopment Plan, respectively. Copies of said Planning  
3       Commission Motion and Resolutions are on file with the Board in File No.       and are  
4       incorporated herein by reference.

5               (b) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
6       Ordinance will serve the public necessity, convenience and welfare for the reasons set forth in  
7       Planning Commission Resolution No. 17051, and incorporates those reasons herein by  
8       reference.

9               (c) The Board of Supervisors finds that this Ordinance is consistent with the General  
10      Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set forth in  
11      Planning Commission Motion No. 17050 and Resolution No. 17051, and hereby incorporates  
12      those reasons herein by reference.

13               (d) This Ordinance accompanies companion legislation related to adoption of the Mid-  
14      Market Redevelopment Plan Project Area. As part of such companion legislation, a copy of  
15      which is on file with the Clerk of the Board of Supervisors in File No.       , this Board  
16      adopted findings in compliance with the California Environmental Quality Act (California Public  
17      Resources Code sections 21000 et seq.) (the "CEQA findings"). As part of this Ordinance,  
18      this Board adopts the same environmental findings and incorporates by reference herein the  
19      CEQA findings and all documents and materials related to said findings.

20               Section 2. The San Francisco Planning Code is hereby amended by adding Sections  
21      249.27, 145.4, 155.5, 166, 167, and 263.18, to read as follows:

22               SEC. 249.27. Mid-Market Special Use District.

23               *There shall be a special use district known as the Mid-Market Special Use District, as*  
24               *designated on Sectional Maps 1SU, 2SU, and 7 SU of the Zoning Map of the City and County of San*  
25               *Francisco. The following provisions shall apply within the Mid-Market Special Use District.*

1                   (a) Purposes. The Mid-Market Special Use District promotes the development of a mix of  
2 uses in the Mid-Market Redevelopment Project Area, including new housing of a range of types and  
3 affordable to a variety of income levels. These controls support the development of arts, cultural, and  
4 entertainment uses and encourages the adaptive reuse of historic resources in the district. Design  
5 controls ensure that uses at the lower floors enhance public safety and encourage active uses along  
6 Market Street and other public rights-of-way. In accordance with the City's Transit First Policy and in  
7 recognition of the district's accessibility by means other than private automobile, accessory parking is  
8 limited, long-term parking is discouraged, and additional short-term parking to support arts, cultural  
9 and entertainment uses is permitted subject to a Conditional Use review. The Mid-Market Special Use  
10 District implements the Mid-Market Redevelopment Plan. Amendments to this Section shall be  
11 consistent with the Mid-Market Redevelopment Plan. In the event of a conflict between this Section and  
12 the Mid-Market Redevelopment Plan, the Plan shall control.

13                   (b) Controls. In this District, the provisions of the underlying use and height and bulk  
14 controls shall continue to apply, except as explicitly modified by this Section.

15                   (1) Use Controls.

16                   (A) Single Room Occupancy (SRO) Units. Single Room Occupancy (SRO) Units shall be  
17 principally permitted and subject to the requirements provided in Sections 134, 135(d)(2), 140, 151,  
18 and 890.88(c) of this Code.

19                   (B) Accessory Dwelling Units and Other Residential Uses in Historic Buildings. Residential  
20 uses as defined in Section 890.88 (a), (b) and (c) of this Code are permitted as accessory in qualified  
21 historic buildings as defined in this subsection, provided that they do not exceed 1/3 of the total gross  
22 square footage of the building.

23                   (i) Accessory residential uses in a qualified historical building must meet the standards of  
24 Article 11 of this Code for alteration of a Significant Building and, if determined by the Department of

1     Building Inspection to be appropriate, may use the provisions of the State Historical Building  
2     Standards Code and other applicable provisions of the San Francisco Building Code.

3         (ii)    For qualifying historic buildings, exposure, open space, lot coverage and building  
4     separation requirements for residential uses described in Sections 134, 135(g)(2), and 140 of this Code  
5     may be waived through an administrative review by the Zoning Administrator if he or she finds that  
6     compliance with the requirements will result in demolition of an historic resource or damage to the  
7     historic features of the building.

8         (iii)    The requirements of Section 315 of this Code and all other applicable fees apply to any  
9     accessory dwelling unit or other residential uses.

10         (iv)    For the purposes of this subsection, a “qualified historical building” is a building listed  
11     or determined to be eligible for listing on a federal, state or local register, inventory, or survey of  
12     historically and architecturally significant structures endorsed by the San Francisco Board of  
13     Supervisors.

14         (C)    Arts, Cultural and Entertainment Facilities. Arts, Cultural and Entertainment Facilities  
15     as defined in Section 249.27(b)(5)(D) shall be a principally permitted use.

16         (D)    Community Services. Community Services shall be a principally permitted use. For the  
17     purposes of this Section, “community services” are non-retail uses which include executive, technical,  
18     management, clerical, and administrative and programmatic support for public benefit organizations  
19     exempt from taxation pursuant to Internal Revenue Code Section 501(c)(3) including social service,  
20     arts, and educational uses.

21         (E)    Liquor Shop. Liquor shops as defined by Section 790.55 of this Code are permitted  
22     subject to Conditional Use approval pursuant to the procedures of Section 303. The Planning  
23     Commission shall impose the following conditions of approval:

24         (i)    The establishment shall provide pedestrian lighting in accordance with a future  
25     streetscape plan for the Mid-Market Special Use District.

1           (ii) The establishment shall implement management practices in consultation with the Police  
2           Department and other appropriate public agencies, as necessary to promote the quiet, safety, and  
3           cleanliness of the premises and the immediate surroundings.

4           (F) Adult entertainment, adult book stores and massage establishments. Adult  
5           entertainment, adult bookstores and massage establishments as defined in Sections 221(k), 218.1 and  
6           803.4 of this Code, shall not be permitted.

7           (2) Development Controls.

8           (A) Residential Density. The density of uses, as defined by Section 890.88 of this Code shall  
9           be limited by the allowed height and bulk envelope. The provisions of Sections 207 through 208 related  
10           to residential density shall not apply.

11           (B) Gross Floor Area, Calculation. For the purposes of calculating the gross floor area as  
12           defined in Section 102.9, the following uses shall not be counted:

13           (i) Below market rate units required pursuant to Sections 315 and 249.27(b)(3)(C) of this  
14           Code;

15           (ii) Floor space devoted to personal services, restaurants, and retail sales of goods intended  
16           to meet the convenience shopping and service needs of downtown workers and residents, as defined in  
17           Section 102.9(b)(12), without the limitations to 5,000 occupiable square feet per use and 75 percent of  
18           the area of the ground floor of the building described in Section 102.9(b)(12);

19           (iii) Floor space dedicated to arts, cultural and entertainment uses as defined in Section  
20           249.27(b)(5)(D) for a period of no less than 50 years through a deed restriction or other form of  
21           recorded, enforceable written covenant; and

22           (iv) Floor space dedicated to parking, provided that it is located entirely below grade.

23           (C) Maximum Floor Area Ratio. For the purposes of calculating the maximum floor area  
24           ratio as defined in Section 123, the following provisions apply in the Mid-Market Special Use District:

1        (i) To support existing and new arts, cultural and entertainment uses, credits for additional  
2        floor area may be purchased up to the maximum floor area ratio described in Section 123 of this Code  
3        through contributions to the Mid-Market Arts Space Fund described in Section 249.27(5)(C).

4        (ii) To encourage the development of housing on smaller sites to the full height potential, an  
5        additional 1.0 FAR is permitted above the maximum FAR described in Section. 123 to ensure more  
6        housing and a distinctly better design. This provision may be applied to sites that meet the following  
7        criteria:

8            (I) The site is zoned C-3-G and has a 160-M height designation;  
9            (II) The total area of the site is no more than 15,000 square feet;  
10            (III) The project is primarily residential;  
11            (IV) All parking is provided at the ground floor or below street grade, and street frontages  
12        are lined with active uses pursuant to Section 249.27(4)(D);  
13            (V) The project achieves the maximum allowable height.

14        (iii) To encourage the provision of less residential accessory parking associated with  
15        residential uses in support of the City Charter's Transit First Policy, additional floor area may be  
16        applied up to the maximum FAR permitted pursuant to Section 123. Additional floor area may be  
17        applied according to the following schedule, for a period of eight years following adoption of the Mid-  
18        Market Redevelopment Plan:

19            (I) 0.5 additional FAR for 0.75 cars parked per unit or less;  
20            (II) 1.0 additional FAR for 0.5 cars parked per unit or less; and  
21            (III) 2.0 additional FAR for 0 cars parked per unit.

22            (IV) For the purposes of this Section, the total number of cars parked per unit shall be  
23        calculated according to the provisions of Section 153.

24            (3) Residential Development.

1       (A) Residential Exposure, Open Space, and Lot Coverage Requirements. The provisions of  
2 Sections 134, 135 (g)(2) and 140 of this Code shall not apply in the Mid-Market Special Use District.

3       (i) Lot coverage is limited to 80 percent at all residential levels except on levels where all  
4 residential uses face onto a street or alley as defined in Section 102.

5       (ii) The unbuilt portion of the lot shall be open to the sky except for those obstructions  
6 permitted in rear yards per Section 136(c).

7       (iii) The Zoning Administrator may waive administratively the 80 percent lot coverage  
8 requirement described in (i) above for accessory residential uses in qualifying historic buildings as  
9 defined in Section 249.27(1)(B)(iv) if he or she finds that compliance with the requirements will result  
10 in demolition of an historic resource or damage to the historic features of the building.

11       (B) Fenestration on Residential Buildings Above 120 Feet in Height. All building frontages  
12 above 120 feet in height shall be required to be fenestrated for no less than 40 percent of the total  
13 façade area. All windows above a height of 120 feet shall be operable so as to allow for natural  
14 ventilation to interior residential uses. Exceptions may be permitted pursuant to the procedures  
15 described in Section 309 of this Code.

16       (C) Inclusionary Housing Requirements. The Citywide Inclusionary Housing requirements  
17 described in Sections 315 through 315.9 of this Code shall apply in the Mid-Market Special Use  
18 District, subject to the following exceptions:

19       (i) If constructed on-site, a minimum of 12 percent of the total units constructed and if  
20 constructed off-site, a minimum of 17 percent of the total units constructed shall be affordable to and  
21 occupied by qualifying persons and families as defined elsewhere in this Code.

22       (ii) Inclusionary housing provided off-site pursuant to Section 315.5 shall be provided on  
23 lots within the Mid-Market Project Area boundaries.

1           (iii) Inclusionary housing provided off-site pursuant to Section 315.5 shall result in net new  
2 affordable residential units within the Mid-Market Project Area boundaries, and may not result in the  
3 loss of SRO or other affordable housing within the Project Area.

4           (iv) All units constructed pursuant to this Section and Sections 315.4 and 315.5 must remain  
5 affordable to qualifying households for the life of the housing project. "Life of the housing project"  
6 shall be defined as the period of time during which the applicable housing project (or any portion  
7 thereof that is used for owner occupied residential purposes) is used as a residential property, whether  
8 or not the housing project or any portion thereof has undergone renovation, rehabilitation or  
9 restoration. The income levels specified in the Notice of Special Restrictions and/or Conditions of  
10 Approval for the project shall be required for the life of the housing project.

11           (v) In lieu payments pursuant to Section 315.6 shall be paid to the Redevelopment Agency  
12 instead of the Controller for use by the Redevelopment Agency in developing affordable housing in the  
13 Mid-Market Project Areas.

14           (vi) Developers of housing that receive financial assistance or some other material benefit,  
15 such as site assembly, site specific capital improvements, or a plan amendment as an incentive to  
16 redevelop, may be required to comply with the Redevelopment Agency's Housing Participation Policy,  
17 as a condition of such assistance or approval..

18           (vii) Eight years after the adoption of the Mid-Market Redevelopment Plan, the inclusionary  
19 housing requirements described in Section 315 shall be increased by 3 percentage points from 12  
20 percent on-site to 15 percent on-site and from 17 percent off-site to 20 percent off-site for all new  
21 housing development in the District. In no event shall the inclusionary housing requirement in the Mid-  
22 Market Special Use District be less than that imposed Citywide under Section 315. All other aspects of  
23 Section 315 shall continue to apply. Projects shall have the right to proceed with the inclusionary  
24 housing requirement applicable at the time an application for a site permit has been filed with the  
25 Department of Building Inspection.

1        (D) Additional Height. Additional height up to 20 feet may be permitted on sites in height  
2 districts of 120 feet and 130 feet, subject to review according to the provisions of Sections 263 and 309  
3 of this Code. Additional height shall be permitted provided all of the following conditions are met:

4        (i) The additional height shall consist solely of residential uses as defined in Section 890.88  
5 (a), (b), and (c) of this Code, excluding floor area required for building circulation, mechanical  
6 systems, and other spaces necessary to serve residential uses.

7        (ii) The total percentage of inclusionary housing required to be provided by the project is  
8 increased above that required by Sections 315 and 249.27(b)(3)(C) of this Code by 1 and 1/2 percentage  
9 points for each additional floor of residential use above the base allowable height; and

10        (iii) To maintain direct sunlight on public sidewalks during critical periods of use, the  
11 additional building volume permitted on Market and Mission Streets shall avoid penetration of sun  
12 access plane above the maximum permitted height, defined by a 45-degree angle sloping away from the  
13 street at the property line abutting the street, such that the additional building volume does not cause  
14 additional shading of public sidewalks.

15        (E) Residential Demolition. The provisions of Section 212 (e) of this Code shall apply to all  
16 demolitions of buildings containing dwellings or other residential uses, mergers of dwelling units  
17 and/or residential uses and conversions from dwelling units and/or residential uses to nonresidential  
18 uses (above the ground story) within the Mid-Market Special Use District. The applicant shall provide  
19 for the creation of new dwelling units or other residential uses within the District equal in number to  
20 those lost during the merger, demolition or conversion.

21        (4) Building Design.

22        (A) Design Guidelines. The construction of any building or alteration of existing buildings  
23 in the Mid-Market Special Use District shall be consistent with the design policies and guidelines of the  
24 General Plan, the "Mid-Market Special Use District Design Guidelines," and all other design  
25 guidelines established for the area as adopted and periodically amended for specific areas or

1 conditions by the Planning Commission and the Redevelopment Agency Commission. The Director of  
2 Planning may require modifications to the exterior of a proposed new building or alteration of an  
3 existing building pursuant to Section 309 of this Code in order to bring it into conformity with these  
4 guidelines and with the General Plan.

5 (B) Reduction of Ground-Level Wind Currents. The provisions of Section 148 of this Code  
6 shall apply in height districts exceeding 100 feet in height. Exceptions may be granted pursuant to  
7 Section 307 of this Code. The procedures and fee for review of such a request for exception shall be  
8 the same as those, which are applicable to variances, as set forth in Sections 306.1 through 306.5 and  
9 308.2 of this Code.

10 (C) Above-Grade Parking. Parking accessory to a permitted use or in replacement of  
11 surface parking lots as defined in Section 156 of this Code shall be limited to no more than three levels  
12 above grade with a total maximum height not to exceed 35 feet above street grade Variance from this  
13 requirement shall not be permitted under Section 305 of this Code if such parking is accessory to a  
14 permitted use.

15 (D) Street-Facing Use Requirements. Frontages of newly constructed buildings which face  
16 a public street or a public alley shall be lined with active uses for a minimum depth of 25 feet on the  
17 ground floor and 15 feet on all floors above, subject to the provisions of Section 145.4 of this Code.  
18 Active uses as defined in Section 145.4(e) shall be provided along the length of the building frontage  
19 between all parking and the public right-of-way.

20 (i) General Exceptions. This street-facing use requirement may be reduced pursuant to  
21 procedures described in Section 309 of this Code, provided the following criteria are met:

22 (I) It can be demonstrated that adherence to the street-facing use requirements described  
23 above is not possible given the constraints of the project site

1        (II) Active uses as defined above occupy the ground floor for an average depth of 20 feet  
2        from the street-facing property line and the ground floor has a ceiling height of no less than 16 feet for  
3        the full depth of the required active uses

4        (III) Parking on upper floors is entirely screened from public rights-of-way in a manner that  
5        accentuates ground floor retail and other uses, minimizes louvers and other mechanical features, and is  
6        in keeping with the overall massing and architectural vocabulary of the building's lower floors.

7        (IV) The project sponsor has incorporated space-saving parking technologies and practices  
8        such as valet and tandem parking, mechanical parking stackers and other available techniques.

9        (E) Minimum Building Heights. New buildings height districts of 120 feet or greater are  
10        required to be built to a minimum height of no less than 65 feet for at least 75 percent of all frontages  
11        facing public rights-of-way, except where required open space is provided according to the provisions  
12        of this Code. Recesses, insets and breaks between buildings are permitted to provide vertical  
13        articulation to the façade, provided the integrity of the street wall is maintained. Exceptions may be  
14        granted according to the provisions of Section 309 of this Code.

15        (F) Special Exceptions to Bulk Limits. Exceptions to the bulk limits described in Section 270  
16        of this Code shall be permitted pursuant to the process and criteria established in Section 272. Given  
17        the special development incentives established in the Mid-Market Special Use District, bulk exceptions  
18        may be approved only if criterion (1) and at least one of criteria (2), (3), (4) or (5) of Section 272 are  
19        met.

20        (G) Off-Site Provision of Required Open Space. Forty percent of the open space required by  
21        Section 135 and 138 of this Code may be provided off-site within 900 feet of the Mid-Market Special  
22        Use District if it meets standards for publicly-accessible open space described below:

23        (i) Open Space Provider. The open space required by this Section may be provided:

24        (I) individually by the project sponsor;

1           (II) jointly by the project sponsor and other project sponsors; provided, that each square  
2           foot of jointly developed open space may count toward only one sponsor's requirement; or  
3           (III) with the approval of the Planning Commission, by a public or private agency which will  
4           develop and maintain the open space and to which a payment is made by the sponsor for the cost of  
5           development of the number of square feet the project sponsor is required to provide, and with which  
6           provision is made, satisfactory to the Commission, for the continued maintenance of the open space for  
7           the actual lifetime of the building giving rise to the open space requirement, provided that the  
8           Commission finds that there is reasonable assurance that the open space to be developed by such  
9           agency will be developed and open for use by the time the building is ready for occupancy.

10           (ii) Publicly-Accessible Open Space. "Publicly accessible open space" is defined as open  
11           space situated in such locations and which provides such ingress and egress as will make the area  
12           accessible to the general public and which is open to the public daily from sunrise to sunset. One or  
13           more of the following types of open space may satisfy the definition of publicly accessible open space of  
14           one or more of the following types:

15           (I) an unenclosed park or garden at grade or above street grade or following the natural  
16           topography;

17           (II) an unenclosed plaza at street grade, with seating areas and landscaping and no more  
18           than 10 percent of the floor area devoted to food or beverage service;

19           (III) an unenclosed pedestrian pathway, which extends through the lot, is accessed from a  
20           public street at grade, is landscaped and has access to natural light and ventilation. Retail space or  
21           residential entries may face the pedestrian path on the lot provided that no more than 20 percent of the  
22           area of the required open space may be devoted to seating areas within the pedestrian path and a  
23           minimum of 10 feet is kept clear for walking;

24           (IV) a sun terrace or roof garden with landscaping; and

1        (V) streetscape improvements with landscaping and pedestrian amenities that result in  
2        additional space for pedestrian use beyond the pre-existing sidewalk width, such as sidewalk widening  
3        or building setbacks, beyond those required by Section 143 or elsewhere in this Code.

4        (H) Design Standards. If a sidewalk widening is used to meet the open space requirement,  
5        the proposal shall be approved by the Department of Public Works prior to Planning Commission  
6        approval of the project. Except for sidewalk widenings, the required publicly accessible open space  
7        shall have a minimum horizontal dimension of 20 feet and a minimum area of 400 square feet and, as  
8        determined by the Zoning Administrator, must meet the following standards:

9        (i) be in such locations and provide such ingress and egress as will make the area  
10        convenient, safe, secure and easily accessible to the general public;

11        (ii) be appropriately landscaped;

12        (iii) be protected from uncomfortable winds;

13        (iv) incorporate ample seating and, if appropriate, access to limited amounts of food and  
14        beverage service, which will enhance public use of the area;

15        (v) be well signed and accessible to the public during daylight hours;

16        (vi) have adequate access to sunlight if sunlight access is appropriate to the type of area;

17        (vii) be well lighted if the area is of the type requiring artificial illumination;

18        (viii) be designed to enhance user safety and security;

19        (ix) be of sufficient size to be attractive and practical for its intended use; and

20        (x) have access to drinking water and toilets if feasible, as determined by the Zoning

21        Administrator.

22        (I) Maintenance. Open spaces shall be maintained at no public expense. The owner of the  
23        property on which the open space is located shall maintain it by keeping the area clean and free of  
24        litter and keeping in a healthy state any plant material that is provided. Conditions intended to assure

1 continued maintenance of the open space for the actual lifetime of the building giving rise to the open  
2 space requirement may be imposed in accordance with the provisions of Section 309 of this Code.

3 (J) Informational Plaque. Prior to issuance of a permit of occupancy, a plaque of at least  
4 24 inches by 36 inches in size shall be placed in a publicly conspicuous location outside the building at  
5 street level, or at the site of any publicly-accessible open space, identifying said open space feature and  
6 its location, stating the right of the public to use the space and the hours of use, describing its principal  
7 required features (e.g., number of seats, availability of food service) and stating the name and address  
8 of the owner or owner's agent responsible for maintenance.

9 (K) The Zoning Administrator shall have authority to require a property owner to hold  
10 harmless the City and County of San Francisco, the Redevelopment Agency of the City and County of  
11 San Francisco and their officers, agents and employees, from any damage or injury caused by the  
12 design, construction or maintenance of open space, and to require the owner or owners or subsequent  
13 owner or owners of the property to be solely liable for any damage or loss occasioned by any act or  
14 neglect in respect to the design, construction or maintenance of the open space.

15 (5) Arts, Cultural and Entertainment Facilities and Public Art.

16 (A) Increased Floor Area permitted for Contributions to the Mid-Market Arts Space Fund.

17 (i) In the Mid-Market Special Use District it is desired to provide means in addition to the  
18 City's Transferable Development Rights Program by which the basic floor area may be increased up to  
19 the maximum floor area ratio through participation in a program to facilitate the provision and  
20 upgrade of nonprofit arts, cultural and entertainment facilities in the Mid-Market area.

21 (ii) In the Mid-Market Special Use District, a project shall be permitted additional square  
22 footage of development up to the maximum FAR permitted in Section 123(c)(1) and (2), by contributing  
23 to a dedicated Mid-Market Arts Space Fund through the purchase of "Arts Credits" up to the maximum  
24 FAR permitted stated in Section 123(c)(1) and (2). The amount of the Arts Credit shall be established  
25 by ordinance of the Board of Supervisors after the Planning Department and Redevelopment Agency

1 have completed a study and made a recommendation. The study and recommendation shall be  
2 completed within nine months of the adoption of this Ordinance. The recommendation should contain  
3 a formula by which the Planning Commission jointly with the Redevelopment Agency Commission may  
4 modify the amount of the Arts Credit pursuant to an established index.

5 (B) There is hereby established a Mid-Market Arts Space Fund. All monies collected  
6 pursuant to this Section shall be deposited in a special fund maintained by the Controller. The receipts  
7 in the Mid-Market Arts Space Fund shall be used solely to fund grants to nonprofit arts, cultural and  
8 entertainment organizations within the Mid-Market Project Area. No portion of the Fund may be used,  
9 by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any  
10 entity. Proceeds from this Fund shall be made available only to not-for-profit organizations qualifying  
11 for an exemption from federal taxation under Internal Revenue Code Section 501(c)(3). Detailed  
12 guidelines for the allocation of grant funds may be established by the body administering the Mid-  
13 Market Arts Space Fund.

14 (C) The Controller shall file an annual report with the Board of Supervisors, beginning one  
15 year after the effective date of the ordinance setting the amount of the Art Credit. This report shall set  
16 forth the amount of money collected in the Fund. Responsibility for administering and allocating  
17 grants from this fund shall be determined by ordinance of the Board of Supervisors.

18 (D) Definition of Arts, Cultural and Entertainment Uses. For the purpose of this Section,  
19 arts, cultural and entertainment uses shall include artist workspaces, studios, galleries, museums,  
20 archives, theaters, and other spaces used for live entertainment, including dramatic, visual and musical  
21 performances, and other arts activities as defined in Section 102.2, and 221(d), excluding adult  
22 entertainment as defined in Section 218.1, 221(k) and 803.4 of this Code.

23 (6) Art Works

1        *In order to enhance the attractiveness of the Mid-Market Special Use District, the provisions of*  
2        *Section 149 of this Code, as applied in the Mid-Market Special Use District, are hereby modified to*  
3        *provide that the artworks may be located in the following areas:*

4        *(A) On the grounds of the building or on the grounds of another building within the Mid-*  
5        *Market Special Use District and clearly visible from a public sidewalk, a publicly-accessible pedestrian*  
6        *path, or an open-space feature required by Section 138; or*

7        *(B) On a public sidewalk in the Mid-Market Special Use District or along a publicly-*  
8        *accessible pedestrian path; or*

9        *(C) On the site of the open-space feature provided pursuant to Section 138.*

10        *(D) Works of art may include sculpture, bas-relief, murals, mosaics, decorative water*  
11        *features, tapestries or other artworks permanently affixed to the building or its grounds, or a*  
12        *combination thereof, but may not include architectural features of the building. Artworks shall be*  
13        *displayed in a manner that will enhance their enjoyment by the general public.*

14        *(7) Accessory Parking.*

15        *(A) Amount Required. The requirements for providing accessory parking described in Sections*  
16        *151 and 204.5 of this Code shall not apply.*

17        *(B) Amount permitted. The quantities of principally permitted accessory parking described*  
18        *in Sections 151 and 204.5 for the underlying zoning district shall serve as the maximum amount of*  
19        *accessory parking that may be provided for the uses allowed in the Mid-Market Special Use District.*  
20        *The total amount of accessory parking provided shall be calculated according to the provisions of*  
21        *Section 153.*

22        *(C) Additional Residential Accessory Parking Permitted as a Conditional Use. Additional*  
23        *residential accessory parking, up to a maximum of one car per dwelling unit, may be permitted as a*  
24        *conditional use, calculated according to the provisions of Section 153. In considering any application*  
25        *for a conditional use for residential parking in excess of what is principally permitted, the Planning*

1       Commission shall make the following affirmative findings, in addition to applying the criteria in  
2       Sections 157 and 303(c) of this Code:

3           (i)     Vehicle movement associated with the excess accessory parking does not unduly impact  
4       pedestrian spaces or movement, transit service, bicycle movement, or the overall traffic movement in  
5       the district;

6           (ii)    Accommodating excess accessory parking does not degrade the overall urban design  
7       quality of the project proposal;

8           (iii)   All parking in the project is set back from facades facing streets and alleys and lined  
9       with active uses; and

10          (iv)    Excess accessory parking does not diminish the quality and viability of existing or  
11       planned streetscape enhancements.

12          (D)    Separating Parking Costs From Housing Costs. Residential units shall be made  
13       available for rent or purchase at a price separate from the price of a parking space, pursuant to  
14       Section 167.

15          (E)    Minimum Dimensions for Off-Street Parking. Off-street parking in the Mid-Market  
16       Special Use District shall be exempt from the requirements of Section 154 and Department of Public  
17       Works Standards.

18          (F)    Required Parking Spaces for Car-sharing. Parking for car-share services shall be  
19       required pursuant to Section 166.

20          **SEC. 145.4. STREET FRONTAGES, DOWNTOWN DISTRICTS.**

21          In order to preserve, enhance and promote street frontages, which are pedestrian-oriented,  
22       lively, fine-grained, and provide opportunity for multiple shops and services to serve both local and  
23       citywide populations, the following rules are established in DTR districts and in the Mid-Market  
24       Special Use District:

1        (a) Above-grade parking setback. Any parking built above street grade must be set back at  
2        least 25 feet on the ground floor and 15 feet at all other levels from any façade facing a public right-of-  
3        way. Space for active uses as defined in this Section and permitted by the specific district in which it is  
4        located shall be provided along the frontages for the above-mentioned setback depths.

5        (b) Ground Floor Commercial Uses. Active, pedestrian-oriented commercial uses as  
6        defined in this Section and permitted by the specific district in which it is located are a required ground  
7        floor use on street-facing building frontages in the locations listed in this subsection. Where these uses  
8        are required, they shall occupy no less than 75 percent of the building frontage and shall be open at the  
9        pedestrian eye-level allowing visibility to the inside of the building. Such openings shall use clear,  
10        untinted glass, except for decorative or architectural accent. Any decorative railings or decorative  
11        grille work, other than wire mesh, which is placed in front of or behind such windows, shall be at least  
12        75 percent open to perpendicular view and no more than six feet in height above grade. This  
13        requirement applies to the following frontages:

14        (1) Folsom Street, for the entirety of the Rincon Hill DTR, per Section 827.

15        (c) Maximum Street-Facing Use Sizes. An individual ground floor tenancy may not occupy  
16        more than 75 linear feet for the first 25 feet of depth from the street-facing facade of a frontage on a  
17        major street. Separate individual storefronts shall wrap large ground floor uses for the first 25 feet of  
18        depth.

19        (d) Exceptions to the requirements of this section may be granted per the procedures of  
20        Section 309 and 309.1.

21        (e) Definition of Active Uses.

22        (1) Ground Floor. Active uses at the ground floor shall include those that are oriented to  
23        public access and walk-up pedestrian activity, and generate human-oriented activity. These uses shall  
24        not include any use whose primary function is the storage of goods or vehicles, utility installations, any  
25        office use, any use oriented toward motorized vehicles, or any use or portion of a use which by its

1 nature requires non-transparent walls facing a public street. Uses considered active uses on the  
2 ground floor shall include lobbies for any use, and the uses listed in Table 145.4 and as defined by the  
3 referenced Code sections. Uses noted with an asterisk in Table 145.4 are restricted as follows:

4       (A) Non-Auto Vehicle Sales and Rental are only considered as active uses if their use is  
5 limited to the sales and rental of bicycles, or the sales of scooters or motorcycles, and no curb-cuts,  
6 garage doors, or loading access are required on streets where such are restricted in this Code, and  
7 pedestrian movement on abutting sidewalks is not infringed.

8       (B) Public Uses described in Section 890.80 are considered active uses except utility  
9 installations.

10      (C) Residential Uses described in Section 890.88 are considered active uses only if a  
11 majority of residential uses at the ground level have direct, individual pedestrian access to a public  
12 sidewalk or street. Spaces accessory to residential uses, such as fitness or community rooms, are  
13 considered active uses only if they meet the intent of this section and have access directly to the public  
14 sidewalk or street.

<u>Table 145.4</u>	
<u>Code Reference</u>	<u>Use</u>
<u>890.4</u>	<u>Amusement Game Arcade</u>
<u>890.6</u>	<u>Animal Hospital</u>
<u>890.22</u>	<u>Bar</u>
<u>890.23</u>	<u>Business Goods and Equipment</u> <u>Sales and Repair Service</u>
<u>890.34</u>	<u>Eating and Drinking Use</u>
<u>890.37</u>	<u>Entertainment, Other</u>
<u>890.39</u>	<u>Gift Store-Tourist Oriented</u>

25

<u>890.50</u>	<u>Institutions, Other</u>
<u>890.51</u>	<u>Jewelry Store</u>
<u>890.68</u>	<u>Neighborhood-Serving Business</u>
<u>890.69*</u>	<u>Non-Auto Vehicle Sales or Rental</u>
<u>890.80*</u>	<u>Public Use</u>
<u>890.88*</u>	<u>Residential Use</u>
<u>890.90</u>	<u>Restaurant, Fast-Food (Small)</u>
<u>890.91</u>	<u>Restaurant, Fast-Food (Large)</u>
<u>890.92</u>	<u>Restaurant, Full-Service</u>
<u>890.102</u>	<u>Sales and Service, Other Retail</u>
<u>890.104</u>	<u>Sales and Services, Retail</u>
<u>890.112</u>	<u>Service, Limited Financial</u>
<u>890.116</u>	<u>Service, Personal</u>
<u>890.122</u>	<u>Take-out Food</u>
<u>890.124</u>	<u>Trade Shop</u>
<u>890.140</u>	<u>Walk-Up Facility</u>

(2) Floors above the Ground Floor. Active uses on floors above the ground floor shall include any use included in subsection (1) along with all office uses, all residential uses, hotels, and any industrial or light industrial use that is permitted in the district and meets the intent of this Section.

*SEC. 155.5 BICYCLE PARKING REQUIRED FOR RESIDENTIAL USES*

(a) For buildings of 4 dwelling units or more, bicycle parking shall be provided in the minimum quantities specified in Table 155.5, regardless of whether off-street car parking is available.  
The maximum requirement is 400 spaces.

1                   (b) Definitions. Refer to Section 155.1(a)

2                   (c) Layout. Above a requirement of 100 spaces, up to one-third of the spaces may require  
3                   the bicycle to be parked in a vertical position. Large developments with multiple buildings are  
4                   encouraged to site required bicycle parking in smaller facilities located close to residential entries for  
5                   each building, rather than in one large centralized garage space. Required bicycle parking spaces shall  
6                   not be provided within dwelling units, balconies, or required open space. Bicycle parking must  
7                   otherwise meet the standards set out for Class 1 parking as described in Section 155.1(d).

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13                   Dwelling units in DTR Districts and in  
14                   the Mid-Market Special Use District

15

16

17                   Group housing in DTR Districts and in  
18                   the Mid-Market Special Use District  
19                   Dwelling units dedicated to senior  
20                   citizens or physically disabled persons

21                   Table 155.5

22                   Bicycle Parking Spaces Required For Residential Uses

23                   Minimum Number of Bicycle Parking Spaces  
24                   Required

25                   For projects up to 50 dwelling units, one Class 1  
26                   space for every 2 dwelling units.

27                   For projects over 50 dwelling units, 25 Class 1  
28                   spaces plus one Class 1 space for every 4 dwelling  
29                   units over 50.

30                   One Class 1 space for every 3 bedrooms.

31                   None required

32                   SEC. 166. CAR SHARING.

33                   (a) Definitions. For purposes of this Code, the following definitions apply:

34                   (1) A "car-share service" is a mobility enhancement service that provides an integrated  
35                   citywide network of neighborhood-based motor vehicles available to members by reservation on an  
36                   hourly basis, or in smaller intervals, and at variable rates. Car sharing is designed to complement  
37

1 existing transit and bicycle transportation systems by providing a practical alternative to private motor  
2 vehicle ownership, with the goal of reducing over-dependency on individually owned motor vehicles.

3       (2)    A "car-share organization" is any public or private entity that provides a membership-  
4 based car-share service to the public and manages, maintains and insures motor vehicles for shared  
5 use by individual and group members. The Planning Department shall maintain a list of recognized  
6 car-share organizations meeting the standards and intent of this Section.

7       (3)    An "off-street car-share parking space" is any parking space generally complying with  
8 the standards set forth for the district in which it is located and dedicated for current or future use by  
9 any car share organization through a deed restriction, condition of approval or license agreement.  
10 Such deed restriction, condition of approval or license agreement must grant priority use to any car-  
11 share organization that can make use of the space, although such spaces may be occupied by other  
12 vehicles so long as no car-share organization can make use of the dedicated car-share spaces.

13       (4)    A "car-share vehicle" is a vehicle provided by a car share organization for the purpose  
14 of providing a car share-service.

15       (5)    A "property owner" refers to the owner of a property at the time of project approval  
16 and its successors and assigns.

17       (b)    Requirements for Provision of Car-share Parking Spaces

18       (1)    In newly constructed buildings in DTR districts and in the Mid-Market Special Use  
19 District containing residential uses or existing buildings being converted to residential uses, car-share  
20 parking spaces shall be provided as follows:

<u>Number of Residential Units</u>	<u>Number of Required Car Share</u> <u>Parking Spaces</u>
<u>0 - 49</u>	<u>0</u>
<u>50 - 200</u>	<u>1</u>
<u>201 or more</u>	<u>1, plus 1 for every 200 dwelling</u> <u>units over 200</u>

1           (2) In all other newly constructed buildings, one car-share parking space shall be provided  
2 for each increment of parking permitted as a conditional use pursuant to Section 157 of this Code, as  
3 follows:

<u>Number of Parking Spaces Permitted by Conditional Use</u>	<u>Number of Required Car Share Parking Spaces</u>
<u>0 – 24</u>	<u>0</u>
<u>25 – 75</u>	<u>1</u>
<u>76 – 125</u>	<u>2, plus 1 for every 50 additional parking spaces permitted by Conditional Use</u>

10           (3) The required car-share spaces shall be made available, at no cost, to a car-share  
11 organization for purposes of providing car-share services for its car-share service subscribers. At the  
12 election of the property owner, the car-share spaces may be provided (I) on the building site, (ii) on  
13 another off-street site within 800 feet of the building site, or (iii) if approved by the Board of  
14 Supervisors, at a curbside site on a public street within 800 feet of the building site.

15           (4) The parking areas of the building shall be designed in a manner that will make the car-  
16 share parking spaces accessible to non-resident subscribers from outside the building as well as  
17 building occupants.

18           (5) Prior to Planning Department approval of the first building or site permit for a building  
19 subject to the car share requirement, a Notice of Special Restriction on the property shall be recorded  
20 indicating the nature of requirements of this Section and identifying the number and location of the  
21 required car-share parking spaces. The form of the notice and the location or locations of the car-share  
22 parking spaces shall be approved by the Planning Department.

23           (6) All car-share parking spaces shall be constructed and provided concurrently with the  
24 construction and sale of units.

1        (7) If it is demonstrated to the satisfaction of the Planning Department that no car-share  
2        organization can make use of the dedicated car-share parking spaces, the spaces may be occupied by  
3        non-car-share vehicles; provided, however, that upon ninety (90) days of advance written notice to the  
4        property owner from a car-sharing organization, the property owner shall terminate any non car-  
5        sharing leases for such spaces and shall make the spaces available to the car-share organization for its  
6        use of such spaces.

7        **SEC.167. SEPARATING PARKING COSTS FROM HOUSING COSTS IN NEW RESIDENTIAL**  
8        **BUILDINGS**

9        (a) In DTR districts and in the Mid-Market Special Use District, all off-street parking  
10        spaces accessory to residential uses in new structures of 10 dwelling units or more, or in new  
11        conversions of non-residential buildings to residential use of 10 dwelling units or more, shall be leased  
12        or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units,  
13        such that potential renters or buyers have the option of renting or buying a residential unit at a price  
14        lower than would be the case if there were a single price for both the residential unit and the parking  
15        space. Renters or buyers of on-site inclusionary affordable units provided pursuant to Section 315 shall  
16        have an equal opportunity to rent or buy a parking space on the same terms and conditions as offered  
17        to renters or buyers of other dwelling units.

18        (1) Exception. The Zoning Administrator may grant an administrative exception from this  
19        requirement for projects for which low-income housing tax credit financing requires that costs for  
20        parking and housing be bundled.

21        **SEC. 263.18. Special Exception: 120-X and 130-X Height and Bulk Districts in the Mid-Market**  
22        **Special Use District. In order to encourage additional inclusionary housing as part of new residential**  
23        **development in the Mid-Market Special Use District, up to 20 feet of additional height may be**  
24        **permitted on sites in 120-X and 130-X height districts, subject to review pursuant to the provisions of**

1     Section 309 of this Code. Additional height shall be permitted provided that all of the following  
2     conditions are met:

3         (1) The additional height shall consist solely of residential uses as defined in Section  
4         890.88(a), (b), and (c), excluding floor area required for building circulation, mechanical systems, and  
5         other spaces necessary to serve residential uses.

6         (2) The total percentage of inclusionary housing provided by the project is increased above  
7         that required by Sections 315 and 249.27(b)(3)(C) of this Code by 1 and 1/2 percentage points for each  
8         additional floor of residential use above the base allowable height.

9         (3) To maintain direct sunlight on public sidewalks during critical periods of use, the  
10         additional building volume permitted by this Section on Market and Mission Streets shall avoid  
11         penetration of a sun access plane above the maximum permitted height, defined by a 45-degree angle  
12         sloping away from the street at the property line abutting the street, such that the additional building  
13         volume does not cause additional shading of public sidewalks.

14         Section 3. The San Francisco Planning Code is hereby amended by amending  
15         Sections 123, 153, 204.3, and 309, to read as follows:

16         SEC. 123. MAXIMUM FLOOR AREA RATIO.

17         (a) The limits upon the floor area ratio of buildings, as defined by this Code, shall be  
18         as stated in this Section and Sections 124 through 128. The maximum floor area ratio for any  
19         building or development shall be equal to the sum of the basic floor area ratio for the district,  
20         as set forth in Section 124, plus any premiums and floor area transfers or credits which are  
21         applicable to such building or development under Sections 125, 127 and 128, and 249.27(b)(5),  
22         and as restricted by the provisions of Sections 123(c) and (d) and 124(b) and (j).

23         (b) No building or structure or part thereof shall be permitted to exceed, except as  
24         stated in Sections 172 and 188 of this Code, the floor area ratio limits herein set forth for the  
25         district in which it is located.

(c) The amount of TDR or arts credit that may be transferred to a development lot, as allowed by Sections 128 and 249.27(b)(5), is limited as follows:

(1) The gross floor area of a structure on a lot in the C-3-O and C-3-O (SD) Districts may not exceed a floor area ratio of 18 to 1;

(2) The gross floor area of a structure on a lot in the C-3-R, C-3-G and C-3-S Districts may not exceed a floor area ratio that is 1-½ times the basic floor area limit for the district as provided in Section 124, except as described in (3) below. This section shall not apply to the C-3-S (SU) District.

(3) In the Mid-Market Special Use District, the maximum gross floor area of a lot that meets the conditions described in Section 249.27(b)(2)(C)(ii) shall be increased by an area equal to the area of the subject lot.

(d) The gross floor area of a structure on a lot on which is or has been located a Significant or Contributory Building may not exceed the basic floor area ratio limits stated in Section 124 except as provided in Section 128(c)(2).

SEC. 153. RULES FOR CALCULATION OF THE MAXIMUM NUMBER OF PARKING  
REQUIRED SPACES.

(a) In the calculation of off-street parking and freight loading spaces required under Sections 151, 152 and 152.1, the following rules shall apply:

(1) In the case of mixed uses in the same structure, on the same lot or in the same development, or more than one type of activity involved in the same use, the total requirements for off-street parking and loading spaces shall be the sum of the requirements for the various uses or activities computed separately, including fractional values.

(2) Where an initial quantity of floor area, rooms, seats or other form of measurement is exempted from off-street parking or loading requirements, such exemption shall apply only once to the aggregate of that form of measurement. If the initial exempted

1 quantity is exceeded, for either a structure or a lot or a development, the requirement shall  
2 apply to the entire such structure, lot or development, unless the contrary is specifically stated  
3 in this Code. In combining the requirements for use categories in mixed use buildings, all  
4 exemptions for initial quantities of square footage for the uses in question shall be  
5 disregarded, excepting the exemption for the initial quantity which is the least among all the  
6 uses in question.

7 (3) Where a structure or use is divided by a zoning district boundary line, the  
8 requirements as to quantity of off-street parking and loading spaces shall be calculated in  
9 proportion to the amount of such structure or use located in each zoning district.

10 (4) Where seats are used as the form of measurement, each 22 inches of space on  
11 benches, pews and similar seating facilities shall be considered one seat.

12 (5) When the calculation of the required number of off-street parking or freight  
13 loading spaces results in a fractional number, a fraction of  $\frac{1}{2}$  or more shall be adjusted to the  
14 next higher whole number of spaces, and a fraction of less than  $\frac{1}{2}$  may be disregarded.

15 (6) In C-3 and South of Market Districts, substitution of two service vehicle spaces  
16 for each required off-street freight loading space may be made, provided that a minimum of 50  
17 percent of the required number of spaces are provided for freight loading. Where the 50  
18 percent allowable substitution results in a fraction, the fraction shall be disregarded.

19 (7) *In the Mid-Market Special Use District, the parking maximums described in Section  
20 249.27(b)(7) refer to the total number of parked cars accommodated in the project proposal, regardless  
21 of the arrangement of parking, and shall include all spaces accessed by mechanical means, valet, or  
22 non-independently accessible means. For the purposes of determining the total number of cars parked,  
23 the area of an individual parking stall may not exceed 185 square feet, including spaces in tandem, or  
24 in parking lifts, elevators or other means of vertical stacking.*

25

(b) The requirements for off-street parking and loading for any use not specifically mentioned in Sections 151 and 152 shall be the same as for a use specified which is similar, as determined by the Zoning Administrator.

### SEC. 204.3. ACCESSORY USES IN C AND M DISTRICTS.

(a) No use shall be permitted as an accessory use to a lawful principal or conditional use in any C-1 or C-2 District which involves or requires any of the following:

(1) The total employment for such accessory use of more than five persons in a C-1 District, or more than 10 persons in a C-2 District;

(2) The use of any single machine of more than one horsepower in a C-1 District, or more than 2½ horsepower in a C-2 District;

(3) The use of machines in any one establishment in an aggregate of more than five horsepower in a C-1 District, or more than 10 horsepower in a C-2 District;

(4) The use of more than 1/4 of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory off-street parking or loading; or

(5) The production of goods not intended primarily for retail sale or use on the premises.

(b) No use shall be permitted as an accessory use to a lawful principal or conditional use in any C-3 District which involves or requires the use of any single machine of more than five horsepower; or the use of more than  $\frac{1}{4}$  of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory off-street parking and loading. These limitations shall not apply to equipment or machines pertaining integrally to the lawful principal use itself.

(c) Notwithstanding the provisions of Sections 227(h) and (i) and 260(b)(2)(I) and (M) of this Code, an accessory use to a lawful principal or conditional use in any C or M

1 District which involves or requires the installation of a tower or antenna solely for the reception  
2 of radio and television broadcasts for the exclusive benefit of the residents or occupants in the  
3 building on which the antenna is placed shall be permitted without regard to the height of such  
4 tower or antenna and without regard to the proximity of such tower or antenna to any R  
5 District.

6        (d)     In the Mid-Market Special Use District, accessory residential uses are permitted to  
7        exceed the limitations described in (b) above in qualifying historic buildings, provided they do not  
8        exceed 1/3 of the total floor area of the use to which it is accessory. Qualifying historic buildings are  
9        defined in Section 249.27(b)(1)(B)(iv).

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

11        The provisions and procedures set forth in this Section shall govern the review of  
12 project authorization and building and site permit applications for the construction or  
13 substantial alteration of structures in C-3 Districts, the granting of exceptions to certain  
14 requirements of this Code where the provisions of this Section are invoked, the approval of  
15 open space provided in compliance with Section 138, and the approval of streetscape  
16 improvements in compliance with Section 138.1. The categories of alterations deemed to be  
17 substantial shall be established by the Planning Commission after a public hearing. When  
18 any action authorized by this Section is taken, any determination with respect to the proposed  
19 project required or authorized pursuant to CEQA may also be considered. This Section shall  
20 not require additional review in connection with a site or building permit application if review  
21 hereunder was completed with respect to the same proposed structure or alteration in  
22 connection with a project authorization application pursuant to Section 322.

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

25

- 1                   (1)    Exceptions to the setback and rear yard requirements as permitted in Sections  
2   132.1 and 134(d);  
3                   (2)    Exceptions to the ground level wind current requirements as permitted in  
4   Section 148;  
5                   (3)    Exceptions to the sunlight to public sidewalk requirement as permitted in Section  
6   146;  
7                   (4)    Exceptions to the requirement of independently accessible parking spaces as  
8   permitted in Section 155(c);  
9                   (5)    Exceptions to the freight loading and service vehicle space requirements as  
10   permitted in Section 161(h);  
11                  (6)    Exceptions to the off-street tour bus loading space requirements as permitted in  
12   Section 162;  
13                  (7)    Exceptions to the height limits for vertical extensions as permitted in Section  
14   260(b)(1)(G) and for upper tower extensions as permitted in Section 263.7;  
15                  (8)    Exceptions to the height limits in the 80-130F and 80-130X Height and Bulk  
16   Districts as permitted in Section 263.6 and in the 200-400S Height and Bulk District as  
17   permitted in Section 263.8;  
18                  (9)    Exceptions to the bulk requirements as permitted in Sections 270 and 272.

19                  A project applicant seeking an exception shall file an application on a form provided by  
20   the Zoning Administrator.

21                  (10) Exceptions to requirements for street-facing uses, minimum heights, and fenestration in  
22   the Mid-Market Special Use District as described in Section 249.27, subject to the criteria for the  
23   granting of exceptions described in Section 249.27.

24                  (b)    Additional Requirements. In addition to the requirements set forth in this Code,  
25   additional requirements and limitations (hereafter referred to as modifications) may be

1 imposed on the following aspects of a proposed project, through the imposition of conditions,  
2 in order to achieve the objectives and policies of the Master Plan or the purposes of this  
3 Code:

4 (1) Building siting, orientation, massing and facade treatment, including proportion,  
5 scale, setbacks, materials, cornice, parapet and fenestration treatment, and design of building  
6 tops;

7 (2) Aspects of the project affecting views and view corridors, shadowing of  
8 sidewalks and open spaces, openness of the street to the sky, ground-level wind current, and  
9 maintenance of predominant street walls in the immediate vicinity;

10 (3) Aspects of the project affecting parking, traffic circulation and transit operation  
11 and loading points;

12 (4) Aspects of the project affecting its energy consumption;

13 (5) Aspects of the project related to pedestrian activity, such as placement of  
14 entrances, street scale, visual richness, location of retail uses, and pedestrian circulation, and  
15 location and design of open space features;

16 (6) Aspects of the project affecting public spaces adjacent to the project, such as  
17 the location and type of street trees and landscaping, sidewalk paving material, and the  
18 design and location of street furniture as required by Section 138.1;

19 (7) Aspects of the project relating to quality of the living environment of residential  
20 units, including housing unit size and the provisions of open space for residents;

21 (8) Aspects of the design of the project which have significant adverse  
22 environmental consequences;

23 (9) Aspects of the project that affect its compliance with the provisions of Sections  
24 1109(c), 1111.2(c), 1111.6(c), and 1113 regarding new construction and alterations in  
25 conservation districts;

(10) Other aspects of the project for which modifications are justified because of its unique or unusual location, environment, topography or other circumstances.

(c) Notice of Application for Building or Site Permit. After receipt of an application for a project authorization or building or site permit for new construction or substantial alteration of a structure in a C-3 District, the Zoning Administrator shall mail notice of the application to all owners of property immediately adjacent to the property that is the subject of the application, using for this purpose the names and addresses as shown on the citywide Assessment Roll in the Assessor's Office, and, in addition, shall publish notice at least once in an official newspaper of general circulation.

(d) Notice of Proposed Approval. If, after a review of a project authorization or permit application, the Zoning Administrator determines that an application complies with the provisions of this Code and that no exception is sought as provided in Subsection (a), and the Director of Planning determines that no additional modifications are warranted as provided in Subsection (b), and that the open space requirements of Section 138 and the streetscape requirements of Section 138.1 have been complied with, the Zoning Administrator shall provide notice of the proposed approval of the application in the manner set forth in Subsection (c) and, in addition, to any person who has requested such notice in writing. If no request for Planning Commission review pursuant to Subsection (g) is made within 10 days of such notice, the Zoning Administrator shall approve the application.

(e) Hearing and Determination of Applications for Exceptions.

(1) Hearing. The Planning Commission shall hold a public hearing on an application for an exception as provided in Subsection (a).

(2) Notice of Hearing. Notice of such hearing shall be mailed not less than 10 days prior to the date of the hearing to the project applicant, to property owners within 300 feet of the project that is the subject of the application, using for this purpose the names and

1     addresses as shown on the citywide Assessment Roll in the Assessor's Office, and to any  
2     person who has requested such notice. The notice shall state that the written  
3     recommendation of the Director of Planning regarding the request for an exception is  
4     available for public review at the office of the Department of Planning.

5                 (3)     Decision and Appeal. The Commission may, after public hearing and after  
6     making appropriate findings, approve, disapprove or approve subject to conditions, the  
7     application for an exception. The decision of the Planning Commission may be appealed to  
8     the Board of Permit Appeals by any person aggrieved within 15 days after the date of the  
9     decision by filing a written notice of appeal with that Body, setting forth wherein it is alleged  
10    that there was an error in the interpretation of the provisions of this Code or abuse of  
11    discretion on the part of the Planning Commission.

12                (4)     Decision on Appeal. Upon the hearing of an appeal, the Board of Permit  
13    Appeals may, subject to the same limitations as are placed on the Planning Commission by  
14    Charter or by this Code, approve, disapprove or modify the decision appealed from. If the  
15    determination of the Board differs from that of the Commission it shall, in a written decision,  
16    specify the error in interpretation or abuse of discretion on the part of the Commission and  
17    shall specify in the findings, as part of the written decision, the facts relied upon in arriving at  
18    its determination.

19                (f)     Director's Recommendations.

20                (1)     Recommendations. If the Director of Planning determines that modifications  
21    through the imposition of conditions are warranted as provided in Subsection (b), or that the  
22    open space requirements of Section 138 or the streetscape requirements of Section 138.1  
23    have not been complied with, the matter shall be scheduled for hearing before the Planning  
24    Commission; provided, however, that if the Director determines that Section 138 and Section  
25    138.1 have been complied with and the applicant does not oppose the imposition of

1 conditions which the Director has determined are warranted, the applicant may waive the right  
2 to a hearing before the Commission in writing and agree to the conditions, in which case the  
3 Zoning Administrator shall provide notice of such fact according to the notice given for  
4 applications governed by Subsection (d), so that any person seeking additional modifications  
5 or objecting to the Section 138 or Section 138.1 determination may make such a request as  
6 provided in Subsection (g). If no request is made within 10 days of such notice, the Zoning  
7 Administrator shall approve the application subject to the conditions.

8 (2) Notice. Notice of any meeting of the Planning Commission pursuant to this  
9 subsection shall be mailed to the project applicant, to property owners immediately adjacent  
10 to the site of the application using for this purpose the names and addresses as shown on the  
11 citywide Assessment Roll in the Assessor's Office, and to any person who has requested  
12 such notice. The notice shall state that the Director's written recommendation is available for  
13 public review at the Department of Planning.

14 (3) Commission Action. The Planning Commission may, after public hearing and  
15 after making appropriate findings, approve, disapprove or approve subject to conditions  
16 applications considered pursuant to Subsection (b) or for compliance with Section 138 or  
17 Section 138.1.

18 (g) Planning Commission Review Upon Request.

19 (1) Requests. Within 10 days after notice of the proposed approval has been given,  
20 as provided in Subsection (d), any person may request in writing that the Planning  
21 Commission impose additional modifications on the project as provided in Subsection (b) or  
22 consider the application for compliance with Section 138 or Section 138.1. Said written  
23 request shall state why additional modifications should be imposed notwithstanding its  
24 compliance with the requirements of this Code and shall identify the policies or objectives that  
25

1 would be promoted by the imposition of conditions, or shall state why Section 138 has not  
2 been complied with.

3       (2)    Commission Consideration. The Planning Commission shall consider at a public  
4 meeting each written request for additional modifications and for consideration of Section 138  
5 and Section 138.1 compliance and may, by majority vote, direct that a hearing be conducted  
6 to consider such modifications or compliance, which hearing may be conducted at the same  
7 meeting that the written request is considered and decided. Notice of such meeting shall be  
8 mailed to the project applicant, to property owners immediately adjacent to the site of the  
9 application using for this purpose the names and addresses as shown on the citywide  
10 Assessment Roll in the Assessor's Office, to any person who has requested such notice, and  
11 to any person who has submitted a request for additional requirements. In determining  
12 whether to conduct such a hearing, the Commission shall determine whether, based upon a  
13 review of the project, reasonable grounds exist justifying a public hearing in order to consider  
14 the proposed additional modifications, Section 138 compliance or Section 138.1 compliance.

15       (3)    Commission Action. If the Commission determines to conduct a hearing to  
16 consider the imposition of additional modifications or Section 138 compliance, it may, after  
17 such hearing and after making appropriate findings, approve, disapprove, or approve subject  
18 to conditions the building or site permit or project authorization application. If the Commission  
19 determines not to conduct a hearing, the Zoning Administrator shall approve the application  
20 subject to any conditions imposed by the Director of Planning to which the applicant has  
21 consented.

22       (h)    Hearings on Projects Over 50,000 Square Feet of Gross Floor Area or Over 75  
23 Feet in Height. The Planning Commission shall hold a public hearing not otherwise required  
24 by this Section on all building and site permit and project authorization applications for  
25 projects which will result in a net addition of more than 50,000 square feet of gross floor area

1 of space or which will result in a building that is greater than 75 feet in height. Notice of such  
2 hearing shall be mailed not less than 10 days prior to the date of the hearing to the project  
3 applicant, to property owners immediately adjacent to the site of the application using for this  
4 purpose the names and addresses as shown on the citywide Assessment Roll in the  
5 Assessor's Office, and to any person who has requested such notice.

6 (i) Imposition of Conditions, General. If, pursuant to the provisions of this Section,  
7 the Planning Commission determines that conditions should be imposed on the approval of a  
8 building or site permit application, project authorization application or an application for  
9 exceptions and the applicant agrees to comply, the Commission may approve the application  
10 subject to those conditions, and if the applicant refuses to so agree, the Commission may  
11 disapprove the application.

12 (j) Change of Conditions. Authorization of a change in any condition previously  
13 imposed pursuant to this Section shall require an application for a change in conditions, which  
14 application shall be subject to the procedures set forth in this Section.

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16 APPROVED AS TO FORM:

17 DENNIS J. HERRERA, City Attorney

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19 By: \_\_\_\_\_  
20 John D. Malamut  
Deputy City Attorney

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