

1 [Interim Zoning Controls - Building Permits for Commercial Uses in an Area Bounded by
2 Market, 2nd, Brannan, and Division Streets, and South Van Ness Avenue]

3 **Resolution imposing interim zoning controls to require that for a 12-month period in**
4 **the area bounded by Market Street from Van Ness Avenue east to 5th Street on the**
5 **north side and east to 2nd Street on the south side, 2nd Street south to Brannan Street,**
6 **Brannan Street west to Division Street, and South Van Ness Avenue north to Market**
7 **Street certain building permits for any building with some commercial use shall require**
8 **the posting of a notice and a 15-day delay in starting the work and the re-establishment**
9 **of a commercial use that has been converted to residential use shall require Planning**
10 **Commission approval through either an authorization under Planning Code, Section**
11 **320, et seq., or a conditional use authorization; and making environmental findings and**
12 **a determination of consistency with the eight priority policies of Planning Code,**
13 **Section 101.1.**

14 WHEREAS, Planning Code, Section 306.7 provides for the imposition of interim zoning
15 controls to accomplish several objectives, including preservation of areas of mixed residential
16 and commercial uses and preservation of the City's rental housing stock; and

17 WHEREAS, Planning Code, Section 320 provides that the creation of 25,000 square
18 feet or more of additional office space shall be subject to the office cap and other
19 requirements of Section 320, et seq. ("Proposition M"); and

20 WHEREAS, for the purpose of office development authorizations "preexisting office
21 space" is defined as "office space used primarily and continuously for office use and not
22 accessory to any use other than office use for five years prior to Planning Commission
23
24
25

1 approval of an office development project which office use was fully legal under the terms of
2 San Francisco law”; and

3 WHEREAS, There is evidence that preexisting office space has been converted
4 without benefit of a permit to residential use in multiple buildings in the area of San Francisco
5 bounded by Market Street from Van Ness Avenue east to 5th Street on the north side and to
6 2nd Street on the south side, 2nd Street south to Brannan Street, Brannan Street west to
7 Division Street, and South Van Ness north to Market; and

8 WHEREAS, The Board of Supervisors wants to control the removal of any existing
9 residential uses in commercial spaces and review the status of the original legal uses until
10 such time as the Planning Department can propose permanent legislation; and

11 WHEREAS, The Board is aware that during the economic downturn, renting
12 commercial space for unpermitted residential use was an attractive economic option for many
13 property owners, but the economic situation has changed rapidly and office use in the Area is
14 in demand; and

15 WHEREAS, The unpermitted residential spaces have become an important source of
16 housing for residents of the City, and preserving the City's housing stock, particularly its
17 relatively affordable housing stock in a climate of scarce housing resources and relative lack
18 of affordability, is of paramount concern; and

19 WHEREAS, On December 18, 2013, in Executive Directive 13-01, Mayor Ed Lee
20 requested City Departments to make recommendations to, among other things, preserve and
21 promote rental housing and to hold public hearings when a loss of housing is proposed; and

22 WHEREAS, The City strictly controls the change of legal uses through the Planning
23 and Building Codes, but a change of use in a building that contains unpermitted uses does not
24 afford the public and decision makers the same level of notice and opportunity to consider the
25

1 impact of such a change in use when surrounding circumstances may have substantially
2 changed; and

3 WHEREAS, This Resolution imposes a new 12-month period for these amended
4 interim controls, which were enacted by Resolution No. 428-13 and expired on December 13,
5 2014; and

6 WHEREAS, This Board has considered the impact on the public health, safety, peace,
7 and general welfare if the proposed interim controls are not imposed; and

8 WHEREAS, This Board has determined that the public interest will best be served by
9 imposition of these interim controls at this time in order to ensure that the legislative scheme
10 which may ultimately be adopted is not undermined during the planning and legislative
11 process for permanent controls; and

12 WHEREAS, The Planning Department has determined that the actions contemplated in
13 this Resolution are in compliance with the California Environmental Quality Act (California
14 Public Resources Code, Sections 21000, et seq.); said determination is on file with the Clerk
15 of the Board of Supervisors in File No. 150087 and is incorporated herein by reference; now,
16 therefore, be it

17 RESOLVED, That pursuant to Planning Code, Section 306.7, the Board of Supervisors
18 by this Resolution hereby requires that during the pendency of these interim controls certain
19 building permits for any buildings with some commercial use in the area of San Francisco
20 bounded by Market Street from Van Ness Avenue east to 5th Street on the north side and to
21 2nd Street on the south side, 2nd Street south to Brannan Street, Brannan Street west to
22 Division Street, and South Van Ness Avenue north to Market Street shall require a notice to
23 be posted the day of permit issuance in a conspicuous location on the ground floor of the
24 building for the work specified below; and, be it

25

1 FURTHER RESOLVED, That if a posted notice is required it shall meet the
2 requirements of the Planning and Building Departments and at a minimum shall state in plain
3 language and in multiple languages the following information: “The building permit described
4 below has been issued by the City and County of San Francisco. If you or someone you know
5 lives in this building and may be displaced by this work, please call the following number prior
6 to the expected construction start date on _____;” and, be it

7 FURTHER RESOLVED, That if a posted notice is required, work under the issued
8 permit may not start until the expiration of 15 days from permit issuance and posting of the
9 notice; and, be it

10 FURTHER RESOLVED, That the building permits that are subject to the posted notice
11 and 15-day hold requirements are for: Structural or architectural work above the ground floor
12 in the interior of any building with some commercial use that obtained its first certificate of
13 occupancy prior to 1979, is valued at \$15,000 or more, and requires the submittal of floor
14 plans; and, be it

15 FURTHER RESOLVED, That the following building permits are exempt from the
16 posted notice and 15-day hold requirements: Permits to address a life/safety issue, and
17 permits for weather protection, accessibility upgrades, and dry rot repair; and, be it

18 FURTHER RESOLVED, That during the pendency of these interim controls in the
19 geographic area covered by these controls, any commercial use that has been converted in
20 whole or in part to residential use without benefit of a permit shall be deemed abandoned. Any
21 permit, subject to the posted notice and 15-day hold requirements above, to re-establish any
22 commercial use shall not be issued or reinstated, or, if already issued, shall not remain
23 effective, unless the project sponsor obtains a Conditional Use authorization under Planning
24 Code Section 303, in addition to all requirements of the Planning Code applicable to the
25 establishment of any such use; and, be it

1 FURTHER RESOLVED, That these interim controls shall remain in effect for twelve
2 (12) months unless further extended or until the adoption of permanent legislation, whichever
3 shall first occur; and, be it

4 FURTHER RESOLVED, That these interim controls are not in conflict with and hence
5 are consistent with the eight priority policies of Planning Code, Section 101.1.

6
7 APPROVED AS TO FORM:
8 DENNIS J. HERRERA, City Attorney

9 By: SUSAN CLEVELAND-KNOWLES
10 Deputy City Attorney

11 n:\legana\as2015\1400202\00996057.doc