

BOARD of SUPERVISORS



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MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection

FROM:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: March 6, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Cohen on February 27, 2018:

File No. 180187

Ordinance amending the Planning Code to reauthorize provisions that support the development of new Production, Distribution, and Repair (PDR) space in specified PDR Zoning Districts; 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 findings of public necessity, convenience, and welfare under Planning Code, Section 302.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection

1 [Planning Code - Reauthorizing Section 210.3C Concerning New Production, Distribution, and
2 Repair Space]

3 **Ordinance amending the Planning Code to reauthorize provisions that support the**
4 **development of new Production, Distribution, and Repair (PDR) space in specified PDR**
5 **Zoning Districts; affirming the Planning Department's determination under the**
6 **California Environmental Quality Act; making findings of consistency with the General**
7 **Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of**
8 **public necessity, convenience, and welfare under Planning Code, Section 302.**

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

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

17 Section 1. Environmental and Land Use Findings.

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

23 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

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1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) On _____, the Planning Commission, in Resolution No. _____, adopted
4 findings under Planning Code Section 302 that the amendments to the Planning Code
5 contemplated in this ordinance will serve the public necessity, convenience, and general
6 welfare. The Board adopts these findings as its own. A copy of said Resolution is on file with
7 the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by
8 reference.

9
10 Section 2. The Planning Code is hereby amended by revising Section 210.3C, to read
11 as follows:

12
13 **SEC. 210.3C. ALLOWANCE FOR USES TO SUPPORT THE DEVELOPMENT OF**
14 **NEW PDR SPACE IN THE PDR-1-D AND PDR-1-G DISTRICTS.**

15 * * * * *

16 (c) **Controls.** The Planning Commission may permit, per the procedures described
17 below in §subsection (d), non-PDR uses on the subject lot pursuant to the following
18 provisions:

19 (1) At least 1/3 of the total Gross Floor Area developed on the parcel shall
20 contain PDR Uses, as defined in Section 102.

21 (2) For purposes of this §subsection (c), every square foot of Small Enterprise
22 Workspace, as defined in Section 102, shall count as 0.5 square feet of PDR space and 0.5
23 square feet of non-PDR space as specified in §subsection (3) below.

24 (3) The non-PDR space may contain one or a combination of the following
25 uses:

- 1 (A) Office Uses, as defined in Section 102;
- 2 (B) Institutional Uses, as defined in Section 102, except for Hospitals;
- 3 and/or
- 4 (C) Gym Use, as defined in Section 102.
- 5 (4) Uses other than those listed in ~~S~~subsections (2) and (3) above, such as
- 6 retail, are subject to the controls of the underlying district.
- 7 (5) No residential uses are permitted, even as part of Institutions as defined
- 8 under Section 890.50, except as allowed pursuant to Section 204.4.
- 9 (6) The PDR space in any building must be served by:
- 10 (A) Sufficient off-street loading, and
- 11 (B) One or more freight elevators, in accordance with Planning Code
- 12 Section 155(j).
- 13 (7) The project shall meet the Transportation Management Program
- 14 requirements of Section 163(c) of the Planning Code.
- 15 (8) Accessory parking for uses listed in subsection (2) above may be permitted
- 16 up to one space per each 1,500 square feet of occupied floor area, and all such parking shall
- 17 be subject to the pricing requirements of Section 155(g) of the Planning Code.
- 18 (9) The project sponsor must develop a "PDR Business Plan." The purpose of
- 19 this PDR Business Plan is to maximize the potential for the project to produce new PDR
- 20 space that is viable and affordable. The features of the PDR Business Plan should include,
- 21 but are not limited to:
- 22 (A) Overall strategy to incorporate PDR businesses, including specifying
- 23 which kinds of PDR businesses are the target for the development;
- 24
- 25

1 (B) A description of the kinds of non-PDR businesses intended for the
2 site and a plan for how they will co-exist with the PDR businesses and any strategies required
3 to achieve this balance;

4 (C) A description of how the site's marketing and outreach plan will
5 effectively target these same PDR businesses;

6 (D) A description of how the development's design is suited to PDR
7 businesses;

8 (E) A description of the rent/purchase price proposed by the developer
9 for the PDR spaces and the approach to keep these rents ~~accessible~~ affordable to PDR tenants
10 over time;

11 (F) A detailed overview of the workforce and hiring strategy for the PDR
12 businesses on the site, as well as for the non-PDR businesses, including how the project
13 sponsor will abide by City programs such as the First Source Hiring Program; how the project
14 sponsor might utilize other local, State, and federal subsidized hiring programs such as work
15 opportunity tax credits, Jobs Now!, Hire SF, and the California ~~new~~ employment tax credit set
16 forth in Chapter 93 of the California 2013-2014 legislative session; and how the project
17 sponsor will inform its tenants about other relevant public programs; and,

18 (G) A detailed community outreach plan, including a plan for engaging
19 any specific community partners in the development, tenanting of the project, and ongoing
20 management of the PDR portions of the property.

21 (10) The first Certificate of Occupancy for the PDR portion of the development
22 must be issued by the Department of Building Inspection before or concurrently with the first
23 Certificate of Occupancy for the non-PDR portion of the development unless the PDR and
24 non-PDR portions are part of a single site or building permit.

25 * * * * *

1 (e) **Approvals.**

2 (1) All projects seeking entitlement pursuant to this Section 210.3C shall be
3 required to receive a Conditional Use authorization, per Section 303 of the Planning Code. In
4 evaluating a proposed authorization under this Section, the Planning Commission shall
5 consider:

6 (A) The likely viability of the new PDR space created by the
7 development, as influenced by such factors as the content of the project sponsor's PDR
8 Business Plan, and whether the project sponsor has the commitments of established PDR
9 tenants and/or a demonstrated relationship with organizations established in the PDR
10 community.

11 (B) Whether the project is an appropriate location and intensity for the
12 proposed non-PDR use, including but not limited to whether the location of non-PDR uses
13 would be compatible with or disruptive to PDR uses on the site and in the vicinity, recognizing
14 that PDR uses may generate noise, vibrations, odors, trucking activity, or other PDR-related
15 operational characteristics.

16 (2) A Notice of Special Restriction ("NSR") shall be recorded on the title of any
17 property receiving approval under this Section ~~219.1210.3C~~. Such NSR shall:

18 (A) Designate the PDR portion of parcel, building, and/or development;

19 (B) State that the proportion of gross floor area on the site dedicated to
20 PDR uses shall never be less than 1/3 of the total gross floor area on the parcel, including any
21 future building or use alterations or expansions;

22 (C) Require the property owner to submit an annual report to the
23 Planning Department and OEWD, on or before January 31 of each year, *starting in the year*
24 *after the Department of Building Inspection issues the first Certificate of Occupancy that applies to the*
25 *PDR portion of the development*, describing the status of the implementation of its PDR Business

1 Plan, identifying PDR tenants on the property during the prior year, describing the rents for the
2 PDR portions of the property and any lease terms, and providing information on their
3 respective square footages, number of employees, contact information for each tenant, a
4 description of the business or industry characteristics of each business, and the PDR space
5 vacancy on the parcel as of the date of each report; ~~and,~~

6 (D) Provide the Planning Department with the ability to enforce the
7 provisions of this Section; ~~and,~~

8 (E) Restrict the ability of the non-PDR portion of the development from
9 limiting the PDR portion from undertaking activities necessary to maintain PDR business
10 operations in such matters as trucking and noise generation.

11 (f) ~~Reporting and Sunset Clause.~~

12 ~~——(1) The Planning Department shall receive all applications for environmental review~~
13 ~~for projects eligible under this Section on or before June 1, 2017.~~

14 ~~——(2) Prior to the sunset date of this Section, the Planning Department shall submit a~~
15 ~~report to the Planning Commission and the Board of Supervisors that provides information the~~
16 ~~Planning Department determines to be relevant in determining whether to continue, expand or limit the~~
17 ~~allowances for new construction of PDR addressed in this Section.~~

18 ~~——(3) On December 31, 2017, this Section shall sunset unless the Board of Supervisors~~
19 ~~acts to continue, extend, or modify it by ordinance.~~


20 (g) **Uses Established Under This Section.** Notwithstanding any contrary provision
21 of this Code, Office Uses established pursuant to this Section 210.3C shall be deemed Code-
22 conforming uses after the expiration of this Section and such uses shall not constitute
23 nonconforming uses under the provisions of Article 1.7.

1 Section 3. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the "Note" that appears under
11 the official title of the ordinance.

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15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17
18 By:



JOHN D. MALAMUT
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Reauthorizing Section 210.3C Concerning New Production, Distribution, and Repair Space]

Ordinance amending the Planning Code to reauthorize provisions that support the development of new Production, Distribution, and Repair (PDR) space in specified PDR Zoning Districts; 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 findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Planning Code Section 210.3C supported the development of new PDR space in 2 different zoning districts, PDR-1-D (Design) and PDR-1-G (General). To be eligible for this program, the Section required project sponsors to have submitted all environmental application materials to the Planning Department on or before June 1, 2017. By its own terms, this Section also expired on December 31, 2017.

Amendments to Current Law

This ordinance would reauthorize Planning Code Section 210.3C, delete its qualifying environmental application deadline, and eliminate the sunset clause in its entirety. The legislation would make other minor technical changes and adopt various findings including environmental findings and findings of consistency with the General Plan and eight priority policies of Planning Code, Section 101.1.

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