

BOARD of SUPERVISORS



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## MEMORANDUM

### LAND USE AND ECONOMIC DEVELOPMENT COMMITTEE SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Scott Wiener, Chair  
Land Use and Economic Development Committee

FROM: Alisa Miller, Committee Clerk

DATE: July 23, 2013

SUBJECT: **COMMITTEE REPORTS, BOARD MEETING**  
Tuesday, July 23, 2013

The following files should be presented as **COMMITTEE REPORTS** at the Board meeting, Tuesday, July 23, 2013. These items were acted upon at the Committee Meeting on July 22, 2013, at 1:30 p.m., by the votes indicated.

**Item No. 63            File No. 130186**

Ordinance amending the Environment Code by repealing Yellow Pages Distribution Pilot Program.

**RECOMMENDED AS A COMMITTEE REPORT**

Vote: Supervisor Scott Wiener - Aye  
Supervisor Jane Kim - Aye  
Supervisor David Chiu - Aye

**Item No. 64            File No. 130459**

Ordinance amending the Planning Code, Mission Alcoholic Beverage Special Use District controls, to allow the transfer of liquor licenses and relocation of uses under specified circumstances, to restrict the sale of alcohol for off-site consumption, and to exempt from the controls grocery stores and certain institutional, arts, and other uses; establishing operating conditions for certain establishments with a liquor license; amending the Valencia Street Neighborhood Commercial Transit District controls to restrict the conversion of existing ground floor retail uses to restaurants; and making environmental findings, Planning Code, Section 302, findings, and findings of consistency with the General Plan and the priority policies of Planning Code, Section 101.1.

AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Vote: Supervisor Scott Wiener - Aye  
Supervisor Jane Kim - Aye  
Supervisor David Chiu - Aye

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor Scott Wiener - Aye  
Supervisor Jane Kim - Aye  
Supervisor David Chiu - Aye

**Item No. 65            File No. 130464**

Ordinance amending Administrative Code, Chapter 31, to provide for appeal to the Environmental Review Officer to reconsider a determination of the Environmental Review Officer that an exempt project modification does not require a new decision under the California Environmental Quality Act; and making environmental findings.

AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Vote: Supervisor Scott Wiener - Aye  
Supervisor Jane Kim - Aye  
Supervisor David Chiu - Aye

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor Scott Wiener - Aye  
Supervisor Jane Kim - Aye  
Supervisor David Chiu - Aye

**Item No. 66            File No. 130570**

Ordinance amending the Planning Code and Zoning Map, by adding Section 249.71, to create the Yerba Buena Center Mixed-Use Special Use District (SUD) located at 706 Mission Street, Assessor's Block No. 3706, Lot No. 093 and portions of Lot No. 277, to facilitate the development of the 706 Mission Street, The Mexican Museum and Residential Tower Project, by modifying specific Planning Code regulations related to permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and curb cut locations; amending the Zoning Map to add the SUD and increase the height of property in the SUD from 400 feet to 480 feet; and making environmental findings and findings of consistency with the General Plan.

REFERRED WITHOUT RECOMMENDATION AS A COMMITTEE REPORT

Vote: Supervisor Scott Wiener - Aye  
Supervisor Jane Kim - Aye  
Supervisor David Chiu - Aye

c: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Rick Caldeira, Deputy Legislative Clerk  
Jon Givner, Deputy City Attorney

File No. 130186

Committee Item No. 9

Board Item No. 63

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date July 22, 2013

Board of Supervisors Meeting Date July 23, 2013

### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
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### OTHER (Use back side if additional space is needed)

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Completed by: Alisa Miller Date July 19, 2013  
Completed by: Alisa Miller Date July 23, 2013

1 [Environment Code - Repealing Yellow Pages Distribution Pilot Program]

2  
3 **Ordinance amending the Environment Code by repealing Yellow Pages Distribution**  
4 **Pilot Program.**

5 NOTE: Additions are single-underline italics Times New Roman;  
6 deletions are ~~strike through italics Times New Roman~~.  
7 Board amendment additions are double-underlined;  
8 Board amendment deletions are ~~strikethrough normal~~.

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

10 Section 1. The San Francisco Environment Code is hereby amended by repealing  
11 Sections 2101 through 2109 in their entirety:

12 **~~SEC. 2101. FINDINGS AND PURPOSE.~~**

13 ~~(a) Every year, private residences and businesses in San Francisco cumulatively receive,~~  
14 ~~unsolicited, hundreds of thousands of Commercial Phone Directories, commonly known as "the Yellow~~  
15 ~~Pages." The best estimate of the number of unsolicited Commercial Phone Directories annually~~  
16 ~~distributed in San Francisco is 1.6 million. These unsolicited Commercial Phone Directories~~  
17 ~~cumulatively weigh thousands of pounds and contain millions of pages.~~

18 ~~(b) The failure to target deliveries of Commercial Phone Directories to private residences and~~  
19 ~~businesses where an owner or occupant has indicated an interest in receiving one or more Commercial~~  
20 ~~Phone Directories results in gross overproduction and significant wastage. In many cases unsolicited~~  
21 ~~Commercial Phone Directories that have been delivered to private residences and businesses are not~~  
22 ~~used by the recipient, and often are not picked up by the intended recipient. In other cases, they are~~  
23 ~~only rarely used by the recipient. And, even when Commercial Phone Directories are used by the~~  
24 ~~recipient, in many cases the same information is readily available to the recipient through electronic~~  
25 ~~channels of communication.~~

1           (c) ~~The wastage caused by delivery of unsolicited Commercial Phone Directories to private~~  
2 ~~residences and businesses greatly exacerbates the environmental harms and economic costs inherent in~~  
3 ~~the production and disposal of such directories.~~

4           ~~——(1) The wastage causes substantial and unnecessary depletion of natural resources that~~  
5 ~~go into the production of Commercial Phone Directories, including substantial consumption of energy~~  
6 ~~used in the production process. Further, overproduction of Commercial Phone Directories~~  
7 ~~unnecessarily pollutes the environment.~~

8           ~~——(2) The wastage causes substantial and unnecessary environmental harms and economic~~  
9 ~~costs associated with the disposal of Commercial Phone Directories, even if they are recycled, which~~  
10 ~~they often are not. Further, recycling of Commercial Phone Directories poses special difficulties~~  
11 ~~because of their bulk, weight, and composition. While recycling of Commercial Phone Directories is~~  
12 ~~environmentally preferable to their being disposed of without recycling, the better approach from an~~  
13 ~~environmental and economic standpoint is to prevent wastage in the first place, and thereby reduce the~~  
14 ~~need for and costs of recycling, by devising a system tailored to match the production of Commercial~~  
15 ~~Phone Directories with the demand for such directories. Not printing a Commercial Phone Directory~~  
16 ~~reduces greenhouse gases to a far greater extent than printing the directory and eventually recycling it.~~

17           (d) ~~Delivery of unsolicited Commercial Phone Directories to private residences and businesses~~  
18 ~~also creates neighborhood blight. Unsolicited deliveries often sit on the porch, the steps, in front of the~~  
19 ~~door to a home, or on the sidewalk, for days or even weeks. Piles of Commercial Phone Directories are~~  
20 ~~often left in front of multi-unit residential buildings, to be battered and degraded by the elements rather~~  
21 ~~than picked up by the intended recipients. The size, weight, and bulk of the product operates as a~~  
22 ~~particular disincentive for people to pick it up. And the size and bulk of the product creates a~~  
23 ~~particularly unsightly blight on City streets, especially in more densely populated areas, impeding the~~  
24 ~~aesthetic enjoyment of the neighborhood.~~

1           (e) ~~The nature and magnitude of the environmental and related harms caused by delivery of~~  
2 ~~unsolicited Phone Directories is unique to Phone Directories. In the experience of San Francisco and~~  
3 ~~other cities, no product or object of similar size, weight, and bulk, whether made of paper or otherwise,~~  
4 ~~and whether containing print or otherwise, is regularly left, unsolicited, at private residences and~~  
5 ~~businesses throughout San Francisco. Commercial Phone Directories comprise a large subset—almost~~  
6 ~~certainly a majority—of the Phone Directories delivered unsolicited to private residences and~~  
7 ~~businesses in San Francisco.~~

8           (f) ~~The information contained in Commercial Phone Directories is readily available on the~~  
9 ~~Internet or may easily be made available on the Internet. The large majority of private residences and~~  
10 ~~businesses in San Francisco have access to the Internet, and the numbers of private residences and~~  
11 ~~businesses with access to the Internet is expected to become even greater in the future. Access to the~~  
12 ~~Internet has become increasingly common and convenient for residents and businesses in San~~  
13 ~~Francisco with the advent of personal computers, including hand-held devices, and smart phones.~~

14           (g) ~~The purpose of this Chapter is to significantly reduce the environmental and other harms~~  
15 ~~and related costs caused by delivery of unsolicited Commercial Phone Directories to private residences~~  
16 ~~and businesses in San Francisco. There is a compelling public interest in achieving this objective.~~

17           (h) ~~The Pilot Program established by this Chapter directly advances the City's interest in~~  
18 ~~significantly reducing the environmental and other harms and related costs caused by delivery of~~  
19 ~~unsolicited Commercial Phone Directories to private residences and businesses in San Francisco. The~~  
20 ~~Pilot Program is narrowly tailored to meet this objective. It does not prohibit the publication or~~  
21 ~~distribution of Commercial Phone Directories but rather focuses on channeling their distribution to~~  
22 ~~Persons and others who find a need to use such directories. And a central feature of the program is its~~  
23 ~~public outreach component, which is designed in part to ensure that Persons and others who seek to~~  
24 ~~obtain a Commercial Phone Directory are able easily to do so. Further, the Pilot Program will be far~~  
25 ~~more effective in meeting the goals of this Chapter than any "opt-out" program permitting unsolicited~~

1 ~~distribution of Commercial Phone Directories to private residences and businesses unless the resident~~  
2 ~~or business expresses a preference not to receive the directory.~~

3  
4 **~~SEC. 2102. DEFINITIONS.~~**

5 ~~For purposes of this Chapter, the following definitions apply.~~

6 ~~(a) "City" means the City and County of San Francisco.~~

7 ~~(b) "Commercial Phone Directory" means a printed publication (a hard copy) of at least 100~~  
8 ~~pages (counting the front and back of a page as two pages), consisting of nonresidential phone number~~  
9 ~~listings and advertisements for those listed in the publication, with the listings segregated under~~  
10 ~~headings for similar types of businesses. A "Commercial Phone Directory" is commonly, but not~~  
11 ~~necessarily, printed on yellow paper.~~

12 ~~(c) "Commission" means the Commission on the Environment.~~

13 ~~(d) "Department" means the Department of the Environment.~~

14 ~~(e) "Director" means the Director of the Department of the Environment.~~

15 ~~(f) "Distribute" means to physically deliver Commercial Phone Directories to private residences~~  
16 ~~and/or businesses in San Francisco. "Distribute" does not include storage of Commercial Phone~~  
17 ~~Directories by a Distributor or Phone Company at a site under the control of the Distributor or Phone~~  
18 ~~Company, at which site Persons and others may come to receive Commercial Phone Directories. The~~  
19 ~~act of distribution of a Commercial Phone Directory shall be imputed to all Distributors, as defined in~~  
20 ~~subsection (g), of that directory.~~

21 ~~(g) "Distributor" means~~

22 ~~—— (1) a company, entity, business, or Person contractually obligated to distribute or cause~~  
23 ~~the distribution of Commercial Phone Directories to private residences and/or businesses in San~~  
24 ~~Francisco;~~

1           ~~\_\_\_\_\_ (2) a company, entity, business, or Person that enters into a contract with a Distributor~~  
2 ~~as defined in subdivision (g)(1) for the purpose of that Distributor's distributing or causing the~~  
3 ~~distribution of Commercial Phone Directories to private residences and/or businesses in San~~  
4 ~~Francisco;~~

5           ~~\_\_\_\_\_ (3) a company, entity, business, or Person that does not contract for the distribution of~~  
6 ~~Commercial Phone Directories to private residences and/or businesses in San Francisco but instead~~  
7 ~~itself distributes the Commercial Phone Directories.~~

8           ~~Notwithstanding the above definition, "Distributor" does not include a Person or Persons~~  
9 ~~whose sole role in the distribution of Commercial Phone Directories is limited to driving the streets~~  
10 ~~and physically delivering Commercial Phone Directories. In addition, "Distributor" does not include~~  
11 ~~the United States Postal Service, a commercial courier, or a commercial package delivery service that~~  
12 ~~allows a customer to track the status of a shipment by destination, date, and time of delivery.~~

13           ~~(h) "Person" means a human being.~~

14           ~~(i) "Phone Company" means a company or other entity that provides telephone service to~~  
15 ~~private residences and/or businesses in San Francisco. "Phone Company" includes a wholly owned~~  
16 ~~subsidiary of a Phone Company, or any other company or entity the ownership or management of~~  
17 ~~which is controlled by a Phone Company.~~

18           ~~(j) "Phone Directory" includes Commercial Phone Directories but also includes an alphabetical~~  
19 ~~compilation of phone listings for residences, businesses, and government offices, commonly known as~~  
20 ~~"the White Pages." A "Phone Directory" is a printed publication (a hard copy).~~

21           ~~(k) "Pilot Program" means the Yellow Pages Distribution Pilot Program established by this~~  
22 ~~Chapter.~~

23           ~~(l) "State law" means the entire corpus of State law, including decisions and regulations of the~~  
24 ~~California Public Utilities Commission.~~



1            **~~SEC. 2103. DISTRIBUTION OF COMMERCIAL PHONE DIRECTORIES.~~**

2            ~~(a) A Distributor may not distribute or cause to be distributed a Commercial Phone Directory~~  
3 ~~to a private residence or business in San Francisco unless:~~

4            ~~—— (1) The Distributor delivers the Commercial Phone Directory to a Person at the private~~  
5 ~~residence or business who is an occupant or authorized representative of the private residence or~~  
6 ~~business and who personally accepts the Commercial Phone Directory; or~~

7            ~~—— (2) The Distributor delivers the Commercial Phone Directory to a private residence or~~  
8 ~~business after having received a request from an occupant or authorized representative of the private~~  
9 ~~residence or business for the Commercial Phone Directory to be delivered there.~~

10           ~~(b) Subsection (a) shall not be construed to prevent the placement of Commercial Phone~~  
11 ~~Directories in a business open to the public, with the consent of the occupant or authorized~~  
12 ~~representative of the business, to be available for pick up by patrons or other members of the public.~~

13           ~~(c) For purposes of the exception in subdivision (a)(2), there is no restriction on the manner of~~  
14 ~~making a request for delivery of a Commercial Phone Directory to a private residence or business. But~~  
15 ~~the Distributor has a duty to maintain documentation of requests for a Commercial Phone Directory to~~  
16 ~~be delivered to a private residence or business. The Distributor is permitted but not required to~~  
17 ~~maintain a registry of such requests. In any proceeding to determine whether a Distributor has violated~~  
18 ~~subsection (a) because of not qualifying for the exception in subdivision (a)(2), the absence of~~  
19 ~~documentation of a request shall raise an inference that the request was not made.~~

20           ~~(d) For purposes of the exception in subdivision (a)(2), a request for delivery of a Commercial~~  
21 ~~Phone Directory shall be construed to continue in effect for the duration of the Pilot Program.~~

22           ~~(e) A Distributor may not evade the prohibition contained in subsection (a) by:~~

23           ~~—— (1) Dividing a Commercial Phone Directory into two or more volumes, when at least~~  
24 ~~one of the volumes does not meet the pages requirement in the definition of Commercial Phone~~  
25 ~~Directory but the volumes combined would meet the pages requirement; or~~

1           ~~\_\_\_\_\_ (2) Including in a Commercial Phone Directory listings the distribution of which are~~  
2 ~~required by State law, or other information the distribution of which is required by State law.~~

3           ~~(f) A Distributor who violates subsection (a) may be subject to administrative penalties, as~~  
4 ~~follows.~~

5           ~~\_\_\_\_\_ (1) The Director, a designee of the Director, the Director of Public Works, or a designee~~  
6 ~~of the Director of Public Works, may issue administrative citations for violations of subsection (a). San~~  
7 ~~Francisco Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative~~  
8 ~~Fines," is hereby incorporated in its entirety and shall govern the amount of fees and the procedure for~~  
9 ~~imposition, enforcement, collection, and administrative review of administrative citations issued under~~  
10 ~~this subsection (f). The Director, a designee of the Director, the Director of Public Works, or a~~  
11 ~~designee of the Director of Public Works, shall impose fines as set forth in Section 100.5(a) of the San~~  
12 ~~Francisco Administrative Code.~~

13           ~~(2) For the purpose of determining administrative penalties, violations of subsection (a) shall be~~  
14 ~~computed over any period of time not to exceed 12 months and shall be consolidated in increments of~~  
15 ~~fifty Commercial Phone Directories unlawfully distributed. For example, a Distributor's unlawful~~  
16 ~~distribution of 1-50 Commercial Phone Directories shall count as one violation for the purpose of~~  
17 ~~determining an administrative penalty; a Distributor's unlawful distribution of 51-100 Commercial~~  
18 ~~Phone Directories shall count as two violations for the purpose of determining an administrative~~  
19 ~~penalty; and so on. More than one Distributor may be assessed an administrative penalty for the same~~  
20 ~~violation. No Distributor may be assessed twice for the same violation.~~

21           ~~(g) Distributors have a duty to provide reasonable access to relevant information sought by the~~  
22 ~~Director, a designee of the Director, the Director of Public Works, or a designee of the Director of~~  
23 ~~Public Works, for purposes of enforcing the provisions of this Chapter. A Distributor who violates this~~  
24 ~~subsection (g) may be subject to administrative penalties through the process described in subdivision~~  
25 ~~(f)(1). For purposes of this subsection (g), violations shall be computed on a daily basis. For example,~~

1 ~~the first day a Distributor fails to provide reasonable access to relevant information sought shall count~~  
2 ~~as one violation for the purpose of determining an administrative penalty; the second day a Distributor~~  
3 ~~fails to provide reasonable access to relevant information sought shall count as a second violation for~~  
4 ~~the purpose of determining an administrative penalty; and so on.~~

5 ~~(h) The Director is authorized to adopt regulations to implement this Section and other~~  
6 ~~provisions of this Chapter following a public hearing. At the Director's discretion, the Director may~~  
7 ~~delegate this hearing function, but not the authority to adopt regulations, to a designee.~~

8  
9 ~~(i) This Section shall not preclude a Distributor, Phone Company, or anyone else from using~~  
10 ~~any lawful means to inform Persons or others that they may request delivery of a Commercial Phone~~  
11 ~~Directory to a private residence or business, to publicize the process for making such a request, or to~~  
12 ~~inform Persons or others of the availability of Commercial Phone Directories at a distribution center~~  
13 ~~or business where Commercial Phone Directories are available to members of the public. To the extent~~  
14 ~~permitted by State law, these means of providing information may include but are not limited to:~~  
15 ~~Notices inserted in phone bills sent to phone customers; notices in other communications from Phone~~  
16 ~~Companies to their customers; notices in Phone Directories that are not Commercial Phone~~  
17 ~~Directories and that are distributed to residences and businesses; notices on handbills distributed to~~  
18 ~~residences and businesses in conformity with provisions of local law regarding distribution of~~  
19 ~~handbills; notices posted on doors, similar to notices posted by commercial mail services when no one~~  
20 ~~answers the door; notices sent by U.S. mail or email; phone calls; advertisements on television, radio,~~  
21 ~~or the Internet; and press releases.~~

22  
23 **~~SEC. 2104. PUBLIC OUTREACH PROGRAM.~~**

24 ~~(a) The City shall develop and implement a public outreach program to educate San Francisco~~  
25 ~~residents and businesses about the environmental harms associated with excessive distribution of~~

1 ~~Commercial Phone Directories; develop alternatives to private possession of Commercial Phone~~  
2 ~~Directories to obtain the information contained in those directories, and inform the public of those and~~  
3 ~~other alternatives; and inform the public about the option and means of obtaining a Commercial Phone~~  
4 ~~Directory from a Distributor or other source. The public outreach program shall include a special~~  
5 ~~emphasis on outreach to seniors, the disabled, low income persons, and persons whose primary~~  
6 ~~language is not English.~~

7 ~~(b) The Department shall coordinate with other City offices, departments, boards, and~~  
8 ~~commissions the development and implementation of the public outreach program mandated by~~  
9 ~~subsection (a). These other City entities may include but are not limited to the Office of the Mayor,~~  
10 ~~including the Mayor's Office on Immigrant and Civic Engagement, the Office of the City Administrator,~~  
11 ~~the Department of Public Works, and the Department of Technology. All City offices, departments,~~  
12 ~~boards, and commissions shall cooperate with and reasonably assist the Department in its efforts to~~  
13 ~~coordinate the development and implementation of the program.~~

14 ~~(c) In developing and implementing the public outreach program mandated by subsection (a),~~  
15 ~~the City shall consider the following methods of providing information to the public: Phone calls from~~  
16 ~~the City to private residences and businesses; a notice on the City's website and the Department's~~  
17 ~~website; notices on regular meeting agendas of the Commission and possibly of other City boards and~~  
18 ~~commissions; public service announcements on local television stations including foreign language~~  
19 ~~stations and the City's television station; press releases; and mailings or other communications to~~  
20 ~~private residences and businesses and to centers in the City that house senior citizens or disabled~~  
21 ~~persons, as well as to centers in the City that serve Persons whose primary language is not English. In~~  
22 ~~addition, the City may consider any other methods it concludes may be useful in providing information~~  
23 ~~to the public that will further the goals of the public outreach program as stated in subsection (a).~~

24 ~~(d) In developing and implementing the public outreach program mandated by subsection (a),~~  
25 ~~the City shall consider the feasibility of making Commercial Phone Directories available for~~

1 ~~distribution to the public in City buildings such as branches of the San Francisco Public Library,~~  
2 ~~Recreation Centers, and City Hall; the feasibility of making electronic copies of Commercial Phone~~  
3 ~~Directories more accessible to members of the public; and the feasibility of providing a service by~~  
4 ~~which members of the public can call a City phone number and request information in a Commercial~~  
5 ~~Phone Directory.~~

6 ~~(e) While subsections (c) and (d) require the City to consider various matters in developing and~~  
7 ~~implementing the public outreach program mandated by subsection (a), they do not require that the~~  
8 ~~public outreach program include any particular component.~~

9 ~~(f) The content of the public outreach program is within the City's discretion and any alleged~~  
10 ~~insufficiency of the program in meeting its objectives shall not invalidate this Chapter. The content of~~  
11 ~~the public outreach program may evolve during the three year duration of the Pilot Program.~~

12  
13 **~~SEC. 2105. PROMOTION OF GENERAL WELFARE.~~**

14 ~~In adopting and implementing this Chapter, the City is assuming an undertaking only to~~  
15 ~~promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an~~  
16 ~~obligation for breach of which it is liable in money damages to any person who claims that such breach~~  
17 ~~proximately caused injury.~~

18  
19 **~~SEC. 2106. CONFLICT WITH STATE OR FEDERAL LAW.~~**

20 ~~Nothing in this Chapter shall authorize the City to impose any duties or obligations in conflict~~  
21 ~~with limitations on municipal authority imposed by federal or State law. This Chapter shall be~~  
22 ~~construed so as not to conflict with applicable federal or State law. In adopting regulations pursuant to~~  
23 ~~Section 2103(h) or engaging in enforcement actions pursuant to Sections 2103(f), 2103(g), and~~  
24 ~~2108(e), the City is authorized to implement this Chapter so as to avoid a conflict, if any, with~~  
25 ~~applicable federal or State law.~~

1  
2           **SEC. 2107. SEVERABILITY.**

3           *If any of the provisions of this Chapter or the application thereof to any person or circumstance*  
4 *is held invalid, the remainder of those provisions, including the application of such part or provisions*  
5 *to persons or circumstances other than those to which it is held invalid, shall not be affected thereby*  
6 *and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.*  
7

8           **SEC. 2108. OPERATIVE DATE; SUNSET PROVISION; REPORTS.**

9           *(a) This Chapter shall become operative on May 1, 2012.*

10           *(b) This Chapter shall remain operative through April 30, 2015. This Chapter shall "sunset" on*  
11 *May 1, 2015 and no longer have the force of law as of that date. \**

12           *(c) Distributors shall submit a written report to the Director or the Director's designee one year*  
13 *after the operative date of this Chapter, two years after the operative date, and six months prior to the*  
14 *sunset date. These reports shall contain information on the total number of Commercial Phone*  
15 *Directories distributed, and the number of them distributed according to different means of*  
16 *distribution. The Director may require Distributors to submit other information pertaining to*  
17 *distribution of Commercial Phone Directories.*

18           *Failure of a Distributor to comply with the reporting requirement mandated by this subsection*  
19 *(c) may subject the Distributor to administrative penalties through the process described in Section*  
20 *2103(f)(1). For purposes of this subsection (c), violations shall be computed on a daily basis, in the*  
21 *manner described in Section 2103(g).*

22           *To the extent submission of information from one Distributor would be duplicative of*  
23 *information submitted or to be submitted by another Distributor, the Director may, upon request of a*  
24 *Distributor, waive the reporting requirement mandated by this subsection (c) for that Distributor.*  
25

1           ~~(d) The Department shall report to the Board of Supervisors, no later than three months prior to~~  
2 ~~the sunset date of this Chapter, on the efficacy of this Chapter as a means of reducing wastage in the~~  
3 ~~distribution of Commercial Phone Directories in San Francisco, the scope and effectiveness of the~~  
4 ~~public outreach program mandated by Section 2104(a), and any other matters pertaining to this~~  
5 ~~Chapter. All City offices, departments, boards, and commissions shall cooperate with and reasonably~~  
6 ~~assist the Department in its efforts to prepare the report. This subsection (d) shall not preclude the~~  
7 ~~Board of Supervisors or a committee thereof, or the Commission, or any other City entity or official,~~  
8 ~~from holding hearings at any time on the same subject.~~

9  
10           ~~**SEC. 2109. SUSPENSION OF YELLOW PAGES DISTRIBUTION PILOT PROGRAM.**~~

11           ~~(a) Chapter 21 of the San Francisco Environment Code, Sections 2101 through 2108, is~~  
12 ~~suspended. During the period of suspension, Chapter 21 shall have no force or effect and shall not be~~  
13 ~~enforced.~~

14           ~~(b) In the event that, upon further proceedings in *Dex Media West, Inc. v. City of Seattle*, the~~  
15 ~~United States Court of Appeals for the Ninth Circuit or the Supreme Court of the United States finally~~  
16 ~~holds that the City of Seattle's restrictions on the distribution of Commercial Phone Directories are~~  
17 ~~consistent with the First Amendment to the United States Constitution, then the suspension of Chapter~~  
18 ~~21 shall be lifted one year from the date the mandate issues in that case.~~

19           ~~(c) In the event that the suspension of Chapter 21 is lifted as described in the foregoing~~  
20 ~~subsection (b), then Chapter 21 shall be in force and effect for three years following the date the~~  
21 ~~suspension is lifted, notwithstanding any conflicting sunset date set forth in Section 2108.~~

22  
23           Section 2. Effective Date. This ordinance shall become effective 30 days from the  
24 date of passage.

1 Section 3. This section is uncodified. In enacting this Ordinance, the Board intends to  
2 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,  
3 punctuation, charts, diagrams, or any other constituent part of the Environment Code that are  
4 explicitly shown in this legislation as additions, deletions, Board amendment additions, and  
5 Board amendment deletions in accordance with the "Note" that appears under the official title  
6 of the legislation.

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

10 By:   
11 CHRISTINE VAN AKEN  
12 Deputy City Attorney

13 n:\cxlit\li2013\111349\00829142.doc



**LEGISLATIVE DIGEST**

[Environment Code - Repealing Yellow Pages Distribution Pilot Program]

**Ordinance amending the Environment Code by repealing Yellow Pages Distribution Pilot Program.**

Existing Law

In 2011, the Board of Supervisors adopted Environment Code sections 2101 through 2108, creating a three-year pilot program to prohibit distribution of Commercial Phone Directories to private residences or businesses in San Francisco unless the occupant or authorized representative requests or personally accepts a Directory.

In 2012, the Board suspended Sections 2101 through 2108, pending the outcome of *Dex Media West, Inc. v. City of Seattle*, a Ninth Circuit case challenging a similar law.

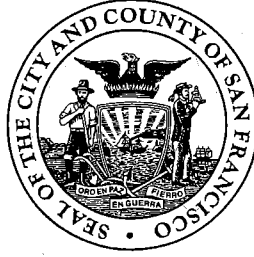
Amendments to Current Law

The proposal would repeal Sections 2101 through 2108, as well as Section 2109, which suspended the prior sections.

Background Information

The Ninth Circuit has now ruled in the *Dex Media West* case, holding that Commercial Phone Directories are fully protected speech under the First Amendment to the United States Constitution. *Dex Media West, Inc. v. City of Seattle*, 696 F.3d 952 (9th Cir. 2012). The Ninth Circuit has denied a petition to rehear that case and review by the United States Supreme Court is not expected.

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

**MEMORANDUM**

TO: Regina Dick-Endrizzi, Director  
Chris Schulman, Commission Secretary  
**Small Business Commission, City Hall, Room 448**

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee  
Board of Supervisors

DATE: March 6, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use & Economic Development Committee

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

**File No. 130186**

Ordinance amending the Environment Code by repealing Yellow Pages Distribution Pilot Program.

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

\*\*\*\*\*

**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

\_\_\_\_\_

- \_\_\_\_\_ **No Comment**
- \_\_\_\_\_ **Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Melanie Nutter, Director, Department of the Environment

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee  
Board of Supervisors

DATE: March 6, 2013

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed ordinance, introduced by Supervisor Chiu on February 26, 2013:

**File No. 130186**

Ordinance amending the Environment Code by repealing Yellow Pages Distribution Pilot Program.

This matter is being forwarded to your department for informational purposes. If you have any 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.

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

AC  
4:39  
2/26  
Time stamp  
or meeting date

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

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

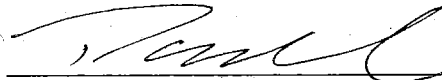
Supervisor David Chiu

**Subject:**

Ordinance amending the Environment Code by repealing Yellow Pages Distribution Pilot Program.

**The text is listed below or attached:**

[Empty box for text listing]

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

130/86 0025