

1 [Planning Code - Limited Commercial Uses in Residential Districts]

2

3 **Ordinance amending the San Francisco Planning Code Section 186 to allow for**
4 **reactivation of limited commercial uses in RH, RM, RTO, and RED districts under a**
5 **conditional use authorization and amending Section 231 to allow for greater size and**
6 **depth from the corner for limited corner commercial uses in RM-3 and RM-4 districts;**
7 **and making findings, including environmental findings and findings of consistency**
8 **with the General Plan and Planning Code Section 101.1.**

9 NOTE: Additions are *single-underline italics Times New Roman*;
10 deletions are ~~*strike-through italics Times New Roman*~~.
11 Board amendment additions are double-underlined;
12 Board amendment deletions are ~~strike-through normal~~.

12

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

14 Section Findings. The Board of Supervisors of the City and County of San Francisco
15 hereby finds and determines that:

16 (a) General Plan and Planning Code Findings.

17 (1) On March 1, 2012, at a duly noticed public hearing, the Planning Commission in
18 Resolution No. 18553 found that the proposed Planning Code amendments to section 186
19 contained in this ordinance were consistent with the City’s General Plan and with Planning
20 Code Section 101.1(b). On May 3, 2012, at a duly noticed public hearing, the Planning
21 Commission in Resolution No. 18615 found that the proposed Planning Code amendments
22 to section 231 contained in this ordinance were consistent with the City’s General Plan and
23 with Planning Code Section 101.1(b). In addition, the Planning Commission recommended
24 that the Board of Supervisors adopt the proposed Planning Code amendments. Copies of
25 said Resolutions are on file with the Clerk of the Board of Supervisors in File No.

1 _____ and are incorporated herein by reference. The Board finds that the
2 proposed Planning Code amendments contained in this ordinance are on balance
3 consistent with the City's General Plan and with Planning Code Section 101.1(b) for the
4 reasons set forth in said Resolutions.

5 (2) Pursuant to Planning Code Section 302, the Board finds that the proposed
6 ordinance will serve the public necessity, convenience and welfare for the reasons set forth
7 in Planning Commission Resolution Nos. 18553 and 18615, which reasons are incorporated
8 herein by reference as though fully set forth.

9 (b) Environmental Findings. The Planning Department has determined that the
10 actions contemplated in this ordinance comply with the California Environmental Quality Act
11 (California Public Resources Code Section 21000 et seq.). Said determination is on file with
12 the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein
13 by reference.

14
15 Section 2. The San Francisco Planning Code is hereby amended by amending
16 section 186, to read as follows:

17 SEC. 186. EXEMPTION OF LIMITED COMMERCIAL AND INDUSTRIAL
18 NONCONFORMING USES IN RH, RM, RTO, AND RED DISTRICTS.

19 The purpose of this Section is to provide for the further continuance in RH, RM, RTO,
20 and RED Districts of nonconforming uses of a limited commercial and industrial character,
21 as herein described, which are beneficial to, or can be accommodated within, the residential
22 areas in which they are located. It is hereby found and declared that, despite the general
23 incompatibility of nonconforming uses with the purposes of this Code, and with other nearby
24 uses, these limited commercial uses may be tolerated in residential areas, and tend to
25 provide convenience goods and services on a retail basis to meet the frequent and recurring

1 needs of neighborhood residents within a short distance of their homes or, within the South
2 of Market RED Districts, tend to provide jobs and continuation of small scale service and
3 light industrial activities. These uses tend to be small in scale, to serve primarily a walk-in
4 trade, and cause a minimum of interference with nearby streets and properties. Accordingly,
5 this Section recognizes the public advantages of these uses and establishes conditions for
6 their continued operation.

7 (a) Exemption from Termination Provisions. The following nonconforming uses in R
8 Districts shall be exempt from the termination provisions of Section 185, provided such uses
9 comply with all the conditions specified in Subsection (b) below:

10 (1) Any nonconforming use at any story in an RH or RM District which is located
11 more than ¼ mile from the nearest Individual Area Neighborhood Commercial District or
12 Restricted Use Subdistrict described in Article 7 of this Code, and which complies with the
13 use limitations specified for the first story and below of an NC-1 District, as set forth in
14 Sections 710.10 through 710.95 of this Code.

15 (2) Any nonconforming use in an RH or RM District which is located within ¼ mile
16 from any Individual Area Neighborhood Commercial District or restricted use subdistrict and
17 which complies with the most restrictive use limitations specified for the first story and below
18 of:

19 (A) NC-1 District, as set forth in Sections 710.10 through 710.95 of this Code; and

20 (B) Any Individual Area Neighborhood Commercial District within ¼ mile of the use,
21 as set forth in Sections 714.10 through 729.95 of this Code;

22 (C) Any Restricted Use Subdistrict within ¼ mile of the use, as set forth in Sections
23 781 through 781.7 of this Code.

24 (3) In the RED Districts, any nonconforming use which is a personal service use
25 falling within zoning category 816.31; home and business service use falling within zoning

1 categories 816.42 through 816.47; live/work unit falling within zoning category 816.55;
2 wholesale sales, storage or light manufacturing uses falling within zoning categories 816.64
3 through 816.67.

4 (b) Conditions on Limited Nonconforming Uses. The limited nonconforming uses
5 described above shall meet the following conditions:

6 (1) The building shall be maintained in a sound and attractive condition, consistent
7 with the general appearance of the neighborhood;

8 (2) Any signs on the property shall be made to comply with the requirements of
9 Article 6 of this Code applying to nonconforming uses;

10 (3) The hours during which the use is open to the public shall be limited to the
11 period between 6:00 a.m. and 10:00 p.m.;

12 (4) Public sidewalk space may be occupied in connection with the use provided that
13 it is only occupied with tables and chairs as permitted by this Municipal Code;

14 (5) Truck loading shall be limited in such a way as to avoid undue interference with
15 sidewalks, or with crosswalks, bus stops, hydrants and other public features;

16 (6) Noise, odors and other nuisance factors shall be adequately controlled; and

17 (7) All other applicable provisions of this Code shall be complied with.

18 (c) Formula Retail Uses. All uses meeting the definition of "formula retail" use per
19 Section 703.3(b) shall not be permitted except by ~~Conditional Use~~ conditional use authorization
20 under through the procedures of Section 303 of this Code.

21 (d) Street Frontage. In addition to the requirements of Section 144 of this Code, the
22 requirements of Section 145.1(c)(6) and (7) shall apply.

23 (e) Awnings. Awnings are permitted, subject to the standards ~~for an NC-1 District~~ in
24 Section 136.1(a) of this Code. Canopies and marquees are not permitted.

25

1 (f) Termination. Any use affected by this Section which does not comply with all of
2 the conditions herein specified shall be subject to termination in accordance with Section
3 185 at the expiration of the period specified in that Section, but shall be qualified for
4 consideration as a conditional use under Section 185(e). Any such use which is in
5 compliance with such conditions at the expiration of such period but fails to comply therewith
6 at any later date shall be subject to termination when it ceases to comply with any of such
7 conditions.

8 (g) Reactivation. Limited commercial uses in RH, RM, RTO, and RED Districts that have
9 been discontinued or abandoned, as defined in Section 183, may be reactivated with conditional use
10 authorization under Section 303. In approving such a use and in addition to the findings required by
11 Section 303, the Planning Commission shall find that:

12 (1) the subject space is located on or below the ground floor and was in commercial or
13 industrial use prior to January 1, 1960; and

14 (2) the proposed commercial use meets all the requirements of this section and other
15 applicable sections of this Code.

16 (h) Other Applicable Provisions. The provisions for nonconforming uses contained in
17 Sections 180 through 183 shall continue to apply to all uses affected by this Section 186,
18 except that the cost limit for structural alterations contained in Section 181(b)(4) shall not be
19 applicable thereto.

20
21 Section 3. The San Francisco Planning Code is hereby amended by amending
22 section 231, to read as follows:

23 SEC. 231. LIMITED CORNER COMMERCIAL USES IN RTO AND RM DISTRICTS.

24 (a) Purpose. Corner stores enhance and support the character and traditional
25 pattern of RTO and RM Districts. These small neighborhood-oriented establishments

1 provide convenience goods and services on a retail basis to meet the frequent and recurring
2 needs of neighborhood residents within a short walking distance of their homes. These uses
3 tend to be small in scale, to serve primarily walk-in trade, and cause minimum interference
4 with nearby streets and properties. These uses are permitted only on the ground floor of
5 corner buildings, and their intensity and operating hours are limited to ensure compatibility
6 with the predominantly residential character of the district. Accessory off-street parking is
7 prohibited for these uses to maintain the local neighborhood walk-in character of the uses.

8 (b) Location. Uses permitted under this section must be located:

9 (1) completely within an RTO, RTO-M, RM-3, or RM-4 District;

10 (2) on or below the ground floor; and

11 (3) in RTO and RTO-M Districts, on a corner lot as defined by Section 102.15, with no
12 part of the use extending more than 50 feet in depth from said corner, as illustrated in Figure
13 231.

14
15 [This parenthetical is not codified: Figure 231 to be relocated here.]

16
17 (4) in RM-3 and RM-4 Districts, on a corner lot as defined in Section 102.15, with no part
18 of the use extending more than 100 feet in depth from said corner.

19 (c) Permitted Uses. Any use is permitted which complies with the most restrictive
20 use limitations for the first story and below of an NC-1 District, as set forth in Sections
21 710.10 through 710.95 of this Code.

22 (d) Use Size. No more than 1,200 occupied square feet of commercial area in a
23 RTO or RTO-M District and no more than 2,500 occupied square feet of commercial area in a RM-3
24 or RM-4 District shall be allowed per corner lot, except those lots which occupy more than
25 one corner on a given block and which may provide an additional 1,200 occupied square

1 feet of commercial area per additional corner, so long as the commercial space is distributed
2 equitably throughout appropriate parts of the parcel or project.

3 (e) Formula Retail Uses. All uses meeting the definition of "formula retail" use per
4 Section 703.3(b) shall not be permitted except by Conditional Use through the procedures of
5 Section 303.

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7 [This parenthetical is not codified: Figure 231, entitled "Limitations on Corner Retail in
8 RTO and RM Districts", to be deleted here and moved to follow section (b)(3), above.]

9
10 (f) Parking. No accessory parking shall be permitted for uses permitted under this
11 Section.

12 (g) Operating Hours. The hours during which the use is open to the public shall be
13 limited to the period between 6:00 a.m. and 10:00 p.m.

14 (h) Conditions. Any uses described above shall meet all of the following conditions:

15 (1) The building shall be maintained in a sound and attractive condition, consistent
16 with the general appearance of the neighborhood;

17 (2) Any signs on the property shall comply with the requirements of ~~Article 6~~Section
18 606 of this Code ~~pertaining to NC-1 Districts~~;

19 (3) Truck loading shall be limited in such a way as to avoid undue interference with
20 sidewalks, or with crosswalks, bus stops, hydrants and other public features;

21 (4) Noise, odors and other nuisance factors shall be adequately controlled; and

22 (5) The use shall comply with all other applicable provisions of this Code.

23 (i) Street Frontage. In addition to the street frontage requirements of Section 144,
24 the following provisions of Section 145.1 shall apply to the street frontage dedicated to
25 limited commercial uses permitted by this section: active uses per Section 145.1(c)(3);

1 transparency and fenestration per Section 145.1(c)(6); and grates, railing, and grillework per
2 Section 145.1(c)(7).

3 (j)-~~l~~ Awnings. Awnings are permitted, subject to the standards *for an NC-1 District* in
4 Section 136.1(a) of this Code. Canopies and marquees are not permitted.

5
6 Section 4. Effective Date. This section is uncodified. This ordinance shall become
7 effective 30 days from the date of passage.

8
9 Section 5. This section is uncodified. In enacting this Ordinance, the Board intends
10 to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
11 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
12 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
13 Board amendment deletions in accordance with the "Note" that appears under the official
14 title of the legislation.

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

17
18 By: _____
MARLENA G. BYRNE
19 Deputy City Attorney