

File No. 150164

Committee Item No. _____

Board Item No. 35

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date _____

Board of Supervisors Meeting

Date February 24, 2015

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Copy of Ordinance Text - Board File 141131</u> |
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Completed by: John Carroll Date February 19, 2015

Completed by: _____ Date _____

1 [Approval of a 120-Day Extension for Planning Commission Review of an Ordinance (File No.
2 141131) Amending the Planning Code - Formula Retail and Large-Scale Retail Controls]

3 **Resolution extending by 120-days the prescribed time within which the Planning**
4 **Commission may render its decision on an Ordinance (File No. 141131) amending the**
5 **Planning Code, to exclude Financial Services, Limited Financial Services, and Personal**
6 **Services above the ground floor from the definition of Formula Retail and require that**
7 **where there has been a prior determination that a proposed project is a Formula Retail**
8 **Use and the project sponsor subsequently removes one or more Formula Retail Use**
9 **features, the project will remain subject to a Conditional Use Authorization; affirming**
10 **the Planning Department's California Environmental Quality Act determination; and**
11 **making findings consistency with the General Plan, and the eight priority policies of**
12 **Planning Code, Section 101.1.**

13
14 WHEREAS, On October 27, 2014, Board File No. 140844 was duplicated and
15 amended in Committee to create Board File No. 141131 which would amend the San
16 Francisco Planning Code to exclude Financial Services, Limited Financial Services and
17 Personal Services above the ground floor from the definition of Formula Retail and require
18 that where there has been a prior determination that proposed project is a Formula Retail Use
19 and the project sponsor subsequently removes one or more Formula Retail Use features, the
20 project will remain subject to a Conditional Use Authorization; and

21 WHEREAS, On or about December 3, 2014, the Clerk of the Board of Supervisors
22 referred the proposed ordinance to the Planning Commission, which currently is reviewing the
23 proposed ordinance; and

1 WHEREAS, The Board, in accordance with Planning Code, Section 306.4(d), may, by
2 Resolution, extend the prescribed time within which the Planning Commission is to render its
3 decision on proposed amendments to the Planning Code that the Board of Supervisors
4 initiates; and

5 WHEREAS, The Board deems it appropriate in this instance to grant to the Planning
6 Commission additional time to review the proposed Ordinance and render its decision; now,
7 therefore, be it

8 RESOLVED, That by this Resolution, the Board hereby extends the prescribed time
9 within which the Planning Commission may render its decision on the proposed Ordinance for
10 approximately 120 additional days, until July 1, 2015.

1 [Planning Code - Formula Retail and Large-Scale Retail Controls]

2
3 **Ordinance amending the Planning Code to amend the definition of Formula Retail to**
4 **include businesses that have 1119 or more outlets worldwide; expand the applicability**
5 **of Formula Retail controls to other types of uses; exclude Financial Services, Limited**
6 **Financial Services and Personal Services above the ground floor from the definition of**
7 **Formula Retail; require Conditional Use authorization for Formula Retail**
8 **establishments in the C-3-G district with facades facing Market Street, between 6th**
9 **Street and the intersection of Market Street, 12th Street and Franklin Street; provide a**
10 **method for calculating the concentration of formula retail establishments in a certain**
11 **area; require Planning Department staff to recommend disapproval of new formula**
12 **retail in the Upper Market Neighborhood Commercial District based on concentration of**
13 **existing Formula Retail; delete the requirement for Conditional Use authorization when**
14 **a Formula Retail establishment changes operator but remains the same size and use**
15 **category; define intensification and abandonment for Formula Retail uses; require**
16 **Formula Retail uses to comply with performance guidelines; amend the Conditional**
17 **Use criteria for Large-Scale Retail Uses, and for Formula Retail uses of 20,000 gross**
18 **square feet or greater except for General and Specialty Grocery stores, to require an**
19 **economic impact study and establish new fees for said study; require 30 days' public**
20 **notice for conditional use hearings on proposed Formula Retail uses; amend**
21 **Neighborhood Commercial Districts that required Conditional Use for Financial and**
22 **Limited Financial Services to principally permit Financial and Limited Financial**
23 **Services except in the Castro Street Neighborhood Commercial District, Upper Market**
24 **Neighborhood Commercial Transit District, and 24th Street – Noe Valley Neighborhood**
25 **Commercial District; require that where there has been a prior determination that a**

1 proposed project is a Formula Retail Use and the project sponsor subsequently
2 removes one or more Formula Retail Use features, the project will remain subject to a
3 Conditional Use authorization; delete the Conditional Use requirement for Walk-Up
4 Facilities that are not set back 3 feet; and correct various Code provisions to ensure
5 accuracy of cross-references; and adopting findings, including environmental findings,
6 Planning Code, Section 302 findings, and findings of consistency with the General
7 Plan, and the eight priority policies of Planning Code, Section 101.1.

8
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 ~~*strikethrough italics Times New Roman font*~~.
12 Board amendment additions are in double-underlined 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. 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 of
22 Supervisors hereby 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
adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
Board of Supervisors in File No. _____, and is incorporated herein by reference.

1 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
2 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
3 in Planning Commission Resolution No. _____ and the Board incorporates such reasons
4 herein by reference.

5 Section 2. The Planning Code is hereby amended by moving Subsection 303(i) to new
6 Section 303.1 and amending those provisions to read as follows, and revising Section 303 to
7 read as follows:

8 **Section 303. CONDITIONAL USES.**

9 * * * *

10 (i) ~~Formula Retail Uses. See Section 303.1 for Formula Retail uses.~~

11 ~~(1) **Formula Retail Use.** A formula retail use is hereby defined as a type of retail sales
12 activity or retail sales establishment which has eleven or more other retail sales establishments located
13 in the United States. In addition to the eleven establishments, the business maintains two or more of the
14 following features: a standardized array of merchandise, a standardized facade, a standardized decor
15 and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.~~

16 ~~(A) Standardized array of merchandise shall be defined as 50% or more of in-
17 stock merchandise from a single distributor bearing uniform markings.~~

18 ~~(B) Trademark shall be defined as a word, phrase, symbol or design, or a
19 combination of words, phrases, symbols or designs that identifies and distinguishes the source of the
20 goods from one party from those of others.~~

21 ~~(C) Servicemark shall be defined as word, phrase, symbol or design, or a
22 combination of words, phrases, symbols or designs that identifies and distinguishes the source of a
23 service from one party from those of others.~~

24 ~~(D) Decor shall be defined as the style of interior furnishings, which may
25 include but is not limited to, style of furniture, wall coverings or permanent fixtures.~~

1 ~~_____ (E) Color Scheme shall be defined as selection of colors used throughout, such~~
2 ~~as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.~~

3 ~~_____ (F) Facade shall be defined as the face or front of a building, including~~
4 ~~awnings, looking onto a street or an open space.~~

5 ~~_____ (G) Uniform Apparel shall be defined as standardized items of clothing~~
6 ~~including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other~~
7 ~~than name tags) as well as standardized colors of clothing.~~

8 ~~_____ (H) Signage shall be defined as business sign pursuant to Section 602.3 of the~~
9 ~~Planning Code.~~

10 ~~_____ (2) "Retail Sales Activity or Retail Sales Establishment." For the purposes of~~
11 ~~subsection (i), a retail sales activity or retail sales establishment shall include the following uses, as~~
12 ~~defined in Article 7 and Article 8 of this Code: "Bar," "Drive-up Facility," "Eating and Drinking Use,"~~
13 ~~"Liquor Store," "Sales and Service, Other Retail," "Restaurant," "Limited Restaurant," "Take-Out~~
14 ~~Food," "Sales and Service, Retail," "Service, Financial," "Movie Theater," and "Amusement and Game~~
15 ~~Arcade."~~

16 ~~_____ (3) Conditional Use Criteria. With regard to a conditional use authorization~~
17 ~~application for a formula retail use, the Planning Commission shall consider, in addition to the criteria~~
18 ~~set forth in Subsection (c) above:~~

19 ~~_____ (A) The existing concentrations of formula retail uses within the district.~~

20 ~~_____ (B) The availability of other similar retail uses within the district.~~

21 ~~_____ (C) The compatibility of the proposed formula retail use with the existing~~
22 ~~architectural and aesthetic character of the district.~~

23 ~~_____ (D) The existing retail vacancy rates within the district.~~

24 ~~_____ (E) The existing mix of Citywide-serving retail uses and neighborhood-~~
5 ~~serving retail uses within the district.~~

1 ~~(4) Conditional Use Authorization Required. A Conditional Use Authorization shall be~~
2 ~~required for a Formula Retail use in the following zoning districts unless explicitly exempted:~~

3 ~~———— (A) All Neighborhood Commercial Districts in Article 7;~~

4 ~~———— (B) All Mixed Use-General Districts in Section 840;~~

5 ~~———— (C) All Urban Mixed Use Districts in Section 843;~~

6 ~~———— (D) All Residential-Commercial Districts as defined in Section 206.3;~~

7 ~~———— (E) Japantown Special Use District as defined in Section 249.31;~~

8 ~~———— (F) Chinatown Community Business District as defined in Section 810.1;~~

9 ~~———— (G) Chinatown Residential/Neighborhood Commercial District as defined in 812.1;~~

10 ~~———— (H) Western SoMa Planning Area Special Use District as defined in 823;~~

11 ~~———— (I) Residential Transit Oriented Districts as defined in 206.4 and 206.5;~~

12 ~~———— (J) Limited Conforming Use/Non-Conforming Use in RH-RM-RTO and RED~~
13 ~~Districts.~~

14 ~~———— (K) Third Street Formula Retail Restricted Use District, as defined in Section 786.~~

15 ~~(5) Formula Retail Uses Not Permitted. Formula Retail Uses are not permitted in the~~
16 ~~following zoning districts:~~

17 ~~———— (A) Hayes-Gough Neighborhood Commercial Transit District;~~

18 ~~———— (B) North Beach Neighborhood Commercial District;~~

19 ~~———— (C) Chinatown Visitor Retail District;~~

20 ~~———— (D) Upper Fillmore District does not permit Formula Retail uses that are also~~
21 ~~Restaurant or Limited-Restaurant uses as defined in Section 790.90 and 790.91;~~

22 ~~———— (E) Broadway Neighborhood Commercial District does not permit Formula Retail~~
23 ~~uses that are also Restaurant or Limited-Restaurant uses as defined in Section 790.90 and 790.91;~~

1 ~~(F) Mission Street Formula Retail Restaurant Subdistrict does not permit Formula~~
2 ~~Retail uses that are also Restaurant or Limited Restaurant uses as defined in Section 790.90 and~~
3 ~~790.91;~~

4 ~~(G) Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating~~
5 ~~and Drinking Subdistrict does not permit Formula Retail uses that are also either a Retail Pet Supply~~
6 ~~Store or an Eating and Drinking use as set forth in Section 781.4;~~

7 ~~(H) Taraval Street Restaurant Subdistrict does not permit Formula Retail uses that~~
8 ~~are also Restaurant or Limited Restaurant uses as defined in Section 790.90 and 790.91;~~

9 ~~(6) **Neighborhood Commercial Notification and Design Review.** Any building permit~~
10 ~~application for a "formula retail use" as defined in this section and located within a Neighborhood~~
11 ~~Commercial District in Article 7 shall be subject to the Neighborhood Commercial Notification and~~
12 ~~Design Review Procedures of Section 312 of this Code.~~

13 ~~(7) **Change in Use.** A change from one formula retail use to another requires a new~~
14 ~~Conditional Use Authorization, whether or not a Conditional Use Authorization would otherwise be~~
15 ~~required by the particular change in use in question. This Conditional Use Authorization requirement~~
16 ~~also applies to changes from Formula Retail operator to another within the same use category. A new~~
17 ~~Conditional Use Authorization shall not apply to a change in a formula use retailer that meets the~~
18 ~~following criteria:~~

19 ~~(A) the formula use operation remains the same in terms of its size, function and~~
20 ~~general merchandise offering as determined by the Zoning Administrator, and~~

21 ~~(B) the change in the formula retail use operator is the result of the business being~~
22 ~~purchased by another formula retail operator who will retain all components of the existing retailer,~~
23 ~~including but not limited to the signage for the premises, the name of the premises and the general~~
24 ~~merchandise offered on the premises.~~

1 ~~The new operator shall comply with all conditions of approval previously imposed on the~~
2 ~~existing operator, including but not limited to signage programs and hours of operation; and shall~~
3 ~~conduct the operation generally in the same manner and offer essentially the same services and/or type~~
4 ~~of merchandise; or seek and be granted a new Conditional Use Authorization.~~

5 ~~— (8) — **Determination of Formula Retail Use.** In those areas in which “formula retail uses~~
6 ~~are prohibited, any building permit application determined by the City to be for a “formula retail use”~~
7 ~~that does not identify the use as a “formula retail use” is incomplete and cannot be processed until the~~
8 ~~omission is corrected. Any building permit approved that is determined by the City to have been, at the~~
9 ~~time of application, for a “formula retail use” that did not identify the use as a “formula retail use” is~~
10 ~~subject to revocation at any time. If the City determines that a building permit application or building~~
11 ~~permit subject to this Section of the Code is for a “formula retail use”, the building permit application~~
12 ~~or holder bears the burden of proving to the City that the proposed or existing use is not a “formula~~
13 ~~retail use”.~~

14 **(ij) Large-Scale Retail Uses.** With respect to applications for the establishment of
15 large-scale retail uses under Section 121.6, except for General or Specialty Grocery stores as
16 defined in Articles 2, 7 and 8, in addition to the criteria set forth in Subsections (c) and (d)
17 above, the Commission shall consider the following:

18 (1) The extent to which the retail use's parking is planned in a manner that
19 creates or maintains active street frontage patterns;

20 (2) The extent to which the retail use is a component of a mixed-use project or
21 is designed in a manner that encourages mixed-use building opportunities;

22 (3) The shift in traffic patterns that may result from drawing traffic to the
23 location of the proposed use; *and*

24 (4) The impact that the employees at the proposed use will have on the
25 demand in the City for housing, public transit childcare, and other social services.; *and*

1 (5) An economic impact study. The Planning Department shall prepare an economic
2 impact study using qualified eCity staff or shall select a consultant from a pool of pre-qualified
3 consultants to prepare the economic impact study required by this Ssubsection. The analysis, in the
4 form of a study, shall be considered by the Planning Commission in its review of the application. The
5 applicant shall bear the cost of paying the consultant for his or her work preparing the economic
6 impact study, and any necessary documents prepared as part of that study. The applicant shall also
7 pay an administrative fee to compensate Planning Department and City staff for its time reviewing the
8 study, as set forth in Section 359 of this Code. The study shall evaluate the potential economic impact
9 of the applicant's proposed project, including:

10 (A) Employment Analysis. The report shall include the following employment
11 information: a projection of both construction-related and permanent employment generated by the
12 proposed project; ~~an analysis of whether the proposed project will result in a net increase or~~
13 ~~decrease in permanent employment in the impact area;~~ and a discussion of whether the employer
14 of the proposed project will pay a living wage, inclusive of non-salary benefits expected to be provided,
15 relative to San Francisco's cost of living.

16 (B) Fiscal Impact. The report shall itemize public revenue created by the
17 proposed project and public services needed because of the proposed project, relative to net fiscal
18 impacts to the General Fund. The impacts to the City's public facilities and infrastructure shall
19 be estimated using the eCity's current assumptions in existing nexus studies (including area plan,
20 transit, open space in-lieu fee and other impact fees), and should account for any contributions the
21 proposed project would make through such impact fee payments.

22 (C) Leakage Analysis Study. This portion of the report shall be twofold: both
23 quantitative and qualitative. The quantitative portion shall provide an analysis of whether the
24 proposed project will result in a net increase or decrease in the capture of spending by area residents
25 on items that would otherwise be purchased outside the area. The area to be studied for potential

1 economic impacts of the proposed project shall be determined by the City in consultation with the
2 expert conducting the study as different sizes of study areas would be pertinent depending on a
3 multitude of factors, including but not limited to, size and type of the proposed store. This quantitative
4 leakage analysis should be paired with a qualitative assessment of whether the proposed use would
5 complement existing merchandise selection in the area by adding greater variety of merchandise,
6 bolstering the strength of an existing retail cluster, or matching evolving consumer preferences.

7
8 * * * *

9 **(j)(k) Movie Theater Uses.**

10 (1) With respect to a change in use or demolition of a movie theater use as set
11 forth in Sections 221.1, 703.2(b)(1)(B)(ii), 803.2(b)(1)(B)(iii) or 803.3(b)(1)(B)(ii), in addition to
12 the criteria set forth in Subsections (c) and (d) above, the Commission shall make the
13 following findings:

14 (A) Preservation of a movie theater use is no longer economically viable
15 and cannot effect a reasonable economic return to the property owner;

16 (i) For purposes of defining "reasonable economic return," the
17 Planning Commission shall be guided by the criteria for "fair return on investment" as set forth
18 in Section 228.4(a).

19 (B) The change in use or demolition of the movie theater use will not
20 undermine the economic diversity and vitality of the surrounding Neighborhood Commercial
21 District; and

22 (C) The resulting project will preserve the architectural integrity of
23 important historic features of the movie theater use affected.

24 **(k)(l) Relocation of Existing General Advertising Signs pursuant to a General**
25 **Advertising Sign Company Relocation Agreement.**

1 (1) Before the Planning Commission may consider an application for a
2 conditional use to relocate an existing lawfully permitted general advertising sign as
3 authorized by Section 611 of this Code, the applicant sign company must have:

4 (A) Obtained a current Relocation Agreement approved by the Board of
5 Supervisors under Section 2.21 of the San Francisco Administrative Code that covers the sign
6 or signs proposed to be relocated; and

7 (B) Submitted to the Department a current sign inventory, site map, and
8 the other information required under Section 604.2 of this Code; and

9 (C) Obtained the written consent to the relocation of the sign from the
10 owner of the property upon which the existing sign structure is erected.

11 (D) Obtained a permit to demolish the sign structure at the existing
12 location.

13 (2) The Department, in its discretion, may review in a single conditional use
14 application all signs proposed for relocation by a general advertising company or may require
15 that one or more of the signs proposed for relocation be considered in a separate application
16 or applications. Prior to the Commission's public hearing on the application, the Department
17 shall have verified the completeness and accuracy of the general advertising sign company's
18 sign inventory.

19 (3) Only one sign may be erected in a new location, which shall be the same
20 square footage or less than the existing sign proposed to be relocated. In no event may the
21 square footage of several existing signs be aggregated in order to erect a new sign with
22 greater square footage; provided however the square footage of one or more existing signs
23 may be disaggregated in order to erect multiple smaller signs with lesser total square footage.

24 (4) In addition to applicable criteria set forth in subsection (c) above, the
25 Planning Commission shall consider the size and visibility of the signs proposed to be located

1 as well as the following factors in determining whether to approve or disapprove a proposed
2 relocation:

3 (A) The factors set forth in this subsection (A) shall weigh in favor of the
4 Commission's approval of the proposed relocation site:

5 (i) The sign or signs proposed for relocation are lawfully existing
6 but are not in conformity with the sign regulations that existed prior to the adoption of
7 Proposition G on March 5, 2002.

8 (ii) The sign or signs proposed for relocation are on a City list, if
9 any, of priorities for sign removal or signs preferred for relocation.

10 (iii) The sign or signs proposed for relocation are within, adjacent
11 to, or visible from property under the jurisdiction of the San Francisco Port Commission, the
12 San Francisco Unified School District, or the San Francisco Recreation and Park
13 Commission.

14 (iv) The sign or signs proposed for relocation are within, adjacent
15 to, or visible from an Historic District or conservation district designated in Article 10 or Article
16 11 of the Planning Code.

17 (v) The sign or signs proposed for relocation are within, adjacent
18 to, or visible from a zoning district where general advertising signs are prohibited.

19 (vi) The sign or signs proposed for relocation are within, adjacent
20 to, or visible from a designated view corridor.

21 (B) The factors set forth in this Subsection (B) shall weigh against the
22 Commission's approval of the proposed relocation:

23 (i) The sign or signs proposed for relocation are or will be
24 obstructed, partially obstructed, or removed from public view by another structure or by
25 landscaping.

1 (ii) The proposed relocation site is adjacent to or visible from
2 property under the jurisdiction of the San Francisco Port Commission, the San Francisco
3 Unified School District, or the San Francisco Recreation and Park Commission.

4 (iii) The proposed relocation site is adjacent to or visible from an
5 Historic District or conservation district designated in Article 10 or Article 11 of the Planning
6 Code.

7 (iv) The proposed relocation site is within, adjacent to, or visible
8 from a zoning district where general advertising signs are prohibited.

9 (v) The proposed relocation site is within, adjacent to, or visible
10 from a designated view corridor.

11 (vi) There is significant neighborhood opposition to the proposed
12 relocation site.

13 (5) In no event may the Commission approve a relocation where:

14 (A) The sign or signs proposed for relocation have been erected, placed,
15 replaced, reconstructed, or relocated on the property, or intensified in illumination or other
16 aspect, or expanded in area or in any dimension in violation of Article 6 of this Code or without
17 a permit having been duly issued; or

18 (B) The proposed relocation site is not a lawful location under Planning
19 Code Section 611(c)(2); or

20 (C) The sign in its new location would exceed the size, height or
21 dimensions, or increase the illumination or other intensity of the sign at its former location; or

22 (D) The sign in its new location would not comply with the Code
23 requirements for that location as set forth in Article 6 of this Code; or

24 (E) The sign has been removed from its former location; or
25

1 (F) The owner of the property upon which the existing sign structure is
2 erected has not consented in writing to the relocation of the sign.

3 (6) The Planning Commission may adopt additional criteria for relocation of
4 general advertising signs that do not conflict with this Section 303(l) or Section 611 of this
5 Code.

6 **(lm) General Grocery Store Uses.**

7 (1) With respect to a change in use or demolition of general grocery store use
8 as set forth in Sections 218.2, 703.2(b)(1)(B)(iii), 803.2(b)(1)(B)(iv) or 803.3 (b)(1)(B)(iii) which
9 use exceeds 5,000 gross square feet, in addition to the criteria set forth in Subsections (c) and
10 (d) above, the Commission shall make the following findings:

11 (A) Preservation of a general grocery store use is no longer economically
12 viable and cannot effect a reasonable economic return to the property owner. The
13 Commission may disregard the above finding if it finds that the change in use or replacement
14 structure in the case of demolition will contain a general grocery store that is of a sufficient
15 size to serve the shopping needs of nearby residents and offers comparable services to the
16 former general grocery store.

17 (i) For purposes of defining "reasonable economic return," the
18 Planning Commission shall be guided by the criteria for "fair return on investment" as set forth
19 in Section 228.4(a).

20 (B) The change in use or demolition of the general grocery store use will
21 not undermine the economic diversity and vitality of the surrounding neighborhood.

22 **(mH) Tobacco Paraphernalia Establishments.**

23 (1) With respect to a Tobacco Paraphernalia Establishment, as defined in
24 Section 227(v) of this Code, in addition to the criteria set forth in Subsections (c) and (d)
25 above, the Commission shall make the following findings:

1 (A) The concentration of such establishments in the particular zoning
2 district for which they are proposed does not appear to contribute directly to peace, health,
3 safety, and general welfare problems, including drug use, drug sales, drug trafficking, other
4 crimes associated with drug use, loitering, and littering, as well as traffic circulation, parking,
5 and noise problems on the district's public streets and lots;

6 (B) The concentration of such establishments in the particular zoning
7 district for which they are proposed does not appear to adversely impact the health, safety,
8 and welfare of residents of nearby areas, including fear for the safety of children, elderly and
9 disabled residents, and visitors to San Francisco; and

10 (C) The proposed establishment is compatible with the existing character
11 of the particular district for which it is proposed.

12 **(no) Massage Establishments.**

13 (1) With respect to Massage Establishments that are subject to Conditional Use
14 authorization, as defined in Sections 218.1, 790.60, and 890.60 of this Code, in addition to the
15 criteria set forth in Subsection (c) above, the Commission shall make the following findings:

16 (A) Whether the applicant has obtained, and maintains in good standing,
17 a permit for a Massage Establishment from the Department of Public Health pursuant to
18 Section 1908 of the San Francisco Health Code;

19 (B) Whether the use's facade is transparent and open to the public.
20 Permanent transparency and openness are preferable. Elements that lend openness and
21 transparency to a facade include:

22 (i) active street frontage of at least 25' in length where 75% of that
23 length is devoted to entrances to commercially used space or windows at the pedestrian eye-
24 level;

5

1 (ii) windows that use clear, untinted glass, except for decorative or
2 architectural accent;

3 (iii) any decorative railings or decorative grille work, other than
4 wire mesh, which is placed in front of or behind such windows, should be at least 75 percent
5 open to perpendicular view and no more than six feet in height above grade;

6 (C) Whether the use includes pedestrian-oriented lighting. Well lit
7 establishments where lighting is installed and maintained along all public rights-of-way
8 adjacent to the building with the massage use during the post-sunset hours of the massage
9 use are encouraged:

10 (D) Whether the use is reasonably oriented to facilitate public access.
11 Barriers that make entrance to the use more difficult than to an average service-provider in
12 the area are to be strongly discouraged. These include (but are not limited to) foyers equipped
13 with double doors that can be opened only from the inside and security cameras.

14 **(op) Eating and Drinking Uses.**

15 (1) Conditional Use Criteria. With regard to a conditional use authorization
16 application for a Restaurant, Limited-Restaurant and Bar uses in Neighborhood Commercial
17 Districts or Mixed Use Districts, the Planning Commission shall consider, in addition to the
18 criteria set forth in Subsection (c) above:

19 _____(A) ~~The, the~~ existing concentration of eating and drinking uses in the
20 area. Such concentration should not exceed 25% of the total commercial frontage as
21 measured in linear feet within the immediate area of the subject site. For the purposes of this
22 Section of the Code, the immediate area shall be defined as all properties located within 300'
23 of the subject property and also located within the same zoning district.

24
25 **SEC. 303.1. FORMULA RETAIL USES.**

1 (a) Findings.

2 (1) San Francisco is a city of diverse and distinct neighborhoods identified in large part
3 by the character of their commercial areas.

4 (2) One of the eight Priority Policies of the City's General Plan resolves that "existing
5 neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident
6 employment in and ownership of such businesses enhanced."

7 (3) Retail uses are the land uses most critical to the success of the City's commercial
8 districts.

9 (4) Formula Retail businesses are increasing in number in San Francisco, as they are
10 in cities and towns across the country.

11 (5) San Francisco is one of a very few major urban centers in the State in which
12 housing, shops, work places, schools, parks and civic facilities intimately co-exist to create strong
13 identifiable neighborhoods. The neighborhood streets invite walking and bicycling and the City's mix of
14 architecture contributes to a strong sense of neighborhood community within the larger City
15 community.

16 (6) Notwithstanding the marketability of a retailer's goods or services or the visual
17 attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of
18 many Formula Retail businesses can detract from the distinctive character and aesthetics of certain
19 Neighborhood Commercial Districts.

20 (7) The increase of Formula Retail businesses in the City's neighborhood commercial
21 areas, if not monitored and regulated, will hamper the City's goal of a diverse retail base with distinct
22 neighborhood retailing personalities comprised of a mix of businesses. Specifically, the unregulated
23 and unmonitored establishment of additional Formula Retail uses may unduly limit or eliminate
24 business establishment opportunities for smaller or medium-sized businesses, many of which tend to be
5 non-traditional or unique, and unduly skew the mix of businesses towards formula retailers in lieu of

1 unique or start-up retailers, thereby decreasing the diversity of merchandise available to residents and
2 visitors and the diversity of purveyors of merchandise.

3 (8) If, in the future, neighborhoods determine that the needs of their Neighborhood
4 Commercial Districts are better served by eliminating the notice requirements for proposed Formula
5 Retail uses, by converting Formula Retail uses into conditional uses in their district, or by prohibiting
6 Formula Retail uses in their district, they can propose legislation to do so.

7 (9) Neighborhood Commercial Districts are intended to preserve the unique qualities of
8 a district while also serving the daily needs of residents living in the immediate neighborhood; however
9 community members have reported loss of daily needs uses due to inundation of formula retailers that
10 target larger citywide or regional audiences. The City strives to ensure that goods and services that
11 residents require for daily living are available within walking distance and at an affordable price.
12 Establishments that serve daily needs and formula retail establishments are neither mutually exclusive
13 nor completely overlapping.

14 (10) The San Francisco retail brokers' study of 28 ~~N~~Neighborhood ~~C~~Commercial
15 ~~D~~Districts conducted in 2014 found that the healthiest and most viable retail environments offer a mix
16 of retailers who vary in size and offerings; including a mix of conventional and cutting edge retailers as
17 well as established players and newcomers.

18 (11) Formula retailers are establishments with multiple locations and standardized
19 features or a recognizable appearance. Recognition is dependent upon the repetition of the same
20 characteristics of one store in multiple locations. The sameness of Formula Retail outlets, while
21 providing clear branding for consumers, counters the general direction of certain land use controls and
22 General Plan Policies which value unique community character and therefore need controls, in certain
23 areas, to maintain neighborhood individuality.

24 (12) The homogenizing effect of Formula Retail, based on its reliance on standardized
25 branding, is greater if the size of the Formula Retail use, in number of locations or size of use or

1 branded elements, is larger. The increased level of homogeneity distracts from San Francisco's unique
2 neighborhoods, which thrive on a high level of surprise and interest maintained by a balanced mix of
3 uses and services, both independent and standardized.

4 (13) Due to the distinct impact that Formula Retail uses have on a neighborhood, these
5 uses are the evaluated for concentration as well as compatibility within a neighborhood. As
6 neighborhoods naturally evolve over time, changes and intensifications of Formula Retail uses should
7 also be re-evaluated for concentration and compatibility within a neighborhood.

8 (14) According to an average of ten studies done by the firm Civic Economics and
9 published by the American Independent Business Alliance in October of 2012, spending by independent
10 retailers generated 3.7 times more direct local spending than that of Formula Retail chains.

11 (15) Money earned by independent businesses is more likely to circulate within the
12 local neighborhood and City economy than the money earned by Formula Retail businesses which
13 often have corporate offices and vendors located outside of San Francisco.

14 (16) According to a 2014 Sstudy by the San Francisco Office of Economic Analysis
15 (OEA) report "Expanding Formula Retail Controls: Economic Impact Report" the uniqueness of San
16 Francisco's neighborhoods is based on a combination of unique visual characteristics and a sense of
17 community fostered by small merchants and resident relationships. A Formula Retail establishment is
18 determined by its recognizable look which is repeated at every location, therefore, detracting from the
19 unique community character.

20 (17) The OEA Report found that in general, chain stores charge lower prices and
21 provide affordable goods, but may spend less within the local economy, and can be unpopular with
22 some residents because they can be seen to diminish the character of the neighborhood. At the same
23 time, this OEA Report found that excessively limiting chain stores can reduce commercial rents and
24 raise vacancy rates.

1 (18) Through a 2014 study commissioned by the Planning Department, titled "San
2 Francisco Formula Retail Economic Analysis," staff and consultants conducted one-on-one interviews
3 and worked with small groups including independent retailers, small business owners, merchants
4 associations, formula retailers, commercial brokers, neighborhood representatives and other
5 stakeholders. The Study found that landlords often perceive a benefit in renting to large established
6 chains, which landlords believe typically have better credit and can sign longer leases than local,
7 independent retailers, lowering the risk that the tenant will be unable to pay its rent. The existing land
8 use controls for Formula Retail may create a disincentive for formula retailers to locate where the
9 formula retail controls apply.

10 (b) **Definition.** A Formula Retail use is hereby defined as a type of retail sales or service
11 activity or retail sales or service establishment that has ~~nineteen~~eleven or more other retail sales
12 establishments in operation, or with local land use or permit entitlements already approved, located
13 anywhere in the world. In addition to the ~~nineteen~~eleven establishments either in operation or with
14 local land use or permit entitlements approved for operation, the business maintains two or more of the
15 following features: a standardized array of merchandise, a standardized facade, a standardized decor
16 and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.

17 (1) Standardized array of merchandise shall be defined as 50% or more of in-stock
18 merchandise from a single distributor bearing uniform markings.

19 (2) Trademark shall be defined as a word, phrase, symbol or design, or a combination
20 of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one
21 party from those of others.

22 (3) Servicemark shall be defined as word, phrase, symbol or design, or a combination
23 of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one
24 party from those of others.

1 (4) Decor shall be defined as the style of interior furnishings, which may include but is
2 not limited to, style of furniture, wall coverings or permanent fixtures.

3 (5) Color Scheme shall be defined as selection of colors used throughout, such as on the
4 furnishings, permanent fixtures, and wall coverings, or as used on the facade.

5 (6) Facade shall be defined as the face or front of a building, including awnings,
6 looking onto a street or an open space.

7 (7) Uniform Apparel shall be defined as standardized items of clothing including but
8 not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name
9 tags) as well as standardized colors of clothing.

10 (8) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning
11 Code.

12 (c) "Retail Sales or Service Activity or Retail Sales or Service Establishment." For the
13 purposes of this Section 303.1, a retail sales or service activity or retail sales or service establishment
14 shall include the following uses whether functioning as a principal or accessory use, as defined in
15 Articles 1, 2, 7, and 8 of this Code, except that Financial Services, Limited Financial Services and
16 Personal Services above the ground floor of a building are not considered Formula Retail

17 Uses:

18 (1) Bar;

19 (2) Drive-up Facility;

20 (3) Eating and Drinking Use;

21 (4) Liquor Store;

22 (5) Sales and Service, Other Retail;

23 (6) Restaurant;

24 (7) Limited-Restaurant;

25 (8) Take-Out Food;

- 1 (9) Sales and Service, Retail;
- 2 (10) Service, Financial;
- 3 (11) Movie Theater;
- 4 (12) Amusement and Game Arcade;
- 5 (13) Service, Limited Financial, except single automated teller machines at the street
- 6 front that meet the Commission's adopted Performance-Based Design Guidelines and automated teller
- 7 machines located within another use that are not visible from the street;
- 8 (14) Service, Business or Professional;
- 9 (145) Service, Fringe Financial;-
- 10 (156) Tobacco Paraphernalia Establishment;
- 11 (167) Massage Establishment; and
- 12 (178) Service, Personal.

13 (d) Conditional Use Criteria. With regard to a conditional use authorization application for a

14 Formula Retail use, the Planning Commission shall consider, in addition to the criteria set forth in

15 Section 303, the criteria below and the Performance-Based Design Guidelines adopted by the Planning

16 Commission to implement the criteria below.

17 (1) The existing concentrations of Formula Retail uses within the district and within the

18 vicinity of the proposed project. To determine the existing concentration, the Planning

19 Commission shall consider the percentage of the total linear street frontage within a 300-foot

20 radius or a quarter of a mile radius, at the Planning Department's discretion, from the subject

21 property that is occupied by Formula Retail and non-Formula Retail businesses. The

22 Department's review shall include all parcels that are wholly or partially located within the 300-

23 foot radius or quarter-mile radius. If the subject property is a corner parcel, the 300-foot

24 radius or quarter mile radius shall include all corner parcels at the subject intersection. For

25 each property, the Planning Department shall divide the total linear frontage of the lot facing a

1 public-right of way by the number of storefronts, and then calculate the percentage of the total
2 linear frontage for Formula Retail and non-Formula Retail. Half percentage points shall be
3 rounded up.

4 For the Upper Market Street Neighborhood Commercial District only, if the application
5 would bring the formula retail concentration within a 300-foot radius to a concentration of 20%
6 or above, Planning Department staff shall recommend disapproval of the application to the
7 Planning Commission. If the application would not bring the formula retail concentration
8 within the 300-foot radius to a concentration of 20% or above, Planning Department staff shall
9 assess the application according to all the other criteria listed in this Subsection 303.1(d), and
10 recommend approval or disapproval to the Planning Commission, according to its discretion
11 and professional judgment. In either case, the Planning Commission may approve or reject
12 the application, considering all the criteria listed in this Subsection 303.1(d).

13 _____ (2) The availability of other similar retail uses within the district and within the vicinity
14 of the proposed project.

15 _____ (3) The compatibility of the proposed Formula Retail use with the existing architectural
16 and aesthetic character of the district.

17 _____ (4) The existing retail vacancy rates within the district and within the vicinity of the
18 proposed project.

19 _____ (5) The existing mix of Citywide-serving retail uses and daily needs-serving retail uses
20 within the district and within the vicinity of the proposed project.

21 _____ (6) Additional relevant data and analysis set forth in the Performance-Based Design
22 Guidelines adopted by the Planning Commission.

23 _____ (7) For Formula Retail uses of 20,000 gross square feet or more, except for
24 General or Specialty Grocery stores as defined in Articles 2, 7 and 8 of this Code, if required

1 by Section 303(ji) for Large Retail Uses, preparation the contents of an economic impact study
2 prepared pursuant to Section 303(i) of this Code.

3 (8) Notwithstanding anything to the contrary contained in Planning Code Article 6
4 limiting the Planning Department's and Planning Commission's discretion to review signs, the
5 Planning Department and Planning Commission may review and exercise discretion to require
6 changes in the time, place and manner of the proposed signage for the proposed Formula Retail use,
7 applying the Performance-Based Design Guidelines.

8 (e) Conditional Use Authorization Required.

9 (1) A Conditional Use Authorization shall be required for a Formula Retail use in
10 the following zoning districts unless explicitly exempted:

11 (A4) All Neighborhood Commercial Districts in Article 7;

12 (B2) All Mixed Use-General Districts in Section 840;

13 (C3) All Urban Mixed Use Districts in Section 843;

14 (D4) All Residential-Commercial Districts as defined in Section 206.3;

15 (E5) Japantown Special Use District as defined in Section 249.31;

16 (F6) Chinatown Community Business District as defined in Section 810.1;

17 (G7) Chinatown Residential/Neighborhood Commercial District as defined in
18 812.1;

19 (H8) Western SoMa Planning Area Special Use District as defined in 823;

20 (I9) Residential Transit-Oriented Districts as defined in 206.4 and 206.5;

21 (J10) Limited Conforming Use/Non-Conforming Use in RH-RM-RTO and RED

22 Districts;

23 (K11) Third Street Formula Retail Restricted Use District, as defined in Section
24 786;

1 (L42) The C-3-G District with frontage on Market Street, between 6th Street
2 and the intersection of Market Street, 12th Street and Franklin Street.

3 (2) A Conditional Use Authorization by the Planning Commission is required
4 under Planning Code Section 303 in circumstances where there has been a determination by
5 Department staff or a City board, commission, or agency that a proposed project is a Formula
6 Retail Use and the project sponsor subsequently removes one or more of the Formula Retail
7 Use features listed in the Planning Code.

8 (f) Formula Retail Uses Not Permitted. Formula Retail uses are not permitted in the following
9 zoning districts:

10 (1) Hayes-Gough Neighborhood Commercial Transit District;

11 (2) North Beach Neighborhood Commercial District;

12 (3) Chinatown Visitor Retail District;

13 (4) Upper Fillmore District does not permit Formula Retail uses that are also
14 Restaurant or Limited-Restaurant uses as defined in Sections 790.90 and 790.91;

15 (5) Broadway Neighborhood Commercial District does not permit Formula Retail uses
16 that are also Restaurant or Limited-Restaurant uses as defined in Sections 790.90 and 790.91;

17 (6) Mission Street Formula Retail Restaurant Subdistrict does not permit Formula
18 Retail uses that are also Restaurant or Limited-Restaurant uses as defined in Sections 790.90 and
19 790.91;

20 (7) Geary Boulevard Formula Retail Pet Supply Store and Formula Retail Eating and
21 Drinking Subdistrict does not permit Formula Retail uses that are also either a Retail Pet Supply Store
22 or an Eating and Drinking use as set forth in Section 781.4;

23 (8) Taraval Street Restaurant Subdistrict does not permit Formula Retail uses that are
24 also Restaurant or Limited-Restaurant uses as defined in Sections 790.90 and 790.91;

1 (9) Chinatown Mixed Use Districts does not permit Formula Retail uses that are also
2 Restaurant or Limited-Restaurant uses as defined in Sections 790.90 and 790.91.

3 (g) Neighborhood Notification and Design Review. Any application for a Formula Retail use
4 as defined in this section shall be subject to the notification and review procedures of Subsections
5 312(d) and (e) of this Code. A conditional use hearing on an application for a Formula Retail
6 use may not be held less than 30 calendar days after the date of mailed notice.

7 (h) Determination of Formula Retail Use. In those areas in which Formula Retail uses are
8 prohibited or subject to the provisions of Subsections 303.1(d) or (e), any application for an
9 entitlement or determination determined by the City to be for a Formula Retail use that does not
10 identify the use as a Formula Retail use is incomplete and cannot be processed until the omission is
11 corrected. Any entitlement approved or determination made that is determined by the City to have been,
12 at the time of application, for a Formula Retail use that did not identify the use as a Formula Retail use
13 is subject to revocation at any time. If the City determines that an entitlement or determination, or an
14 application for the same, is for a Formula Retail use, the applicant or holder of the entitlement bears
15 the burden of proving to the City that the proposed or existing use is not a Formula Retail use.

16 (i) Performance-Based Design Guidelines. All new, enlarged, intensified or non-intensified
17 Formula Retail uses or establishments must comply with the Commission's adopted Performance-
18 Based Design Guidelines for Formula Retail, as directed by the Planning Department and Planning
19 Commission.

20 (j) Change of Use. Changes of Formula Retail establishments are generally described below,
21 except that a change of a Formula Retail use that is also a nonconforming use pursuant to Section 182
22 is prohibited. In all other instances, changes of Formula Retail establishments from one use category to
23 another, including a change from one use to another within the sub-categories of uses set forth in
24 Planning Code Section 790.102 and Section 890.102, require a new Conditional Use authorization as a
25 new Formula Retail use. Changes of Formula Retail owner or operator within the same use category

1 that are determined to be an enlargement or intensification of use pursuant to Subsection 178(c) are
2 required to obtain Conditional Use authorization and shall meet the Commission's adopted
3 Performance-Based Design Guidelines for Formula Retail. In cases determined not to be an
4 enlargement or intensification of use, the Performance-Based Design Guidelines for Formula Retail
5 may be applied and approved administratively by the Planning Department, unless the applicant
6 requests a Conditional Use Hearing at the Planning Commission. The applicant shall also pay an
7 administrative fee to compensate Planning Department and City staff for its time reviewing the project
8 under this Subsection, as set forth in Section 360 of this Code.

9 (k) Accessory uses. Conditional use authorization shall be required for all accessory uses
10 within those use categories subject to Formula Retail controls as defined in this Section (303.1), except
11 for the following:

12 (1) Single automated teller machines falling within the definition of Limited Financial
13 Services that are located at the street front that meet the Commission's adopted Performance-Based
14 Design Guidelines for automated teller machines;

15 (2) Automated teller machines located within another use that are not visible from the
16 street;

17 (3) Vending machines that do not exceed 15 feet of street frontage or occupy more than
18 200 square feet of area facing a public right of way.

19 Section 3. The Planning Code is hereby amended by revising Subsection 178 to read
20 as follows:

21 **SEC. 178. CONDITIONAL USES.**

22 The following provisions shall apply to conditional uses:

23 (a) **Definition.** For the purposes of this Section, a permitted conditional use shall refer
24 to:

1 (1) Any use or feature authorized as a conditional use pursuant to Article 3 of
2 this Code, provided that such use or feature was established within the time limits specified as
3 a condition of authorization or, if no time limit was specified, within a reasonable time from the
4 date of authorization; or

5 (2) Any use or feature which is classified as a conditional use in the district in
6 which it is located and which lawfully existed either on the effective date of this Code, or on
7 the effective date of any amendment imposing new conditional use requirements upon such
8 use or feature; or

9 (3) Any use deemed to be a permitted conditional use pursuant to Section 179
10 of this Code.

11 (b) **Continuation.** Except as provided for temporary uses in Section 205 of this Code,
12 and except where time limits are otherwise specified as a condition of authorization, any
13 permitted conditional use may continue in the form in which it was authorized, or in the form in
14 which it lawfully existed either on the effective date of this Code or the effective date of any
15 amendment imposing new conditional use requirements upon such use or feature, unless
16 otherwise provided in this Section or in Article 2 of this Code.

17 (c) **Enlargements or Alteration.**

18 (1) A permitted conditional use may not be significantly altered, enlarged, or
19 intensified, except upon approval of a new conditional use application pursuant to the
20 provisions of Article 3 of this Code.

21 (2) With regard to an Internet Services Exchange as defined in Section
22 209.6(c), any physical alteration which will enlarge or expand the building for the purpose of
23 intensifying the use shall be deemed to be significant under this sSection, and any increase in
24 the size of electrical service to the building which will require a permit from the Department of
25 Building Inspection shall be deemed to be significant under this sSection.

1 (3) With regard to Formula Retail uses, a change of owner or operator of a Formula
2 Retail establishment is determined to be an intensification of use and a new Conditional Use
3 authorization shall be required if one or more of the following occurs:

4 (A)(1) Change of use category, including a change from one use to another
5 within the sub-categories of uses set forth in Planning Code Section 790.102 and Section 890.102;

6 (B)(2) Expansion of use size;

7 (C)(3) Change to a Formula Retail establishment that has more locations than
8 the existing Formula Retail establishment, which results in an increase in visual homogeneity;

9 (D)(4) Installation of a commercial kitchen, including but not limited to: ovens,
10 open ranges or stoves, fryers, oven hoods or kitchen ventilation systems, heating stations, steam tables
11 or cabinets, cold food storage, increased food preparation areas or self-service drink dispensers;

12 (E)(5) A pre-existing Formula Retail use that had not previously been
13 authorized via a Conditional Use from the Commission.

14 (d) **Abandonment.** A permitted conditional use which is discontinued for a period of
15 three years, or otherwise abandoned, shall not be restored, except upon approval of a new
16 conditional use application pursuant to the provisions of Article 3 of this Code. For purposes of
17 this Subsection, the period of nonuse for a permitted conditional use to be deemed
18 discontinued in the North Beach, Castro Street Neighborhood Commercial Districts, and the
19 Jackson Square Special Use District shall be eighteen (18) months, except that in the North
20 Beach Neighborhood Commercial District, the period of nonuse for a Restaurant use, as
21 defined in Section 790.91, to be deemed discontinued shall be three years.

22 A permitted conditional Formula Retail use which is discontinued for a period of 18 months, or
23 otherwise abandoned, shall not be restored, except upon approval of a new conditional use application
24 pursuant to Article 3 of this Code.

1 (e) **Changes in Use.** The following provisions shall apply to permitted conditional uses
2 with respect to changes in use, except as further limited by the change of use procedures for
3 Formula Retail uses set forth in Section 303.1 of this Code:

4 (1) A permitted conditional use may be changed to another use listed in Articles
5 2, 7 or 8 of this Code as a principal use for the district in which it is located and the new use
6 may thereafter be continued as a permitted principal use.

7 (2) A permitted conditional use may be changed to another use listed in Articles
8 2, 7 or 8 of this Code as a conditional use for the district in which the property is located,
9 subject to the other applicable provisions of this Code, only upon approval of a new
10 conditional use application, pursuant to the provisions of Article 3 of this Code.

11 (3) A permitted conditional use may not be changed to another use not
12 permitted or prohibited by Articles 2, 7 or 8 of this Code. If a permitted conditional use has
13 been wrongfully changed to another use in violation of the foregoing provisions and the
14 violation is not immediately corrected when required by the Zoning Administrator, the wrongful
15 change shall be deemed to be a discontinuance or abandonment of the permitted conditional
16 use.

17 (4) Once a permitted conditional use has been changed to a principal use
18 permitted in the district in which the property is located, or brought closer in any other manner
19 to conformity with the use limitations of this Code, the use of the property may not thereafter
20 be returned to its former permitted conditional use status, except upon approval of a new
21 conditional use application pursuant to the provisions of Article 3 of this Code.

22 (5) In the North Beach Neighborhood Commercial District, any use that exceeds
23 the use size provisions of Section 121.2(a) or 121.2(b) may be changed to a new use only
24 upon approval of a new conditional use application. The Commission's approval of such
25 conditional use application shall explicitly address the use size findings of Section 303(c).

1 (6) In the Castro Street Neighborhood Commercial District, any use that
2 exceeds the use size provisions of Section 121.2(a), but is smaller than the maximum use
3 size limit of Section 121.2(b), may be changed to a new use only upon approval of a new
4 conditional use application. The Commission's approval of such conditional use application
5 shall explicitly address the use size findings of Section 303(c).

6 (f) Notwithstanding the foregoing provisions of this Section 178, a structure occupied
7 by a permitted conditional use that is damaged or destroyed by fire, or other calamity, or by
8 Act of God, or by the public enemy, may be restored to its former condition and use without
9 the approval of a new conditional use application, provided that such restoration is permitted
10 by the Building Code, and is started within 18 months and diligently pursued to completion.
11 Except as provided in Subsection (g) below, no structure occupied by a permitted conditional
12 use that is voluntarily razed or required by law to be razed by the owner thereof may
13 thereafter be restored except upon approval of a new conditional use application pursuant to
14 the provisions of Article 3 of this Code.

15 (g) None of the provisions of this Section 178 shall be construed to prevent any
16 measures of construction, alteration or demolition necessary to correct the unsafe or
17 dangerous condition of any structure, other feature, or part thereof, where such condition has
18 been declared unsafe or dangerous by the Superintendent of the Bureau of Building
19 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety, and where the
20 proposed measures have been declared necessary, by such official, to correct the said
21 condition; provided, however, that only such work as is absolutely necessary to correct the
22 unsafe or dangerous condition may be performed pursuant to this Section.

23
24 Section 4. The Planning Code is hereby amended by revising Sections 182, 183 and
5 186.1 to read as follows:

1 **SEC. 182. NONCONFORMING USES: CHANGES OF USE.**

2 The following provisions shall apply to nonconforming uses with respect to changes of
3 use:

4 (a) A nonconforming use shall not be changed or modified so as to increase the
5 degree of nonconformity under the use limitations of this Code, with respect to the type of use
6 or its intensity except as provided in Section 181 for nighttime entertainment activities within
7 the RSD, MUG, MUR, or SLR Districts. The degree of nonconformity shall be deemed to be
8 increased if the new or modified use is less widely permitted by the use districts of the City
9 than the nonconforming use existing immediately prior thereto. *For purposes of this sSection,*
10 *intensification of a Formula Retail use as defined in sSection 178(c) is determined to be a change or*
11 *modification that increases the degree of nonconformity of the use.*

12 (b) Except as limited in this Subsection, a nonconforming use may be reduced in size,
13 extent or intensity, or changed to a use that is more widely permitted by the use districts of the
14 City than the existing use, subject to the other applicable provisions of this Code. Except as
15 otherwise provided herein, the new use shall still be classified as a nonconforming use.

16 (1) A nonconforming use in a Residential District (other than a Residential-
17 Commercial Combined District), which use is located more than ¼ mile from the nearest
18 Individual Area Neighborhood Commercial District or Restricted Use Subdistrict described in
19 Article 7 of this Code, may change to another use which is permitted as a principal use at the
20 first story and below in an NC-1 District, or it may change to another use which is permitted as
21 a conditional use at the first story and below in an NC-1 District only upon approval of a
22 conditional use application pursuant to the provisions of Article 3 of this Code. If the
23 nonconforming use is seeking a te change in use to a retail sales activity or retail sales
24 establishment which is also a Fformula Rretail use, as defined in Section 703.3303.1 of this
25 Code, it shall comply with the provisions of Section 703.3303.1 of this Code. The

1 nonconforming use shall comply with other building standards and use limitations of NC-1
2 Districts, as set forth in Sections 710.10 through 710.95 of this Code.

3 If the nonconforming use is located within ¼ mile from any Individual Area
4 Neighborhood Commercial District or Restricted Use Subdistrict described in Article 7 of this
5 Code, the nonconforming use may change to another use which is permitted as a principal
6 use at the first story and below in an NC-1 District and in the Individual Area Neighborhood
7 Commercial District or Restricted Use Subdistrict or Districts within ¼ mile of the use, or it
8 may change to another use which is permitted as a conditional use at the first story and below
9 in an NC-1 District and in the Individual Area Neighborhood Commercial District or Districts
10 within ¼ mile of the use only upon approval of a conditional use application pursuant to the
11 provisions of Article 3 of this Code. If the nonconforming use is seeking to change in use to a
12 retail sales activity or retail sales establishment which is also a Fformula Retail use, as
13 defined in Section ~~703.3~~303.1 of this Code, it shall comply with the provisions of Section
14 ~~703.3~~ 303.1 of this Code. The nonconforming use shall comply with other building standards
15 and use limitations of NC-1 Districts and any Individual Area NC District or Districts located
16 within ¼ mile of the use, as set forth in Article 7 of this Code.

17 (2) A nonconforming use in a Residential-Commercial Combined District may
18 be changed to another use listed in Articles 2 or 7 of this Code as a principal use for the
19 district in which the existing use would first be permitted as a principal or conditional use.

20 (3) A nonconforming use in a Neighborhood Commercial District may be
21 changed to another use as provided in Subsections (c) and (d) below or as provided in
22 Section 186.1 of this Code.

23 (4) A nonconforming use in any district other than a Residential, Downtown
24 Residential, or Neighborhood Commercial District may be changed to another use listed in

5

1 Articles 2 or 7 of this Code as a principal use for the district in which the existing use would
2 first be permitted as a principal use.

3 (5) A nonconforming use in any South of Market Mixed Use District may not be
4 changed to an office, retail, bar, restaurant, nighttime entertainment, adult entertainment,
5 hotel, motel, inn, hostel, or movie theater use in any district where such use is otherwise not
6 permitted or conditional, except as provided in Subsection (f) below.

7 (c) A nonconforming use may be changed to a use listed in Articles 2 or 7 of this Code
8 as a conditional use for the district in which the property is located, subject to the other
9 applicable provisions of this Code, without the necessity of specific authorization by the City
10 Planning Commission except where major work on a structure is involved, and the new use
11 may thereafter be continued as a permitted conditional use, subject to the limitation of Section
12 178(b) of this Code.

13 (d) A nonconforming use may be changed to a use listed in Articles 2, 7 or 8 of this
14 Code as a principal use for the district in which the property is located, subject to the other
15 applicable provisions of this Code, and the new use may thereafter be continued as a
16 permitted principal use.

17 (e) A nonconforming use in an R District subject to termination under the provisions of
18 Section 185 of this Code may be converted to a dwelling unit without regard to the
19 requirements of this Code with respect to dwelling unit density under Article 2, dimensions,
20 areas and open space under Article 1.2, or off-street parking under Article 1.5, provided the
21 nonconforming use is eliminated by such conversion, provided further that the structure is not
22 enlarged, extended or moved to another location, and provided further that the requirements
23 of the Building Code, the Housing Code and other applicable portions of the Municipal Code
24 are met.

1 (f) Once a nonconforming use has been changed to a principal or conditional use
2 permitted in the district in which the property is located, or brought closer in any other manner
3 to conformity with the use limitations of this Code, the use of the property may not thereafter
4 be returned to its former nonconforming status, except that:

5 (1) Any area which is used as a live/work unit shall be allowed to return to its
6 former nonconforming status.

7 (2) Within any South of Market Mixed Use District, any area occupied by a
8 nonconforming office use which is changed to an arts, home and/or business service use
9 falling within zoning categories 102.2 or 816.42 through 816.47 or a wholesale, storage or
10 light manufacturing use falling within zoning categories 816.64 through 816.67 shall be
11 allowed to return to its former nonconforming office use.

12 (3) Upon restoration of a previous nonconforming use as permitted by
13 Subsection (1) or (2) above, any modification, enlargement, extension, or change of use, from
14 circumstances which last lawfully existed prior to the creation of the live/work unit, or prior to
15 the change from office use, shall be subject to the provisions of this Article, and the restored
16 nonconforming use shall be considered to have existed continuously since its original
17 establishment, prior to the live/work unit or change to office use, for purposes of this Article.

18 (g) If a nonconforming use has been wrongfully changed to another use in violation of
19 any of the foregoing provisions, and the violation is not immediately corrected when required
20 by the Zoning Administrator, the wrongful change shall be deemed to be a discontinuance or
21 abandonment of the nonconforming use under Section 183 of this Code.

22 (h) If a nonconforming use is a Formula Retail use in a District that prohibits Formula Retail
23 uses, the Formula Retail use is deemed abandoned if it is discontinued for a period of 18 months or
24 more, or otherwise abandoned. The Formula Retail use shall not be restored.

1 (1) Change of one nonconforming Formula Retail use to another Formula Retail use
2 that is determined to not be an enlargement or intensification of use, as defined in Subsection 178(c), is
3 subject to the Commission's adopted Performance-Based Design Guidelines for Formula Retail, which
4 may be applied and approved administratively by the Planning Department. Non-conformance with the
5 Performance-Based Design Guidelines for Formula Retail as required by the Department may result in
6 termination of the nonconforming Formula Retail use.

7 (2) Change of one nonconforming Formula Retail use to another Formula Retail use
8 that is determined to be an enlargement or intensification of use, as defined in Subsection 178(c), is not
9 permitted.

10
11 **SEC. 183. NONCONFORMING USES: DISCONTINUANCE AND ABANDONMENT.**

12 (a) Discontinuance and Abandonment of a Nonconforming Use, Generally. Whenever a
13 nonconforming use has been changed to a conforming use, or discontinued for a continuous
14 period of three years, or whenever there is otherwise evident a clear intent on the part of the
15 owner to abandon a nonconforming use, such use shall not after being so changed,
16 discontinued or abandoned be reestablished, and the use of the property thereafter shall be in
17 conformity with the use limitations of this Code for the district in which the property is located.
18 Where no enclosed building is involved, discontinuance of a nonconforming use for a period
19 of six months shall constitute abandonment. Where a massage establishment is
20 nonconforming for the reason that it is within 1,000 feet of another such establishment under
21 Section 218.1 of this Code or because it is no longer permitted within the district,
22 discontinuance for a continuous period of three months or change to a conforming use shall
23 constitute abandonment.

24 (b) Discontinuance or Abandonment of a Nonconforming Formula Retail Use.
25 Notwithstanding subsection (a) of this Section, when a nonconforming Formula Retail use has been

1 changed to a conforming use or discontinued for a period of 18 months, or whenever there is otherwise
2 evident a clear intent on the part of the owner to abandon a nonconforming Formula Retail use, such
3 use shall not be reestablished after being so changed, discontinued or abandoned, and the use of the
4 property thereafter shall be in conformity with the use limitations of this Code for the district in which
5 the property is located.

6
7 **SEC. 186.1. EXEMPTION OF NONCONFORMING USES IN NEIGHBORHOOD**
8 **COMMERCIAL DISTRICTS.**

9 The purpose of this Section is to provide for the further continuance in NC Districts of
10 nonconforming uses created by adoption of Ordinance No. 69-87, as herein described, and
11 subsequent ordinances that change the uses allowed in NC Districts, which are beneficial to,
12 or can be accommodated within the neighborhood commercial areas in which they are
13 located.

14 It is hereby found and declared that certain uses which traditionally have been
15 permitted to locate in neighborhood commercial areas can be beneficial to a neighborhood
16 commercial area in small or limited numbers, but which if allowed to proliferate, can disrupt
17 the balanced mix of neighborhood-serving retail stores and services. It is further found and
18 declared that in order to prevent undesirable over concentrations of such uses, the
19 establishment of additional such uses shall be prohibited pursuant to controls governing uses
20 in NC Districts. At the same time, however, it is desirable to provide for the further
21 continuance, expansion, enlargement, alteration, changes, discontinuance, and relocation of
22 such existing uses, which are nonconforming as a result of zoning controls governing uses in
23 NC Districts.

1 The following provisions shall govern with respect to nonconforming uses and features
2 located in Neighborhood Commercial Districts to the extent that there is a conflict between the
3 provisions of this Section and other Sections contained in this Article 1.7.

4 **(a) Expansion.** A nonconforming use may expand ~~:(1)~~ in floor area as provided in
5 Subsection (b) below, but may not expand beyond the lot which it occupies, nor may the
6 boundaries of such lot be expanded for purposes of expanding the use; nor may the use
7 expand upward above the story or stories which it lawfully occupies, except as provided in
8 Section 186.2 below.

9 **(b) Enlargements or Alteration.**

10 (1) A nonconforming use may not be significantly altered; enlarged or
11 intensified, except upon approval of a conditional use application pursuant to the provisions
12 of Article 3 of this Code, provided that the use not have or result in a greater height, bulk or
13 floor area ratio, less required rear yard or open space, or less required off-street parking
14 space or loading space than permissible under the limitations set forth in this Code for the
15 district or districts in which such use is located.

16 (2) A nonconforming use may expand to include public sidewalk space provided
17 that such space is only occupied with tables and chairs as permitted by this Municipal Code.

18 (3) No existing use or structure which fails to meet the requirements of this
19 Code in any manner as described above in this Subsection (b) shall be constructed,
20 reconstructed, enlarged, altered or relocated so as to increase the discrepancy, or to create a
21 new discrepancy, at any level of the structure, between existing conditions on the lot and the
22 required standards for new construction set forth in this Code.

23 **(c) Changes in Use.** A nonconforming use may be changed to another use or feature
24 as described below.

25

1 (1) A nonconforming use may be changed to a use listed in Article 7 of this
2 Code as a principal use for the district in which the property is located, and the new use may
3 thereafter be continued as a permitted principal use.

4 (2) A nonconforming use may be changed to a use listed in Article 7 of this
5 Code as a conditional use for the district in which the use is located, only upon approval of a
6 conditional use application pursuant to the provisions of Article 3 of this Code, and the new
7 use may thereafter be continued as a permitted conditional use, subject to the provisions of
8 Section 178 of this Code.

9 (3) A nonconforming use may be changed to a use which is not permitted in
10 that Neighborhood Commercial District as described below, only upon approval of a
11 conditional use application, pursuant to the provisions of Article 3 of this Code:

12 (A) Any use described in zoning categories .41, .43 or .44, as defined in
13 Sections 790.22, 790.90 and 790.91, respectively, may change to another use described in
14 zoning categories .41 or .44, even though such other use is not permitted in that
15 Neighborhood Commercial District, unless such other use is located in an Alcohol Restricted
16 Use Subdistrict and is prohibited by the provisions governing that Alcohol Restricted Use
17 Subdistrict.

18 (B) Any use described in zoning categories .51, .52 or .53, as defined in
19 Sections 790.114, 790.116 and 790.108 respectively, may change to another use described in
20 zoning categories .51, .52 or .53, even though such other use is not permitted in that
21 Neighborhood Commercial District.

22 (C) Any use described in zoning categories .57, .58 or .59, as defined in
23 Sections 790.14, 790.17 and 790.15 respectively, may be demolished and reconstructed as
24 the same use or may change to another use described in zoning categories .57, .58 or .59,
25 even though such other use is not permitted in that Neighborhood Commercial District.

1 The new use shall still be classified as a nonconforming use.

2 The changes in use described in this SubsectionParagraph (3) shall include remodeling
3 activities involving the demolition and replacement of structures which result in a change of
4 use.

5 (D) With regard to Formula Retail uses, a change of owner or operator of a
6 Formula Retail establishment is determined to be an intensification of use and a new Conditional Use
7 authorization shall be required as provided in Section 178(c) of this Code, if one or more of the
8 following occur:

9 _____ (i) Change of use category, including a change from one use to
10 another within the sub-categories of uses set forth in Planning Code Section 790.102 and
11 Section 890.102;

12 _____ (ii) Expansion of use size;

13 _____ (iii) Change to a Formula Retail establishment that has more
14 locations than the existing Formula Retail establishment, which results in an increase in visual
15 homogeneity;

16 _____ (iv) Installation of a commercial kitchen, including but not limited
17 to: ovens, open ranges or stoves, fryers, oven hoods or kitchen ventilation systems, heating
18 stations, steam tables or cabinets, cold food storage, increased food preparation areas or self-
19 service drink dispensers;

20 _____ (v) A pre-existing Formula Retail use which had not previously
21 been authorized via a Conditional Use from the Commission.

22 (4) In the North Beach Neighborhood Commercial District, any use that exceeds
23 the use size provisions of Section 121.2(a) or 121.2(b) may be changed to a new use only
24 upon the approval of a new conditional use application. The Commission's approval of such
25 conditional use application shall explicitly address the use size findings of Section 303(c). In

1 the North Beach Neighborhood Commercial District, a nonconforming use cannot be changed
2 to any use which is not a permitted use under Section 722 (North Beach Controls).

3 (5) In the Castro Street Neighborhood Commercial District, any use in this
4 district that exceeds the maximum use size limit of Section 121.2(b), may be not changed to a
5 new use. The only method for changing a nonconforming use identified in this Subsection is to
6 reduce the nonconforming use:

7 (A) to a conforming use size or

8 (B) to a size specified in Subsection 121.2(a) pursuant to conditional use
9 authorization.

10 Notwithstanding the above, any use in this District that exceeds the maximum use size
11 limit of Section 121.2(b) and is categorized in the Other Retail Sales and Services zoning
12 classification, as defined in Section 790.102, may change to another use category
13 enumerated in Section 790.102 as long as the use size is not increased and the Commission
14 approves a conditional use application for such change. The Commission's approval of such
15 conditional use application shall explicitly address the use size findings of Section 303(c).

16 (d) **Discontinuance.** A nonconforming use which is discontinued for a period of three
17 years, or otherwise abandoned or changed to another use which is listed in Article 7 of this
18 Code as a principal or conditional use for the district in which the use is located shall not be
19 reestablished. For purposes of this Subsection, the period of nonuse for a nonconforming use
20 to be deemed discontinued in the North Beach and Castro Street Neighborhood Commercial
21 Districts, and in the Haight Street Neighborhood Commercial District, the Lower Haight Street
22 Tobacco Paraphernalia Restricted Use Subdistrict, and the Polk Street Neighborhood
23 Commercial District for Tobacco Paraphernalia Establishments, as defined in Sections 227(v)
24 and 790.123 of this Code, only, shall be eighteen (18) months, except in the North Beach
25 Neighborhood Commercial District, the period of non-use for a Restaurant use, as defined in

1 Section 790.91, to be deemed discontinued shall be three years. For Formula Retail uses in any
2 District that prohibits or requires Conditional Use authorization for Formula Retail uses, the period of
3 non-use to be deemed discontinued is 18 months.

4 (e) **Relocation.** A nonconforming use in a Neighborhood Commercial District may be
5 reestablished at another location within that Neighborhood Commercial District only upon
6 approval of a new conditional use application pursuant to the provisions of Article 3 of this
7 Code, provided that the following conditions are met:

8 (1) The original premises shall not be occupied by an establishment of the
9 same type of use as the relocating use unless by another establishment that is relocating from
10 within the district; and

11 (2) No final permits to operate the relocated use at the new premises are
12 granted prior to the issuance of a certificate of final completion of any work to the original
13 premises which is required as conditions attached to the approval of the conditional use
14 application; and

15 (3) Deed restrictions are recorded for the original premises in the Official
16 Records of the City and County of San Francisco, which restrictions prohibit for the duration of
17 the Code sections prohibiting the use for the district in which the use is located, the
18 establishment and operation of a new use of the same type of use as the relocated use,
19 unless such new use is relocating from within the district.

20
21 Section 5. The Planning Code is hereby amended by revising Sections 710, 711, 712, 713,
22 714, 715, 716, 717, 718, 719, 720, 721, 723, 724, 725, 726, 727, 728, 729, 730, 731,
23 732, 733, 733A, 734, 735, 736, 737, 738, 739, 740, 741, 742, and 745 and Tables 743 and
24 744 to read as follows:

1 **SEC. 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1**

2 **ZONING CONTROL TABLE**

3

			NC-1
No.	Zoning Category	§ References	Controls
****	****	****	****
710.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

14 **SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2**

15 **ZONING CONTROL TABLE**

16

			NC-2
No.	Zoning Category	§ References	Controls
****	****	****	****
711.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

1 **SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT**

2 **ZONING CONTROL TABLE**

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			Broadway
No.	Zoning Category	§ References	Controls
*****	*****	*****	*****
714.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
*****	*****	*****	*****

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No.	Zoning Category	§ References	Broadway		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
*****	*****	*****	*****	*****	*****
714.49	Financial Service	§ 790.110	<i>CP</i>		
714.50	Limited Financial Service	§ 790.112	<i>CP</i>		
*****	*****	*****	*****	*****	*****

**SEC. 715. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

			Castro Street
No.	Zoning Category	§ References	Controls
****	****	****	****
715.26	Walk-Up Facility	§ 790.140	<i>P-if recessed 3 ft.;</i> <i>C-if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

No.	Zoning Category	§ References	Castro Street		
			Controls by Story		
			1st	2nd	3rd+
		§ 790.118			
****	****	****	****	****	****
715.49	Financial Service	§ 790.110	<u>CPC</u>	C	

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	Limited				
715.50	Financial Service	§ 790.112		CPC	
****	****	****		****	****

**SEC. 716. INNER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

			Inner Clement Street
No.	Zoning Category	§ References	Controls
****	****	****	****
716.2 6	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

No.	Zoning Category	§ References	Castro Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
****	****	****	****		

1	716.50	Limited Financial Service	§ 790.112	PC		
2						
3	****	****	****	****	****	****
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6 **SEC. 717. OUTER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

7 **ZONING CONTROL TABLE**

8

			Inner Clement Street
No.	Zoning Category	§ References	Controls
9	****	****	****
10	717.2 6	Walk-Up Facility § 790.140	P-if recessed 3 ft.; C-if not recessed § 145.2(b)
11	****	****	****
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No.	Zoning Category	§ References	Castro Street		
			Controls by Story		
17					
18					
19					
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21		§ 790.118	1st	2nd	3rd+
22	****	****	****	****	****
23					
24	717.49	Financial Service § 790.110	PC		
25	717.50	Limited Financial § 790.112	PC		

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**SEC. 718. UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

			Upper Fillmore Street
No.	Zoning Category	§ References	Controls
****	****	****	****
718.2 6	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

No.	Zoning Category	§ References	Upper Fillmore Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
****	****	****	****	****	****
718.49	Financial Service	§ 790.110	<i>PG</i>		
718.50	Limited Financial Service	§ 790.112	<i>PG</i>		
****	****	****	****	****	****

1 **SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

2 **ZONING CONTROL TABLE**

			Haight Street
No.	Zoning Category	§ References	Controls
****	****	****	****
719.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

8 **SEC. 720. HAYES-GOUGH NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**

9 **ZONING CONTROL TABLE**

			Hayes-Gough Transit
No.	Zoning Category	§ References	Controls
****	****	****	****
720.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

16 **SEC. 721. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

17 **ZONING CONTROL TABLE**

			Upper Market Street
No.	Zoning Category	§ References	Controls
****	****	****	****
721.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

No.	Zoning Category	§ References	Upper Market Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
****	****	****	****	****	****
721.49	Financial Service	§ 790.110	PC	C	
****	****	****	****	****	****

**SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Polk Street Controls
****	****	****	****
723.26	Walk-Up Facility	§ 790.140	P-if recessed 3 ft.; C-if not recessed § 145.2(b)
****	****	****	****

No.	Zoning Category	§ References	Polk Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
****	****	****	****	****	****
723.49	Financial Service	§ 790.110	PC	C	
****	****	****	****	****	****

**SEC. 724. SACRAMENTO STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Sacramento Street Controls
****	****	****	****
724.26	Walk-Up Facility	§ 790.140	P-if recessed 3 ft.; C-if not recessed § 145.2(b)
****	****	****	****

No.	Zoning Category	§ References	Sacramento Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
****	****	****	****	****	****
724.49	Financial Service	§ 790.110	PC		
724.50	Limited Financial Service	§ 790.112	PC		
****	****	****	****	****	****

**SEC. 725. UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Union Street Controls
****	****	****	****
725.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft.; C if not recessed § 145.2(b)
****	****	****	****

No.	Zoning Category	§ References	Union Street		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
****	****	****	****	****	****
725.49	Financial Service	§ 790.110	PC	C	
****	****	****	****	****	****

1 **SEC. 726. VALENCIA STREET NEIGHBORHOOD COMMERCIAL TRANSIT**

2 **DISTRICT ZONING CONTROL TABLE**

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			Valencia Street Transit
No.	Zoning Category	§ References	Controls
****	****	****	****
726.26	Walk-Up Facility	§ 790.140	<i>P-if recessed 3 ft.;</i> <i>C-if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

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9 **SEC. 727. 24TH STREET – MISSION NEIGHBORHOOD COMMERCIAL TRANSIT**

10 **DISTRICT ZONING CONTROL TABLE**

11

			24th Street – Mission Transit
No.	Zoning Category	§ References	Controls
****	****	****	****
727.26	Walk-Up Facility	§ 790.140	<i>P-if recessed 3 ft.;</i> <i>C-if not recessed</i> <i>§ 145.2 (b)</i>
****	****	****	****

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13 **SEC. 728. 24TH STREET – NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT**

14 **ZONING CONTROL TABLE**

15

			24th Street – Noe Valley
No.	Zoning Category	§ References	Controls
****	****	****	****
728.2 6	Walk-Up Facility	§ 790.140	<i>P-if recessed 3 ft.;</i> <i>C-if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

No.	Zoning Category	§ References	24th Street – Noe Valley		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
****	****	****	****	****	****
728.49	Financial Service	§ 790.110	CPC		
728.50	Limited Financial Service	§ 790.112	CPC		
****	****	****	****	****	****

**SEC. 729. WEST PORTAL AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

No.	Zoning Category	§ References	West Portal Avenue
			Controls
****	****	****	****
729.26	Walk-Up Facility	§ 790.140	P-if recessed 3 ft.; C-if not recessed § 145.2(b)
****	****	****	****

No.	Zoning Category	§ References	West Portal Avenue		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
****	****	****	****	****	****
729.50	Limited Financial Service	§ 790.112	PC		
****	****	****	****	****	****

1 **SEC. 730. INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT**

2 **ZONING CONTROL TABLE**

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No.	Zoning Category	§ References	Inner Sunset Controls
*****	*****	*****	*****
730.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
*****	*****	*****	*****

9 **SEC. 731. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**

10 **NCT-3 ZONING CONTROL TABLE**

11

No.	Zoning Category	§ References	NCT-3 Controls
*****	*****	*****	*****
731.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
*****	*****	*****	*****

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13 **SEC. 732. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT**

14 **ZONING CONTROL TABLE**

15

No.	Zoning Category	§ References	Pacific Avenue Controls
*****	*****	*****	*****
732.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
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No.	Zoning Category	§References	Pacific Avenue		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
****	****	****	****	****	****
732.49	Financial Service	§ 790.110	<u>PC</u>		
****	****	****	****	****	****

**SEC. 733. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT
DISTRICT ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Upper Market Street Transit Controls
****	****	****	****
733.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.; C if not recessed § 145.2(b)</i>
****	****	****	****

No.	Zoning Category	§ References	Upper Market Street Transit		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
****	****	****	****	****	****
733.49	Financial Service	§ 790.110	<u>CPC</u>	C	-
****	****	****	****	****	****

1 **SEC. 733A. NEIGHBORHOOD COMMERCIAL TRANSIT CLUSTER DISTRICT NCT-1**

2 **ZONING CONTROL TABLE**

			NCT-1
No.	Zoning Category	§ Referenc es	Controls
****	****	****	****
733A.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i>
****	****	****	****

9 **SEC. 734. SMALL-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT NCT-2**

10 **ZONING CONTROL TABLE**

			NCT-2
No.	Zoning Category	§ References	Controls
****	****	****	****
734.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

1 **SEC. 735. SOMA NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**

2 **ZONING CONTROL TABLE**

3

			SoMa Transit
No.	Zoning Category	§ References	Controls
****	****	****	****
735.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

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10 **SEC. 736. MISSION NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**

11 **ZONING CONTROL TABLE**

12

			Mission Street Transit
No.	Zoning Category	§ References	Controls
****	****	****	****
736.26	Walk-Up Facility	§ 790.140	<i>P if recessed 3 ft.;</i> <i>C if not recessed</i> <i>§ 145.2(b)</i>
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20 **SEC. 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**

21 **ZONING CONTROL TABLE**

22

			Ocean Avenue Transit
No.	Zoning Category	§ References	Controls
****	****	****	****

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737.26	Walk-Up Facility	§ 790.140	P-if recessed 3 ft.; C-if not recessed § 145.2(b)
****	****	****	****

SEC. 738. GLEN PARK NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT ZONING CONTROL TABLE

			<i>Glen Park Transit</i>
No.	Zoning Category	§ References	Controls
****	****	****	****
738.26	Walk-Up Facility	§ 790.140	P-if recessed 3 ft.; C-if not recessed § 145.2(b)
****	****	****	****

SEC. 739. NORIEGA STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

			<i>Noriega Street</i>
No.	Zoning Category	§ References	Controls
****	****	****	****
739.26	Walk-Up Facility	§ 790.140	P-if recessed 3 ft.; C-if not recessed § 145.2(b)
****	****	****	****

1 **SEC. 740. IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

2 **ZONING CONTROL TABLE**

3

			<i>Irving Street</i>
No.	Zoning Category	§ References	Controls
****	****	****	****
740.26	Walk-Up Facility	§ 790.140	<i>P-if recessed 3 ft.;</i> <i>C-if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

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10 **SEC. 741. TARAVAL STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

11 **ZONING CONTROL TABLE**

12

			<i>Taraval Street</i>
No.	Zoning Category	§ References	Controls
****	****	****	****
741.26	Walk-Up Facility	§ 790.140	<i>P-if recessed 3 ft.;</i> <i>C-if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

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1 **SEC. 742. JUDAH STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

2 **ZONING CONTROL TABLE**

3

			<i>Judah Street</i>
<i>No.</i>	<i>Zoning Category</i>	<i>§ References</i>	<i>Controls</i>
****	****	****	****
742.26	Walk-Up Facility	§ 790.140	<i>P-if recessed 3 ft.;</i> <i>C-if not recessed</i> <i>§ 145.2(b)</i>
****	****	****	****

9 **Table 743**

10 **FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**

11 **ZONING CONTROL TABLE**

12

			<i>Folsom Street</i>
<i>No.</i>	<i>Zoning Category</i>	<i>§ References</i>	<i>Controls</i>
****	****	****	****
743.26	Walk-Up Facility	§§ 145.2(b), 790.140	<i>P-if recessed 3</i> <i>ft.;</i> <i>C-if not recessed)</i>
****	****	****	****

19 **Table 744**

20 **REGIONAL COMMERCIAL DISTRICT ZONING CONTROL TABLE**

21

			<i>Regional Commercial</i>
<i>No.</i>	<i>Zoning Category</i>	<i>§ References</i>	<i>Controls</i>

****	****	****	****
744.26	Walk-Up Facility	§§ 145.2(b), 790.140	P <i>if recessed 3 ft.;</i> C <i>if not recessed</i>
****	****	****	****

SEC. 745. EXCELSIOR OUTER MISSION STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

			<i>Excelsior Outer Mission Street</i>
No.	Zoning Category	§ References	Controls
****	****	****	****
745.26	Walk-Up Facility	§§ 145.2(b), 790.140	P <i>if recessed 3 ft.;</i> C <i>if not recessed</i>
****	****	****	****

Section 6. The Planning Code is hereby amended by revising Section 145.2 to read as follows:

SEC. 145.2. OUTDOOR ACTIVITY AREAS ~~AND WALK-UP FACILITIES~~ IN NC DISTRICTS.

The following provisions governing outdoor activity areas ~~and walk-up facilities~~ shall apply in NC Districts.

~~(a) Outdoor Activity Areas.~~ In order to provide for limited commercial outdoor activity areas, which promote active street life, but do not detract from the livability of surrounding uses, outdoor activity areas, as defined in Section 790.70 of this Code, in NC Districts shall be regulated below, except in the Outer Clement Street Neighborhood Commercial District, where outdoor activity areas shall be a principal permitted use if they existed prior to 1985.

1 These provisions shall not apply to those uses excepted from the requirement for location in
2 an enclosed building, as set forth in Section 703.2(b) of this Code.

3 ~~(a) — (1)~~ An outdoor activity area operated by a commercial use is permitted as a
4 principal use if located outside a building and contiguous to the front property line of the lot on
5 which the commercial use is located.

6 In NC-S Districts, an outdoor activity area is permitted as a principal use if located
7 within the boundaries of the property and in front of the primary facades which contain
8 customer entrances and if it does not obstruct pedestrian traffic flow between store entrances
9 and parking facilities.

10 ~~(b) — (2)~~ An outdoor activity area which does not comply with the provisions of
11 Paragraph 1 of this Subsection is permitted as a conditional use, subject to the provisions set
12 forth in Sections 316 through 316.8 of this Code.

13 In addition to the criteria of Section 303(c) of this Code, the City Planning Commission
14 shall find that:

15 ~~(1) — (A)~~ The nature of the activity operated in the outdoor activity area is
16 compatible with surrounding uses;

17 ~~(2) — (B)~~ The operation and design of the outdoor activity area does not
18 significantly disturb the privacy or affect the livability of adjoining or surrounding residences;

19 ~~(3) — (C)~~ The hours of operation of the activity operated in the outdoor
20 activity area are limited so that the activity does not disrupt the viability of surrounding uses.

21 ~~(b) **Walk-up Facilities.** In order to maintain free flows of pedestrian circulation in the~~
22 ~~Neighborhood Commercial Districts, walk-up facilities, as defined in Section 790.140 of this Code,~~
23 ~~shall be regulated in all NC Districts as provided below:~~

24 ~~— (1) A walk-up facility operated by a commercial use is permitted as a principal use if:~~

1 ~~— (A) Recessed at least three feet from the property line of the lot on which the commercial use is~~
2 ~~located; and~~

3 ~~— (B) Where a vehicular circulation area or parking area separates the building from the property~~
4 ~~line, the walk-up facility is designed and located so that the users of the facility do not impede~~
5 ~~pedestrian circulation on the lot nor create conflicts between pedestrian and vehicular circulation~~
6 ~~flows; or~~

7 ~~— (C) The proposed walk-up facility is located on a block frontage which is totally in a~~
8 ~~Neighborhood Commercial District.~~

9 ~~— (2) A walk-up facility which does not comply with the provisions of Paragraph 1 of this Subsection~~
10 ~~is permitted only upon approval of a conditional use application pursuant to the provisions set forth in~~
11 ~~Sections 316 through 316.8 of this Code.~~

12
13 Section 7. The Planning Code is hereby amended by moving the provisions in Section
14 703.3 to new Section 303.1 and revising those provisions, and amending Section 703.3 to
15 read as follows:

16 **SEC. 703.3. FORMULA RETAIL USES.**

17 (a) The Formula Retail controls set forth in Section 303.1 of this Code apply to all
18 Neighborhood Commercial Districts in Article 7 of this Code. ~~-(a) Findings. The findings for~~
19 ~~Formula Retail controls are set forth in Section 303.1.~~

20 ~~— (1) San Francisco is a city of diverse and distinct neighborhoods identified in large part~~
21 ~~by the character of their commercial areas.~~

22 ~~— (2) San Francisco needs to protect its vibrant small business sector and create a~~
23 ~~supportive environment for new small business innovations. One of the eight Priority Policies of the~~
24 ~~City's General Plan resolves that "existing neighborhood-serving retail uses be preserved and~~
25

1 ~~enhanced and future opportunities for resident employment in and ownership of such businesses~~
2 ~~enhanced."~~

3 ~~——(3) Retail uses are the land uses most critical to the success of the City's commercial~~
4 ~~districts.~~

5 ~~——(4) Formula retail businesses are increasing in number in San Francisco, as they are in~~
6 ~~cities and towns across the country.~~

7 ~~——(5) Money earned by independent businesses is more likely to circulate within the local~~
8 ~~neighborhood and City economy than the money earned by formula retail businesses which often have~~
9 ~~corporate offices and vendors located outside of San Francisco.~~

10 ~~——(6) Formula retail businesses can have a competitive advantage over independent~~
11 ~~operators because they are typically better capitalized and can absorb larger startup costs, pay more~~
12 ~~for lease space, and commit to longer lease contracts. This can put pressure on existing businesses and~~
13 ~~potentially price out new startup independent businesses.~~

14 ~~——(7) San Francisco is one of a very few major urban centers in the State in which~~
15 ~~housing, shops, work places, schools, parks and civic facilities intimately co-exist to create strong~~
16 ~~identifiable neighborhoods. The neighborhood streets invite walking and bicycling and the City's mix of~~
17 ~~architecture contributes to a strong sense of neighborhood community within the larger City~~
18 ~~community.~~

19 ~~——(8) Notwithstanding the marketability of a retailer's goods or services or the visual~~
20 ~~attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of~~
21 ~~many formula retail businesses can detract from the distinctive character of certain Neighborhood~~
22 ~~Commercial Districts.~~

23 ~~——(9) The increase of formula retail businesses in the City's neighborhood commercial~~
24 ~~areas, if not monitored and regulated, will hamper the City's goal of a diverse retail base with distinct~~
25 ~~neighborhood retailing personalities comprised of a mix of businesses. Specifically, the unregulated~~

1 ~~and unmonitored establishment of additional formula retail uses may unduly limit or eliminate business~~
2 ~~establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-~~
3 ~~traditional or unique, and unduly skew the mix of businesses towards national retailers in lieu of local~~
4 ~~or regional retailers, thereby decreasing the diversity of merchandise available to residents and~~
5 ~~visitors and the diversity of purveyors of merchandise.~~

6 ~~—— (10) If, in the future, neighborhoods determine that the needs of their Neighborhood~~
7 ~~Commercial Districts are better served by eliminating the notice requirements for proposed formula~~
8 ~~retail uses, by converting formula retail uses into conditional uses in their district, or by prohibiting~~
9 ~~formula retail uses in their district, they can propose legislation to do so.~~

10 ~~(b) Formula Retail Use. Formula retail use is hereby defined in Section 303.1. as a type~~
11 ~~of retail sales activity or retail sales establishment which, along with eleven or more other retail sales~~
12 ~~establishments located, maintains two or more of the following features: a standardized array of~~
13 ~~merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel,~~
14 ~~standardized signage, a trademark or a servicemark.~~

15 ~~—— (1) Standardized array of merchandise shall be defined as 50% or more of in-stock~~
16 ~~merchandise from a single distributor bearing uniform markings.~~

17 ~~—— (2) Trademark shall be defined as a word, phrase, symbol or design, or a combination~~
18 ~~of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one~~
19 ~~party from those of others.~~

20 ~~—— (3) Servicemark shall be defined as word, phrase, symbol or design, or a combination~~
21 ~~of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one~~
22 ~~party from those of others.~~

23 ~~—— (4) Decor shall be defined as the style of interior finishings, which may include but is~~
24 ~~not limited to, style of furniture, wallcoverings or permanent fixtures.~~

1 ~~(5) Color Scheme shall be defined as selection of colors used throughout, such as on~~
2 ~~the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.~~

3 ~~(6) Facade shall be defined as the face or front of a building, including awnings,~~
4 ~~looking onto a street or an open space.~~

5 ~~(7) Uniform Apparel shall be defined as standardized items of clothing including but~~
6 ~~not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name~~
7 ~~tags) as well as standardized colors of clothing.~~

8 ~~(8) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning~~
9 ~~Code.~~

10 ~~(e) "Retail Sales Activity or Retail Sales Establishment" shall include the uses defined in Section~~
11 ~~303(i)(2) of this Code.~~

12 ~~(d) Formula Retail Uses Permitted. Any use permitted in certain districts defined in Section~~
13 ~~303(i)(5)(A), which is also a "formula retail use" as defined in this Seciton, is hereby permitted.~~

14 (b) Formula Retail Uses Permitted. Any use permitted in a Neighborhood Commercial
15 District that is a "Formula Retail use" as defined in Section 303.1 of this Code is hereby
16 permitted.

17 ~~(e) Formula Retail Use Prohibited. Notwithstanding subsection (d), certain districts may~~
18 ~~prohibit formula retail uses or a subset of formula retail uses as described in Section 303(i)(5).~~

19 ~~(f) Conditional Uses. Notwithstanding subsections (d) or (e), a Conditional Use Authorization~~
20 ~~shall be required for a formula retail use in the zoning districts listed in Section 303(i)(4) unless~~
21 ~~explicitly exempted. Additional criteria to be used by the Planning Commission when considering~~
22 ~~granting conditional use permits to formula retail uses in these districts are listed in Section 303(i).~~

23 ~~(g) Neighborhood Commercial Notification and Design Review. After the effective date of this~~
24 ~~Ordinance, any building permit application for a use permitted in a Neighborhood Commercial~~

25

1 ~~District which is also a "formula retail use" as defined in this section shall be subject to the~~
2 ~~Neighborhood Commercial Notification and Design Review Procedures of Section 312 of this Code.~~

3 ~~(h) Discretionary Review Guidelines. The Planning Commission shall develop and adopt~~
4 ~~guidelines which it shall employ when considering any request for discretionary review made pursuant~~
5 ~~to this Section. These guidelines shall include but are not limited to consideration of the following~~
6 ~~factors:~~

7 ~~—— (1) Existing concentrations of formula retail uses within the Neighborhood Commercial~~
8 ~~District.~~

9 ~~—— (2) Availability of other similar retail uses within the Neighborhood Commercial~~
10 ~~District.~~

11 ~~—— (3) Compatibility of the proposed formula retail use with the existing architectural and~~
12 ~~aesthetic character of the Neighborhood Commercial District.~~

13 ~~—— (4) Existing retail vacancy rates within the Neighborhood Commercial District.~~

14 ~~—— (5) Existing mix of Citywide-serving retail uses and neighborhood-serving retail uses~~
15 ~~within the Neighborhood Commercial District.~~

16 ~~(i) Determination of Formula Retail Use. After the effective date of this Ordinance, in those~~
17 ~~areas in which "formula retail uses" are prohibited, any building permit application determined by the~~
18 ~~City to be for a "formula retail use" that does not identify the use as a "formula retail use" is~~
19 ~~incomplete and cannot be processed until the omission is corrected. Any building permit approved~~
20 ~~after the effective date of this Ordinance that is determined by the City to have been, at the time of~~
21 ~~application, for a "formula retail use" that did not identify the use as a "formula retail use" is subject~~
22 ~~to revocation at any time.~~

23 ~~After the effective date of this Ordinance, in those areas in which "formula retail uses" are~~
24 ~~subject to the Neighborhood Commercial Notification and Design Review provisions of subsection (g),~~
25 ~~any building permit application determined by the City to be for a "formula retail use" that does not~~

1 ~~identify the use as a "formula retail use" is incomplete and cannot be processed until the omission is~~
2 ~~corrected. After the effective date of this Ordinance, any building permit approved that is determined~~
3 ~~by the City to be for a "formula retail use" that does not identify the use as a "formula retail use" must~~
4 ~~complete the Neighborhood Commercial Notification and Design Review required in subsection (g).~~

5 ~~If the City determines that a building permit application or building permit subject to this~~
6 ~~Section of the Code is for a "formula retail use," the building permit applicant or holder bears the~~
7 ~~burden of proving to the City that the proposed or existing use is not a "formula retail use."~~

8
9 Section 8. The Planning Code is hereby amended by revising Section 703.4 to read as
10 follows:

11 **SEC. 703.4. CONDITIONAL USE AUTHORIZATION FOR FORMULA RETAIL USES.**

12 (a) This Ordinance shall be known as the Small Business Protection Act.

13 (b) Notwithstanding Section 703.3(~~bd~~) and except for Section ~~303.1(f)~~703.3(e),
14 establishment of a formula retail use, as defined in Section ~~303.1~~703.3, in any Neighborhood
15 Commercial District, as identified in Article 7, shall require conditional use authorization
16 pursuant to the criteria of Sections 303(c) and 303.1(~~i~~) and be subject to the terms of Sections
17 ~~703.3~~303.1(g) and (~~hi~~).

18 (c) Nothing herein shall preclude the Board of Supervisors from adopting more
19 restrictive provisions for conditional use authorization of formula retail use or prohibiting
20 formula retail use in any Neighborhood Commercial District.

21
22 Section 89. The Planning Code is hereby amended by moving the provisions in
23 Section 803.6 to new Section 303.1 and revising those provisions, and revising Section 803.6
24 to read as follows:

1 **SEC. 803.6. FORMULA RETAIL USES IN ARTICLE 8 DISTRICTS~~THE MUG~~**
2 **~~DISTRICT, UMU DISTRICT, CHINATOWN MIXED USE DISTRICTS AND IN THE WESTERN~~**
3 **~~SOMA SPECIAL USE DISTRICT.~~**

4 The Formula Retail controls set forth in Section 303.1 of this Code apply to Article 8
5 Districts. (a) Findings. The findings for Formula Retail controls are set forth in Section 303.1.

6 —(1) ~~San Francisco is a city of diverse and distinct neighborhoods identified in large part by~~
7 ~~the character of their commercial areas.~~

8 —(2) ~~San Francisco needs to protect its vibrant small business sector and create a~~
9 ~~supportive environment for new small business innovations. One of the eight Priority Policies of the~~
10 ~~City's General Plan resolves that "existing neighborhood-serving retail uses be preserved and~~
11 ~~enhanced and future opportunities for resident employment in and ownership of such businesses~~
12 ~~enhanced."~~

13 —(3) ~~Retail uses are the land uses most critical to the success of the City's commercial~~
14 ~~districts.~~

15 —(4) ~~Formula retail businesses are increasing in number in San Francisco, as they are in~~
16 ~~cities and towns across the country.~~

17 —(5) ~~Money earned by independent businesses is more likely to circulate within the local~~
18 ~~neighborhood and City economy than the money earned by formula retail businesses which often have~~
19 ~~corporate offices and vendors located outside of San Francisco.~~

20 —(6) ~~Formula retail businesses can have a competitive advantage over independent~~
21 ~~operators because they are typically better capitalized and can absorb larger startup costs, pay more~~
22 ~~for lease space, and commit to longer lease contracts. This can put pressure on existing businesses and~~
23 ~~potentially price out new startup independent businesses.~~

24 —(7) ~~San Francisco is one of a very few major urban centers in the State in which housing,~~
25 ~~shops, work places, schools, parks and civic facilities intimately co-exist to create strong identifiable~~

1 ~~neighborhoods. The neighborhood streets invite walking and bicycling and the City's mix of~~
2 ~~architecture contributes to a strong sense of neighborhood community within the larger City~~
3 ~~community.~~

4 ~~—(8) Notwithstanding the marketability of a retailer's goods or services or the visual~~
5 ~~attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of~~
6 ~~many formula retail businesses can detract from the distinctive character of certain neighborhood~~
7 ~~commercial and mixed use districts.~~

8 ~~—(9) The increase of formula retail businesses in the City's neighborhood commercial areas,~~
9 ~~if not monitored and regulated, will hamper the City's goal of a diverse retail base with distinct~~
10 ~~neighborhood retailing personalities comprised of a mix of businesses. Specifically, the unregulated~~
11 ~~and unmonitored establishment of additional formula retail uses may unduly limit or eliminate business~~
12 ~~establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-~~
13 ~~traditional or unique, and unduly skew the mix of businesses towards national retailers in lieu of local~~
14 ~~or regional retailers, thereby decreasing the diversity of merchandise available to residents and~~
15 ~~visitors and the diversity of purveyors of merchandise.~~

16 (b) ~~Formula Retail Uses.~~

17 ~~—(1) Formula Retail Uses Permitted as a Conditional Use. Section 303.1 sets~~
18 ~~forth the requirements for conditional use authorization for Formula Retail uses within Article 8~~
19 ~~districts. are permitted in the MUG District, UMU District, Western SoMA Special Use District, the~~
20 ~~Chinatown Community Business District and the Chinatown Residential Neighborhood Commercial~~
21 ~~District only as a conditional use. When considering an application for a conditional use permit under~~
22 ~~this Section, the Planning Commission shall consider the criteria defined in Section 303(i) of this Code.~~

23 ~~—(2) Formula Retail Uses Prohibited. The establishment of new Formula Retail~~
24 ~~uses within Article 8 districts may be prohibited, as set forth in Section 303.1. in the Chinatown~~

1 ~~Visitor Retail District is prohibited. The establishment of new Restaurant or Limited Restaurant uses~~
2 ~~that are also defined as formula retail in any Chinatown Mixed Use Districts is prohibited.~~

3 (c) ~~Formula Retail Use Defined. Formula retail use is hereby defined in Section 303.1.~~
4 ~~as a type of retail sales activity or retail sales establishment which, along with eleven or more other~~
5 ~~retail sales establishments located in the United States, maintains two or more of the following~~
6 ~~features: a standardized array of merchandise, a standardized facade, a standardized décor and color~~
7 ~~scheme, a uniform apparel, standardized signage, a trademark or a servicemark.~~

8 ~~—— (1) Standardized array of merchandise shall be defined as 50% or more of in-stock~~
9 ~~merchandise from a single distributor bearing uniform markings.~~

10 ~~—— (2) Trademark shall be defined as a word, phrase, symbol or design, or a combination~~
11 ~~of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one~~
12 ~~party from those of others.~~

13 ~~—— (3) Servicemark shall be defined as word, phrase, symbol or design, or a combination~~
14 ~~of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one~~
15 ~~party from those of others.~~

16 ~~—— (4) Decor shall be defined as the style of interior finishings, which may include but is~~
17 ~~not limited to, style of furniture, wallcoverings or permanent fixtures.~~

18 ~~—— (5) Color Scheme shall be defined as selection of colors used throughout, such as on~~
19 ~~the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.~~

20 ~~—— (6) Facade shall be defined as the face or front of a building, including awnings,~~
21 ~~looking onto a street or an open space.~~

22 ~~—— (7) Uniform Apparel shall be defined as standardized items of clothing including but~~
23 ~~not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name~~
24 ~~tags) as well as standardized colors of clothing.~~

1 ~~(8) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning~~
2 ~~Code.~~

3 ~~(9) "Retail Sales Activity or Retail Sales Establishment" shall include the uses defined~~
4 ~~in Section 303(i)(2).~~

5 ~~(d) Determination of Formula Retail Use. Section 303.1 establishes the process for~~
6 ~~correcting omissions on any application for an entitlement, permit or other action determined~~
7 ~~by the City to be a Formula Retail use that does not identify the use as a Formula Retail use.~~
8 ~~If the City determines that a building permit application or building permit subject to this section of the~~
9 ~~Code is for a "formula retail use," the building permit applicant or holder bears the burden of proving~~
10 ~~to the City that the proposed or existing use is not a "formula retail use."~~

11 ~~(e) Permit Application Processing. After the effective date of this ordinance, any building~~
12 ~~permit application determined by the City to be for a "formula retail use" that does not identify the use~~
13 ~~as a "formula retail use" is incomplete and cannot be processed until the omission is corrected.~~

14
15 Section 910. The Planning Code is amended by revising Section 350(g) to read as
16 follows:

17 **SEC. 350. FEES, GENERAL**

18 Fees shall be imposed in order to compensate the Planning Department for the cost of
19 processing applications and for the development and revision of land use controls. Fees shall
20 be charged and collected as indicated for each class of application, permit, filing request or
21 activity listed in Sections 351 through ~~358~~360 below.

22 * * * *

23 **(g) Fee Adjustments.**

24 (1) The Controller will annually adjust the fee amounts specified in Sections 350-
5 ~~358~~360 by the two-year average consumer price index (CPI) change for the San

1 Francisco/San Jose Primary Metropolitan Statistical Area (PMSA). For a listing of the
 2 Department's current fees inclusive of annual indexing for inflation, reference the Schedule of
 3 Application Fees available on the Department website.

4 * * * *

5
 6 Section 4011. The Planning Code is amended by adding new Sections 359 and 360 to
 7 read as follows:

8 **SEC. 359. ECONOMIC IMPACT STUDY FOR LARGE SCALE RETAIL USE.**

9 The fee to review an economic impact study, as required by Section 303(j), shall be \$3,500.00,
 10 plus any additional time and materials as set forth in Section 350.

11
 12 **SEC. 360. PERFORMANCE REVIEW FOR FORMULA RETAIL USE.**

13 The fee to provide performance review for Formula Retail uses as required by Section 303.1
 14 shall be the standard building permit fee, plus time and materials as set forth in Section 350(c).

15
 16 Section 4412. The Planning Code is amended by revising Section 209.8 to read as
 17 follows:

18 **SEC. 209.8. COMMERCIAL ESTABLISHMENTS IN R DISTRICTS.**

RH	RH	RH	RH	RH	RM	RM	RM	RM		RT	RC	RC	
-1	-1	-1	-2	-3	-1	-2	-3	-4	RT	-M	-3	-4	
(D)		(S)											
											P	P	
													SEC. 209.8. COMMERCIAL ESTABLISHMENTS. (a) Except for massage establishments as noted in Section 218.1, retail, personal

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													service or other commercial establishment is permitted as a principal use on the ground floor or below of a building if permitted as a principal use on the ground floor in an NC-3 District, unless otherwise specified in this Code.
										C	C		(b) Except for massage establishments as noted in Section 218.1, retail, personal service or other commercial establishment is permitted as a conditional use on the ground floor or below of a building if permitted as a conditional use on the ground floor in an NC-3 District, unless otherwise specified in this Code.
										C	C		(c) Except for massage establishments as noted in Section 218.1, retail, personal service or other commercial establishment is permitted as a conditional use above the ground floor of a building if permitted as a principal or conditional use on the ground floor in an NC-3 District, unless otherwise specified in this Code.
										C	C		(d) Formula Retail Use, as defined in Section 703.3(b) <u>303.1</u> of this Code.

1																(e) Any use meeting the standards and limitations set forth in Section 231: Limited Corner Commercial Uses in RTO Districts.
2						P	P	P	P							
3																
4																
5										C	C					(f) Non-residential use exceeding 6,000 gross square feet.
6																
7																
8										P	P					(g) Liquor Store on the ground floor, as defined in Section 790.55 of this Code, unless otherwise specified in this Code.
9																
10																(h) Drive-up Facility, as defined in Section 790.30 of this Code.
11																
12																
13																
14										P	P					(i) Walk-up Facility, as defined in Section 790.140 of this Code, <i>is permitted as a principle use on the ground floor if recessed 3 feet; requires a conditional use if not recessed.</i>
15																
16																
17										P	P					(j) Outdoor Activity Area, as defined in Section 790:70 of this Code, if in front; requires a conditional use if elsewhere.
18																

Section 4213. The Planning Code is amended by revising Section 212 to read as follows:

SEC. 212. ADDITIONAL REQUIREMENTS FOR USES IN CERTAIN C AND M DISTRICTS.

In the following C and M Districts, the permitted uses indicated in Sections 215 through 227 shall be subject to the additional requirements contained in this Section 212.

1 (a) **Uses in Enclosed Buildings.** In C-2 Districts, all permitted uses, and all storage,
2 servicing, fabricating, processing or repair uses accessory thereto, shall be conducted within
3 enclosed buildings, with the exceptions of:

- 4 (1) Those uses indicated by an asterisk (*) in the column for the district;
- 5 (2) Accessory off-street parking and loading areas where permitted;
- 6 (3) Accessory outdoor dining areas where permitted;
- 7 (4) Accessory recreation areas where permitted; and,
- 8 (5) Mobile Food Facilities as defined in Section 102.34.

9 (b) **Drive-up Facilities.** In C-3 Districts, a Drive-up Facility, as defined in
10 Section 790.30 of this Code, shall not be permitted.

11 (c) **Required Ground-floor Commercial Frontage in C-3 Districts.**

12 (1) **Purpose.** The purpose of this section is to assure continuity of retail and
13 consumer service uses in the C-3-R District, and in other important commercial streets in C-3
14 Districts.

15 (2) **Applicability.**

16 (A) In the C-3-R District, along any block frontage that is entirely within
17 such district or partly in such district and partly in the C-3-O District, where such block
18 frontage faces a street 40 feet or more in width;

19 (B) On building frontages facing Destination Alleyways, as defined in the
20 Downtown Streetscape Plan;

21 (C) Along any street frontage facing Market Street in all C-3 Districts
22 except the Van Ness and Market Downtown Residential Special Use District.

23 (3) **Controls.**

24 (A) **Ground Story.** Permitted uses listed in Sections 218 and 221 shall
25 be located facing such street in the ground story of any building. At least 1/2 the total width of

any new or reconstructed building, parallel to and facing such street, shall be devoted at the ground story to entrances, show windows or other displays of such uses.

(B) **All Levels.** All other permitted uses shall be located either on stories above or below the ground story or at a distance of not less than 20 feet behind each street frontage at the ground story. No more than 1/3 the width of any lot, parallel to and facing such street, shall be devoted to entrances to such other permitted uses.

(d) **Hazardous, Noxious, or Offensive Uses Prohibited.** No use listed as permitted in any C District or M-1 District shall include any use that is hazardous, noxious or offensive for reasons described in Section 202(c) of this Code.

(e) Formula Retail Uses. Formula Retail uses, as defined in Section 303.1, with frontage on Market Street between 6th Street and the intersection of Market Street and the intersection of Market Street, 12th Street and Franklin Street, are subject to Conditional Use authorization as specified in Sections 303 and 303.1.

Section 4314. The Planning Code is amended by revising Section 218 to read as follows:

SEC. 218. RETAIL SALES AND PERSONAL SERVICES.

C-2	C-3-O	C-3-O (SD)	C-3-R	C-3-G	C-3-S	C-M	M-1	M-2	PDR-1-G	PDR-1-D	PDR-1-B	PDR-2	
													SEC. 218. RETAIL SALES AND PERSONAL SERVICES.
													The uses specified in this

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																Section shall not include any use first specifically listed in a subsequent Section of this Code.
P	P	P	P	P, #	P	P	P	P	P, under 2,500 gsf per lot; C above for Grocery stores, as defined in Section 790.102 (a) and Health club, fitness, gymnasium, or exercise facility when including equipment and space for weight-lifting and cardiovascular activities	P, under 5,000 gsf per lot; C above for Grocery stores, as defined in Section 790.102 (a) and Health club, fitness, gymnasium, or exercise facility when including equipment and space for weight-lifting and cardiovascular activities	P, under 2,500 gsf	P, under 2,500 gsf per lot*#	(a) Retail business or personal service establishment. *Subject to the limitations of Section <u>121.6 and 121.8</u> <u>#C for the establishment of new Formula Retail use, as described in Section 303.1, with frontage on Market Street between 6th Street and the intersection of Market Street and the intersection of Market Street, 12th Street and Franklin Street.</u>			

Section 4415. The Planning Code is amended by revising Section 219 to read as

follows:

SEC. 219. OFFICES.

C-1	C-2	C-3-O	C-3-O(SD)	C-3-R	C-3-G	C-3-S	C-M	M-1	M-2	PDR-1-G	PDR-1-D	PDR-1-B	PDR-2	
														SEC. 219. OFFICES.
P	P	P	P	P#	P	P	P	P	P	NP, unless in a designated landmark building. P in designated landmark buildings.	NP, unless in a designated landmark building. P in designated landmark buildings.	P*#	P*#	(a) Professional and business offices, as defined in 890.70, not more than 5,000 gross square feet in size and offering on-site services to the general public.
P	P	P	P	C#	P	P	P	P	P	NP, unless in a designated landmark building. P in designated landmark buildings.	NP, unless in a designated landmark building. P in designated landmark buildings.			(b) Professional and business offices, as defined in 890.70, larger than 5,000 gross square feet in size and offering on-site services to the general public.
P	P	P	P	C#	P	P	P	P	P	NP, unless in a designated landmark building. P in designated landmark buildings.	NP, unless in a designated landmark building. P in designated landmark buildings.	P under 5,000 gsf *#	P under 5,000 gsf *#	(c) Other professional and business offices, as defined in 890.70, above the ground floor. In the C-3-R District, in addition to the criteria set forth in Section 303, approval shall be given upon a determination that the use will not detract from the district's primary function as an area for comparison shopper retailing and direct consumer services.

1											NP, unless in a designated landmark building. P in designated landmark buildings.	NP, unless in a designated landmark building. P in designated landmark buildings.	P under 5,000 gsf *#	P under 5,000 gsf *#	(d) Other professional and business offices, as defined in 890.70 at or below the ground floor.
2															
3	P	P	C	C	#	C	C	P	P	P					
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Section 4516. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance. This ordinance shall not apply to any application for a proposed Formula Retail use that was submitted to the City on or before October 24, 2014.

Section 4617. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board

1 amendment additions, and Board amendment deletions in accordance with the "Note" that
 2 appears under the official title of the ordinance.

3
 4 Section 18. The Municipal Code is hereby amended to revise the following Sections by
 5 revising citations to provisions of the Planning Code to correspond to the Planning Code
 6 amendments shown in this ordinance:

<u>Code</u>	<u>Section</u>	<u>Planning Code Section Cited Therein</u>	<u>Number of Times Planning Code Citation Appears</u>	<u>Replacement Citation</u>
<u>Planning</u>	<u>710 – Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>711 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>712 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>713 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>714 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>715 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>716 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>717 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>718 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>719 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>720 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>721 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>722 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>723 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>724 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>725 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>726 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>727 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>728 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>729 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>730 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
<u>Planning</u>	<u>731 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>

1	<u>Planning</u>	<u>732 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
	<u>Planning</u>	<u>733 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
2	<u>Planning</u>	<u>733A - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
	<u>Planning</u>	<u>734 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
3	<u>Planning</u>	<u>735 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
4	<u>Planning</u>	<u>736 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
	<u>Planning</u>	<u>737 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
5	<u>Planning</u>	<u>738 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
	<u>Planning</u>	<u>739 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
6	<u>Planning</u>	<u>740 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
7	<u>Planning</u>	<u>741 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
	<u>Planning</u>	<u>742 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
8	<u>Planning</u>	<u>743 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
9	<u>Planning</u>	<u>744 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
	<u>Planning</u>	<u>745 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
10	<u>Planning</u>	<u>844 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
	<u>Planning</u>	<u>845 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
11	<u>Planning</u>	<u>846 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
12	<u>Planning</u>	<u>847 - Table</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
	<u>Planning</u>	<u>909, 910, 911 - Tables</u>	<u>145.2(a)</u>	<u>1</u>	<u>145.2</u>
13	<u>Planning</u>	<u>909, 910, 911 - Tables</u>	<u>145.2(b)</u>	<u>1</u>	<u>Delete</u>
14	<u>Planning</u>	<u>786(d)</u>	<u>303(i)</u>	<u>1</u>	<u>303.1</u>
	<u>Administrative</u>	<u>59.3</u>	<u>303(i)</u>	<u>1</u>	<u>303.1</u>
15	<u>Public Works</u>	<u>184.86.1(a)</u>	<u>303(i)</u>	<u>1</u>	<u>303.1</u>
	<u>Planning</u>	<u>803.2(b)(1)(B)</u>	<u>303(i)</u>	<u>1</u>	<u>303.1</u>
16	<u>Planning</u>	<u>234.1(c)(5)</u>	<u>303(i)</u>	<u>1</u>	<u>303.1</u>
17	<u>Planning</u>	<u>243(c)(9)(K)</u>	<u>303(i)</u>	<u>1</u>	<u>303.1</u>
	<u>Planning</u>	<u>786(c)</u>	<u>303(i)(1)</u>	<u>1</u>	<u>303.1</u>
18	<u>Planning</u>	<u>786(e)</u>	<u>303(i)(3)</u>	<u>1</u>	<u>303.1</u>
19	<u>Public Works</u>	<u>184.86.1(a)(1)</u>	<u>303(i)(4) and</u>	<u>1</u>	<u>303.1</u>
			<u>(5)</u>		
20	<u>Planning</u>	<u>604(h)</u>	<u>303(l)</u>	<u>1</u>	<u>303(k)</u>
	<u>Planning</u>	<u>303(l)(6)</u>	<u>303(l)</u>	<u>1</u>	<u>303(k)</u>
21	<u>Planning</u>	<u>711 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
22	<u>Planning</u>	<u>712 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
23		<u>Table</u>			
	<u>Planning</u>	<u>713 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
24		<u>Table</u>			
5	<u>Planning</u>	<u>714 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			

1	<u>Planning</u>	<u>715 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
2	<u>Planning</u>	<u>716 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
3	<u>Planning</u>	<u>718 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
4	<u>Planning</u>	<u>719 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
5	<u>Planning</u>	<u>720 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
6	<u>Planning</u>	<u>721 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
7	<u>Planning</u>	<u>722 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
8	<u>Planning</u>	<u>723 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
9	<u>Planning</u>	<u>726 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
10	<u>Planning</u>	<u>727 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
11	<u>Planning</u>	<u>728 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
12	<u>Planning</u>	<u>730 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
13	<u>Planning</u>	<u>731 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
14	<u>Planning</u>	<u>733 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
15	<u>Planning</u>	<u>734 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
16	<u>Planning</u>	<u>735 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
17	<u>Planning</u>	<u>736 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
18	<u>Planning</u>	<u>737 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
19	<u>Planning</u>	<u>738 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
20	<u>Planning</u>	<u>790.60(b)</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
21	<u>Planning</u>	<u>810 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
22	<u>Planning</u>	<u>811 - Specific Provisions</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
		<u>Table</u>			
23	<u>Planning</u>				
24	<u>Planning</u>				
25					

1	<u>Planning</u>	<u>812 - Specific Provisions Table</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
2	<u>Planning</u>	<u>815 - Specific Provisions Table</u>	<u>303(o)</u>	<u>2</u>	<u>303(n)</u>
3	<u>Planning</u>	<u>827 - Specific Provisions Table</u>	<u>303(o)</u>	<u>2</u>	<u>303(n)</u>
4	<u>Planning</u>	<u>829 - Specific Provisions Table</u>	<u>303(o)</u>	<u>2</u>	<u>303(n)</u>
5	<u>Planning</u>	<u>890.60(b)</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
6	<u>Planning</u>	<u>218.1(b)</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
7	<u>Planning</u>	<u>218.1 Table</u>	<u>303(o)</u>	<u>1</u>	<u>303(n)</u>
8	<u>Planning</u>	<u>728 - Specific Provisions Table</u>	<u>703.3</u>	<u>1</u>	<u>303.1</u>
9	<u>Planning</u>	<u>739 - Specific Provisions Table</u>	<u>703.3</u>	<u>2</u>	<u>303.1</u>
10	<u>Planning</u>	<u>740 - Specific Provisions Table</u>	<u>703.3</u>	<u>2</u>	<u>303.1</u>
11	<u>Planning</u>	<u>741 - Specific Provisions Table</u>	<u>703.3</u>	<u>2</u>	<u>303.1</u>
12	<u>Planning</u>	<u>742 - Specific Provisions Table</u>	<u>703.3</u>	<u>2</u>	<u>303.1</u>
13	<u>Planning</u>	<u>781.1(b)</u>	<u>703.3</u>	<u>1</u>	<u>303.1</u>
14	<u>Planning</u>	<u>781.5(a)</u>	<u>703.3</u>	<u>1</u>	<u>303.1</u>
15	<u>Planning</u>	<u>786(a)(14)</u>	<u>703.3</u>	<u>1</u>	<u>303.1</u>
16	<u>Planning</u>	<u>182(b)(1)</u>	<u>703.3</u>	<u>4</u>	<u>303.1</u>
17	<u>Planning</u>	<u>234.1(c)(5)</u>	<u>703.3</u>	<u>1</u>	<u>Delete</u>
18	<u>Planning</u>	<u>312(b)</u>	<u>703.3</u>	<u>1</u>	<u>303.1</u>
19	<u>Planning</u>	<u>781.4(a)</u>	<u>703.3(b)</u>	<u>2</u>	<u>303.1</u>
20	<u>Planning</u>	<u>781.9(a)(3)(C)</u>	<u>703.3(b)</u>	<u>1</u>	<u>303.1</u>
21	<u>Planning</u>	<u>186(c)</u>	<u>703.3(b)</u>	<u>1</u>	<u>303.1</u>
22	<u>Planning</u>	<u>209.8</u>	<u>703.3(b)</u>	<u>1</u>	<u>303.1</u>
23	<u>Planning</u>	<u>231(e)</u>	<u>703.3(b)</u>	<u>1</u>	<u>303.1</u>
24	<u>Planning</u>	<u>249.31(b)(1)(iii)</u>	<u>703.3(b)</u>	<u>1</u>	<u>303.1</u>
25	<u>Planning</u>	<u>249.65(c)(2)(A)</u>	<u>703.3(b)</u>	<u>1</u>	<u>303.1</u>
26	<u>Planning</u>	<u>249.65(c)(7)</u>	<u>703.3(b)</u>	<u>1</u>	<u>303.1</u>
27	<u>Planning</u>	<u>823(a)</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>
28	<u>Planning</u>	<u>823(c)(10)</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>
29	<u>Planning</u>	<u>840 Table</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>
30	<u>Planning</u>	<u>841 Table</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>
31	<u>Planning</u>	<u>842 Table</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>
32	<u>Planning</u>	<u>843 Table</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>

1	<u>Planning</u>	<u>844 Table</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>
	<u>Planning</u>	<u>845 Table</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>
2	<u>Planning</u>	<u>846 Table</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>
	<u>Planning</u>	<u>847 Table</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>
3	<u>Planning</u>	<u>234.1(c)(5)</u>	<u>803.6</u>	<u>1</u>	<u>Delete</u>
4	<u>Planning</u>	<u>249.40(c)(3)</u>	<u>803.6</u>	<u>1</u>	<u>303.1</u>

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At the direction of the City Attorney, the publisher of the San Francisco Municipal Codes shall correct any additional cross-references to the Planning Code that require correction due to the amendment of the Planning Code by this Ordinance.

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

By: _____
VICTORIA WONG
Deputy City Attorney

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Introduction Form

By a Member of the Board of Supervisors or the Mayor

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 Wiener

Subject:

Approval of a 120-Day Extension for Planning Commission Review of Amending the Planning Code – Formula Retail and Large-Scale Retail Controls (File No. 141131)

The text is listed below or attached:

Resolution extending by 120 days the prescribed time within which the Planning Commission may render its decision on a Ordinance (File No. 141131) amending the San Francisco Planning Code to exclude Financial Services, Limited Financial Services and Personal Services above the ground floor from the definition of Formula Retail and require that where there has been a prior determination that a proposed project is a Formula Retail Use and the project sponsor subsequently removes one or more Formula Retail Use features, the project will remain subject to Conditional Use Authorization; affirming the Planning Department's California Environmental Quality Act determination; and making findings consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Signature

Sponsoring Supervisor:

Scott Wiener

For Clerk's Use Only: