

1 [Zoning - Conditional Use Authorization in Neighborhood Commercial Districts]  
2 AMENDING PART II, CHAPTER II OF THE SAN FRANCISCO MUNICIPAL CODE  
3 (PLANNING CODE) BY AMENDING SECTION 303 TO REQUIRE ADDITIONAL  
4 CONSIDERATIONS FOR CONDITIONAL USES IN LOCATIONS IN NEIGHBORHOOD  
5 COMMERCIAL DISTRICTS IN WHICH THE USE SIZE FOR THE PROPOSED LOCATION  
6 EXCEEDS THE LIMITATIONS CONTAINED IN SECTION 121.2, INCLUDING  
7 CONSIDERATIONS OF THE INTENSITY OF ACTIVITY IN THE DISTRICT, SERVICE TO  
8 THE NEIGHBORHOOD, AND RESPECT FOR THE SCALE OF DEVELOPMENT IN THE  
9 DISTRICT.

10 Note: Additions are underlined; deletions are in ((double parentheses)).

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

12 Section 1. (a) **General Findings.** (1) In response to San Francisco residents' and  
13 merchants' concerns, including increased traffic congestion, proliferation of food service uses,  
14 the loss of neighborhood-oriented businesses and changes in the local neighborhood  
15 character, the City and County of San Francisco created Neighborhood Commercial Individual  
16 Area Districts (NCDs) in 1987. Descriptions of these NCDs and the zoning that applies within  
17 their boundaries are set forth in Article 7 of the San Francisco Municipal Code, Part II,  
18 Chapter II (Planning Code).

19 (2) To promote, protect, and maintain a scale of development that is  
20 appropriate to each NCD and compatible with adjacent buildings, the San Francisco Planning  
21 Code provides a comprehensive and flexible zoning system for Neighborhood Commercial  
22 Districts, and limits the size of nonresidential uses that are permitted without conditional use  
23 authorization.

24 (3) In determining an application for the authorization of conditional uses, the  
25 City Planning Commission evaluates an application based on the criteria listed in Planning

1 Code Section 303(c), including, among other things, whether or not the proposed use is  
2 compatible with the neighborhood, is detrimental to the health, safety, convenience, or  
3 general welfare of residents or workers in the vicinity, and complies with the General Plan.

4 (4) In determining whether to authorize a conditional uses in an NCD, the  
5 Planning Commission should take into account special considerations when it considers uses  
6 proposed for locations that already exceed the limitations for square footage in the particular  
7 NCD.

8 (b) **Priority Policy Findings.** Pursuant to Section 101.1 of the Planning Code, the  
9 Board of Supervisors makes the following findings:

10 (1) The proposed legislation is consistent with Priority Policy 1 in that it will  
11 create greater regulatory control over the size of nonresidential uses within the NCDs, and  
12 therefore, preserve and enhance the existing neighborhood-serving uses and enhance future  
13 opportunities for resident employment and the ownership of other neighborhood-serving  
14 business.

15 (2) The proposed legislation is consistent with Priority Policy 2 in that it has no  
16 adverse effect on existing housing and will help to preserve the character of the  
17 neighborhood.

18 (3) The proposed legislation is consistent with Priority Policy 3 in that it has no  
19 effect on the City's current or future supply of affordable housing.

20 (4) The proposed legislation is consistent with Priority Policy 4 in that it has no  
21 negative impact on commuter traffic or neighborhood parking.

22 (5) The proposed legislation is consistent with Priority Policy 5 in that it does not  
23 involve commercial office development, which may displace any industrial or service sector  
24 employment, and will enhance the viability of existing neighborhood-serving establishments,  
25 thereby enhancing future opportunities for resident employment and ownership.

1 (6) The proposed legislation is consistent with Priority Policy 6 in that it will not  
2 adversely affect the City's ability to achieve earthquake preparedness to protect against injury  
3 and loss of life in an earthquake.

4 (7) The proposed legislation is consistent with Priority Policy 7 in that it will not  
5 affect any landmarks or historic buildings.

6 (8) The proposed legislation is consistent with Priority Policy 8 in that it has no  
7 effect on parks and open space and their access to sunlight and vistas.

8 Section 2. Part II, Chapter II of the San Francisco Municipal Code (Planning Code)  
9 is hereby amended by amending Section 303, to read as follows:

10 **SEC. 303. CONDITIONAL USES.** (a) **General.** The City Planning Commission shall  
11 hear and make determinations regarding applications for the authorization of conditional uses  
12 in the specific situations in which such authorization is provided for elsewhere in this Code.  
13 The procedures for conditional uses shall be as specified in this Section and in Sections 306  
14 through 306.6, except that Planned Unit Developments shall in addition be subject to Section  
15 304, medical institutions and post-secondary educational institutions shall in addition be  
16 subject to the institutional master plan requirements of Section 304.5, and conditional use and  
17 Planned Unit Development applications filed pursuant to Article 7, or otherwise required by  
18 this Code for uses or features in Neighborhood Commercial Districts, and conditional use  
19 applications within South of Market Districts, shall be subject to the provisions set forth in  
20 Sections 316 through 316.8 of this Code, in lieu of those provided for in Sections 306.2 and  
21 306.3 of this Code, with respect to scheduling and notice of hearings, and in addition to those  
22 provided for in Sections 306.4 and 306.5 of this Code, with respect to conduct of hearings and  
23 reconsideration.

24 (b) **Initiation.** A conditional use action may be initiated by application of the owner,  
25 or authorized agent for the owner, of the property for which the conditional use is sought.

1 (c) **Determination.** After its hearing on the application, or upon the  
2 recommendation of the Director of Planning if the application is filed pursuant to Sections 316  
3 through 316.8 of this Code and no hearing is required, the City Planning Commission shall  
4 approve the application and authorize a conditional use if the facts presented are such to  
5 establish:

6 (1) That the proposed use or feature, at the size and intensity contemplated  
7 and at the proposed location, will provide a development that is necessary or desirable for,  
8 and compatible with, the neighborhood or the community.

9 (A) In Neighborhood Commercial Districts, if the proposed use is to be  
10 located at a location in which the square footage exceeds the limitations found in Planning  
11 Code § 121.2(a) or 121.2(b), the following shall be considered:

12 (i) the intensity of activity in the district is not such that allowing  
13 the larger use will be likely to foreclose the location of other needed neighborhood-serving  
14 uses in the area; and

15 (ii) the proposed use will serve the neighborhood, in whole or in  
16 significant part, and the nature of the use requires a larger size in order to function; and

17 (iii) the building in which the use is to be located is designed in  
18 discrete elements which respect the scale of development in the district; and

19 (2) That such use or feature as proposed will not be detrimental to the health,  
20 safety, convenience or general welfare of persons residing or working in the vicinity, or  
21 injurious to property, improvements or potential development in the vicinity, with respect to  
22 aspects including but not limited to the following:

23 (A) The nature of the proposed site, including its size and shape, and  
24 the proposed size, shape and arrangement of structures;

25 (B) The accessibility and traffic patterns for persons and vehicles, the

1 type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

2 (C) The safeguards afforded to prevent noxious or offensive emissions  
3 such as noise, glare, dust and odor;

4 (D) Treatment given, as appropriate, to such aspects as landscaping,  
5 screening, open spaces, parking and loading areas, service areas, lighting and signs; and

6 (3) That such use or feature as proposed will comply with the applicable  
7 provisions of this Code and will not adversely affect the Master Plan; and

8 (4) With respect to applications filed pursuant to Article 7 of this Code, that  
9 such use or feature as proposed will provide development that is in conformity with the stated  
10 purpose of the applicable Neighborhood Commercial District, as set forth in zoning control  
11 category .1 of Sections 710 through 729 of this Code; and

12 (5)(A) With respect to applications filed pursuant to Article 7, Section 703.2(a),  
13 zoning categories .46, .47, and .48, in lieu of the criteria set forth above in Section 303(c)(1—  
14 4), that such use or feature will:

15 (i) Not be located within 1,000 feet of another such use, if the  
16 proposed use or feature is included in zoning category .47, as defined by Section 790.36 of  
17 this Code; and/or

18 (ii) Not be open between two a.m. and six a.m.; and

19 (iii) Not use electronic amplification between midnight and six a.m.;

20 and

21 (iv) Be adequately soundproofed or insulated for noise and  
22 operated so that incidental noise shall not be audible beyond the premises or in other sections  
23 of the building and fixed-source equipment noise shall not exceed the decibel levels specified  
24 in the San Francisco Noise Control Ordinance.

25 (B) Notwithstanding the above, the City Planning Commission may

1 authorize a conditional use which does not satisfy the criteria set forth in (5)(A)(ii) and/or  
2 (5)(A)(iii) above, if facts presented are such to establish that the use will be operated in such a  
3 way as to minimize disruption to residences in and around the district with respect to noise  
4 and crowd control.

5 (6) With respect to applications for live/work units in RH and RM Districts  
6 filed pursuant to Section 209.9(f) or 209.9(h) of this Code, that:

7 (A) Each live/work unit is within a building envelope in existence on  
8 the effective date of Ordinance No. 412-88 (effective October 10, 1988) and also within a  
9 portion of the building which lawfully contains at the time of application a nonconforming,  
10 nonresidential use;

11 (B) There shall be no more than one live/work unit for each 1,000  
12 gross square feet of floor area devoted to live/work units within the subject structure; and

13 (C) The project sponsor will provide any off-street parking, in addition  
14 to that otherwise required by this Code, needed to satisfy the reasonably anticipated auto  
15 usage by residents of and visitors to the project.

16 Such action of the City Planning Commission, in either approving or disapproving the  
17 application, shall be final except upon the filing of a valid appeal to the Board of Supervisors  
18 as provided in Section 308.1.

19 (d) **Conditions.** When authorizing a conditional use as provided herein, the City  
20 Planning Commission, or the Board of Supervisors on appeal, shall prescribe such additional  
21 conditions, beyond those specified in this Code, as are in its opinion necessary to secure the  
22 objectives of the Code. Once any portion of the conditional use authorization is utilized, all  
23 such conditions pertaining to such authorization shall become immediately operative. The  
24 violation of any condition so imposed shall constitute a violation of this Code and may  
25 constitute grounds for revocation of the conditional use authorization. Such conditions may

1 include time limits for exercise of the conditional use authorization; otherwise, any exercise of  
2 such authorization must commence within a reasonable time.

3 (e) **Modification of Conditions.** Authorization of a change in any condition  
4 previously imposed in the authorization of a conditional use shall be subject to the same  
5 procedures as a new conditional use. Such procedures shall also apply to applications for  
6 modification or waiver of conditions set forth in prior stipulations and covenants relative  
7 thereto continued in effect by the provisions of Section 174 of this Code.

8 (f) **Hotels and Motels.**

9 (1) With respect to applications for development of tourist hotels and motels,  
10 the Planning Commission shall consider, in addition to the criteria set forth in Subsections (c)  
11 and (d) above:

12 (A) The impact of the employees of the hotel or motel on the demand  
13 in the City for housing, public transit, childcare, and other social services. To the extent  
14 relevant, the Commission shall also consider the seasonal and part-time nature of  
15 employment in the hotel or motel;

16 (B) The measures that will be taken by the project sponsor to employ  
17 residents of San Francisco in order to minimize increased demand for regional transportation;  
18 and

19 (C) The market demand for a hotel or motel of the type proposed.

20 (2) Notwithstanding the provisions of Subsections (f)(1) above, the Planning  
21 Commission shall not consider the impact of the employees of a proposed hotel or motel  
22 project on the demand in the City for housing where:

23 (A) The proposed project would be located on property under the  
24 jurisdiction of the San Francisco Port Commission; and

25 (B) The sponsor of the proposed project has been granted exclusive

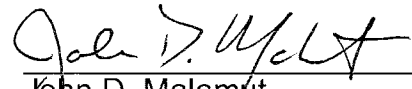
1 rights to propose the project by the San Francisco Port Commission prior to June 1, 1991.

2 (3) Notwithstanding the provisions of Subsection (f)(1) above, with respect to  
3 the conversion of residential units to tourist hotel or motel use pursuant to an application filed  
4 on or before June 1, 1990 under the provisions of Chapter 41 of the San Francisco  
5 Administrative Code, the Planning Commission shall not consider the criteria contained in  
6 Subsection (f)(1) above; provided, however, that the Planning Commission shall consider the  
7 criteria contained in Subsection (f)(1)(B) at a separate public hearing if the applicant applies  
8 for a permit for new construction or alteration where the cost of such construction or alteration  
9 exceeds \$100,000. Furthermore, no change in classification from principal permitted use to  
10 conditional use in Section 216(b)(i) of this Code shall apply to hotels or motels that have filed  
11 applications on or before June 1, 1990 to convert residential units to tourist units pursuant to  
12 Chapter 41 of the San Francisco Administrative Code.

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14  
15 APPROVED AS TO FORM:

16 LOUISE H. RENNE, City Attorney

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19 By:

  
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John D. Malamut  
Deputy City Attorney

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SUPERVISOR LENO  
BOARD OF SUPERVISORS

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10/25/99





# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Ordinance

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**File Number:** 991585

**Date Passed:**

Ordinance amending Planning Code Section 303 to require additional considerations for conditional uses in locations in neighborhood commercial districts in which the use size for the proposed location exceeds the limitations contained in Section 121.2, including considerations of the intensity of activity in the district, service to the neighborhood, and respect for the scale of development in the district.

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November 15, 1999 Board of Supervisors — PASSED, ON FIRST READING

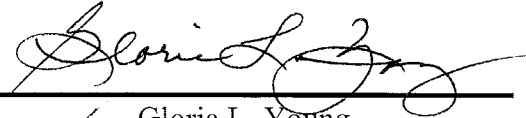
Ayes: 11 - Kaufman, Leno, Newsom, Teng, Yaki, Yee, Ammiano, Becerril, Bierman, Brown, Katz

November 22, 1999 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

File No. 991585

I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on November 22,  
1999 by the Board of Supervisors of the City  
and County of San Francisco.

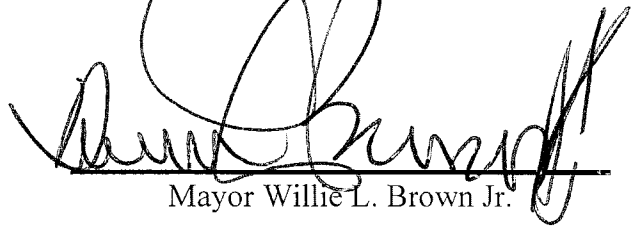


Gloria L. Young  
Clerk of the Board

DEC - 3 1999

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Date Approved



Mayor Willie L. Brown Jr.