

1 [Interim Zoning Controls - Residential Uses in Commercial Buildings in an Area Bounded by  
2 Market, Second, Brannan, Division, and South Van Ness Streets]

3  
4 **Resolution imposing interim zoning controls to require that for a 12-month period in**  
5 **the area bounded by Market Street from Van Ness Street east to 5th Street on the north**  
6 **side and east to 2nd Street on the south side, 2nd Street south to Brannan Street,**  
7 **Brannan Street west to Division Street, and South Van Ness Street north to Market**  
8 **Street: 1) except for a permit to address life/safety issues, a building permit for a**  
9 **commercial building shall not be issued pending the Planning Department's**  
10 **determination that the commercial space has not been converted to any residential**  
11 **use; and 2) the reestablishment of a commercial use that has been converted to**  
12 **residential use shall require Planning Commission approval through either an**  
13 **authorization under Planning Code Section 320 et seq. or a conditional use**  
14 **authorization; to require the Planning and Building Departments to complete a study of**  
15 **the conversion of commercial spaces to residential uses in this area; and making**  
16 **environmental findings, and findings of consistency with the General Plan, and the**  
17 **eight priority policies of Planning Code, Section 101.1.**

18  
19 WHEREAS, Planning Code Section 306.7 provides for the imposition of interim zoning  
20 controls to accomplish several objectives, including preservation of areas of mixed residential  
21 and commercial uses and preservation of the City's rental housing stock; and

22 WHEREAS, Planning Code Section 320 provides that the creation of 25,000 square  
23 feet or more of additional office space shall be subject to the office cap and other  
24 requirements of Section 320 et seq. ("Proposition M"); and

1           WHEREAS, Proposition M defines “preexisting office space” as “office space used  
2 primarily and continuously for office use and not accessory to any use other than office use for  
3 five years prior to Planning Commission approval of an office development project which  
4 office use was fully legal under the terms of San Francisco law”; and

5           WHEREAS, There is evidence that preexisting office space has been abandoned and  
6 converted to residential use in multiple buildings in the area of San Francisco bounded by  
7 Market Street from Van Ness Street east to 5th Street on the north side and to 2nd Street on  
8 the south side, 2nd Street south to Brannan Street, Brannan Street west to Division Street,  
9 and South Van Ness north to Market; and

10           WHEREAS, Under the Planning Code, reestablishment of an office use that has been  
11 abandoned for five years is considered a new office use subject to Planning Commission  
12 Proposition M authorization, payment of associated development impact fees, and other  
13 applicable requirements of the Planning Code; and

14           WHEREAS, Since San Francisco has long had a housing shortage, the housing market  
15 continues to be tight and housing costs are beyond the reach of many households, this Board  
16 wants to preserve existing residential uses in commercial spaces until such time as the  
17 Planning and Building Department can conduct a study of the number of buildings that have  
18 been converted without benefit of permit and the Planning Department can propose  
19 permanent legislation; and

20           WHEREAS, This Board has considered the impact on the public health, safety, peace,  
21 and general welfare if the proposed interim controls are not imposed; and

22           WHEREAS, This Board has determined that the public interest will best be served by  
23 imposition of these interim controls at this time in order to ensure that the legislative scheme  
24 which may ultimately be adopted is not undermined during the planning and legislative  
25 process for permanent controls; and

1           WHEREAS, The Planning Department has determined that the actions contemplated in  
2 this Resolution are in compliance with the California Environmental Quality Act (California  
3 Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of  
4 the Board of Supervisors in File No. 131068 and is incorporated herein by reference; now,  
5 therefore, be it

6           RESOLVED, That pursuant to Planning Code Section 306.7, the Board of Supervisors  
7 by this Resolution hereby requires that during the pendency of these interim controls, a  
8 building permit for a commercial building in the area of San Francisco bounded by Market  
9 Street from Van Ness Street east to 5th Street on the north side and to 2nd Street on the  
10 south side, 2nd Street south to Brannan Street, Brannan Street west to Division Street, and  
11 South Van Ness Street north to Market Street shall not be issued pending the Planning  
12 Department's determination that the commercial space has not been converted to any  
13 residential use; and, be it

14           FURTHER RESOLVED, That during the pendency of these interim controls, the  
15 reestablishment of any commercial use that has been converted to residential use shall  
16 require Planning Commission approval through either a Proposition M authorization or a  
17 conditional use; and, be it

18           FURTHER RESOLVED, That a permit to address a life/safety issue in the subject  
19 building shall not be subject to these interim controls; and, be it

20           FURTHER RESOLVED, That within 60 days of the adoption of this Resolution, the  
21 Planning Department and the Department of Building Inspection shall conduct a study of the  
22 number of buildings that have converted space from commercial to residential in the area  
23 subject to these interim controls and submit a joint report to the Board of Supervisors,  
24 Planning Commission, and Building Inspection Commission; and, be it

1 FURTHER RESOLVED, That these interim controls shall remain in effect for twelve  
2 (12) months unless further extended or until the adoption of permanent legislation, whichever  
3 shall first occur; and, be it

4 FURTHER RESOLVED, That these interim controls are not in conflict with and hence  
5 are consistent with the Priority Policies of Planning Code Section 101.1.

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

8 By: \_\_\_\_\_  
9 JUDITH A. BOYAJIAN  
Deputy City Attorney

10 n:\legana\as2013\1400202\00883020.doc  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25