

1 [Planning Code—Amending Articles 10 and 11, Contingent on Voter Approval of Proposed
2 Charter Amendment Creating an Historic Preservation Commission.]

3 **Ordinance amending Articles 10 and 11 and adding a new Section 309.3 of the Planning**
4 **Code, contingent on voter approval in the November 4, 2008 general election of the**
5 **proposed Charter amendment Creating an Historic Preservation Commission, to**
6 **provide additional criteria for Planning Commission review of Historic Preservation**
7 **Commission decisions, to provide for Section 309 review of certain projects requiring**
8 **Certificates of Appropriateness under Article 10 of the Planning Code, and to create a**
9 **rebuttable presumption of compatibility for certain projects requiring Certificates of**
10 **Appropriateness under Article 10 of the Planning Code; and making findings, including**
11 **environmental findings and findings of consistency with the priority policies of**
12 **Planning Code Section 101.1 and the General Plan.**

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14 Note: Additions are *single-underline italics Times New Roman*;
15 deletions are ~~*strikethrough italics Times New Roman*~~.
16 Board amendment additions are double underlined.
17 Board amendment deletions are ~~strikethrough normal~~.

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

19 Section 1. Findings.

20 A. Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
21 ordinance will serve the public necessity, convenience and welfare for the reasons specified in
22 this legislation and in Planning Commission Resolution No. _____, which is
23 incorporated herein by reference as though fully set forth. A copy of said Resolution is on file
24 with the Clerk of the Board in File No. _____.

1 B. Pursuant to Planning Code Section 101.1, the Board of Supervisors finds that this
2 ordinance is consistent with the Priority Policies of Section 101.1(b) of the Planning Code and
3 the General Plan for the reasons set forth in said Planning Commission Resolution No.
4 _____.

5 C. Environmental Findings. The Planning Department has determined that the actions
6 contemplated in this ordinance are in compliance with the California Environmental Quality
7 Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file
8 with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein
9 by reference.

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11 Section 2. The amendments to the Planning Code contained in this Ordinance shall
12 become effective only if the proposed San Francisco Charter amendment entitled "Creating
13 an Historic Preservation Commission" is approved by the voters in the November 4, 2008
14 general election. If such proposed Charter Amendment is approved, these amendments shall
15 become effective on the date the election is certified. If such proposed Charter Amendments
16 are not approved in the November 4, 2008 general election, the Planning Code amendments
17 contained in this Ordinance shall have no effect and shall not become law.

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19 Section 3. The San Francisco Planning Code is hereby amended by adding new
20 Section 309.3, to read as follows:

21 **SEC. 309.3. PROJECTS LOCATED IN DESIGNATED HISTORIC DISTRICTS.**

22 (a) Applicability. The Planning Commission may review under this Section a decision of the
23 Historic Preservation Commission concerning an application for property within an historic district
24 designated under Article 10 if (1) the lot area of the proposed project is greater than 7,500 square feet

1 or the proposed project is located in a height district of greater than 40 feet; and (2) the project
2 sponsor requests such review or the Director determines, in his or her sole discretion, that such review
3 is required to achieve a reasonable balance between the preservation standards in Article 10 and other
4 policies and standards of the General Plan and this Code.

5 (b) The purpose of this section is to allow the Planning Commission to review a decision of the
6 Historic Preservation Commission and to expressly consider any policies set forth in the General Plan
7 and Priority Policies as well as the preservation standards set forth in Article 10 of this Code.

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9 Section 4. The San Francisco Planning Code is hereby amended by amending Section
10 1006.6, to read as follows:

11 **SEC. 1006.6. NATURE OF ~~PLANNING COMMISSION~~ THE DECISION.**

12 (a) The decision of the Historic Preservation Commission, or the Planning Commission if
13 applicable, after its public hearing shall be in accordance with the following provisions:

14 ~~(a)(1)~~ If the application for a Certificate of Appropriateness proposes construction or
15 alteration of a structure or any work involving a sign, awning, marquee, canopy, mural or other
16 appendage, or exterior changes in a historic district visible from a public street or other public
17 place, the Historic Preservation Commission, or Planning Commission if such review is required or
18 permitted under this Code, shall approve or disapprove the application in whole or in part.

19 ~~(b)(2)~~ If the application proposes removal or demolition of a structure on a designated
20 landmark site, the Historic Preservation Commission, or Planning Commission if such review is
21 required or permitted under this Code, may disapprove or approve the application, or may
22 suspend action on it for a period not to exceed 180 days; provided that the Board of
23 Supervisors by resolution may, for good cause shown, extend the suspension for an
24 additional period not to exceed 180 days, if the said Board acts not more than 90 days and

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1 not less than 30 days prior to the expiration of the original 180-day period.

2 ~~(e)(3)~~ If the application proposes removal or demolition of a structure in a designated
3 historic district, other than on a designated landmark site, the Historic Preservation Commission,
4 or the Planning Commission if such review is required or permitted under this Code, may
5 disapprove or approve the application, or may suspend action on it for a period not to exceed
6 90 days, subject to extension by the Board of Supervisors as provided in the preceding
7 subsection; provided, however, that the designating ordinance for the historic district may
8 authorize the suspension of action for an alternate period which shall in no event exceed 90
9 days, without extension, and in such event the provision of the designating ordinance shall
10 govern.

11 ~~(d)(4)~~ In the event action on an application to remove or demolish a structure is
12 suspended as provided in this Section, the Planning Historic Preservation Commission,~~with the~~
13 ~~advice and assistance of the Advisory Board,~~ may take such steps as it determines are necessary
14 to preserve the structure concerned, in accordance with the purposes of this Article 10. Such
15 steps may include, but shall not be limited to, consultations with civic groups, public agencies,
16 and interested citizens, recommendations for acquisition of property by public or private
17 bodies or agencies, and exploration of the possibility of moving one or more structures or
18 other features.

19 (b) Additional Review Under Section 309.3 by the Planning Commission. The Planning
20 Commission may review under Section 309.3 a decision of the Historic Preservation Commission
21 concerning an application for property within an historic district designated under this Article when
22 the requirements of Section 309.3 are met.

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1 Section 5. The San Francisco Planning Code is hereby amended by amending Section
2 1006.7, to read as follows:

3 **SEC. 1006.7. STANDARDS FOR REVIEW OF APPLICATIONS.**

4 The Planning Commission, the Department, and the ~~Advisory Board~~Historic Preservation
5 Commission shall be guided by the standards in this Section in their review of applications for
6 Certificates of Appropriateness for proposed work on a landmark site or in a historic district. In
7 appraising the effects and relationships mentioned herein, the Planning Commission, the
8 Department and the ~~Advisory Board~~Historic Preservation Commission shall in all cases consider
9 the factors of architectural style, design, arrangement, texture, materials, color, and any other
10 pertinent factors.

11 (a) The proposed work shall be appropriate for and consistent with the effectuation of
12 the purposes of this Article 10.

13 (b) For applications pertaining to landmark sites, the proposed work shall preserve,
14 enhance or restore, and shall not damage or destroy, the exterior architectural features of the
15 landmark and, where specified in the designating ordinance pursuant to Section 1004(c), its
16 major interior architectural features. The proposed work shall not adversely affect the special
17 character or special historical, architectural or aesthetic interest or value of the landmark and
18 its site, as viewed both in themselves and in their setting, nor of the historic district in
19 applicable cases.

20 (c) For applications pertaining to property in historic districts, other than on a
21 designated landmark site, any new construction, addition or exterior change shall be
22 compatible with the character of the historic district as described in the designating ordinance;
23 and, in any exterior change, reasonable efforts shall be made to preserve, enhance or restore,
24 and not to damage or destroy, the exterior architectural features of the subject property which
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1 are compatible with the character of the historic district. Notwithstanding the foregoing, for any
2 exterior change where the subject property is not already compatible with the character of the
3 historic district, reasonable efforts shall be made to produce compatibility, and in no event
4 shall there be a greater deviation from compatibility. Where the required compatibility exists,
5 the application for a Certificate of Appropriateness shall be approved.

6 (1) In reviewing applications pertaining to property in historic districts, including a decision of
7 the Historic Preservation Commission on such applications, the Planning Commission may also
8 consider any policies set forth in the General Plan and the Priority Policies of Section 101(b) and is
9 not limited solely to the preservation standards set forth in this Article.

10 (2) In reviewing for compatibility under this Section applications for new structures or
11 additions to existing structures in any historic district designated under this Article after January 1,
12 2009, if the application conforms to applicable height and bulk limits and is consistent with the General
13 Plan and any applicable design guidelines and policies, compatibility shall be presumed solely with
14 regard to the height and bulk of new structures or the height and bulk of additions to existing structures
15 regardless of the prevailing height of existing structures in the historic district. This presumption may
16 only be rebutted if the Historic Preservation Commission or the Planning Commission finds based on
17 substantial evidence that the proposed height and bulk would directly and adversely impact the historic
18 or architectural integrity of a specific contributory building or group of contributory buildings in the
19 designated historic district. The policy intent of this presumption is to encourage the Planning
20 Department and Board of Supervisors to adopt new height and bulk standards that better conform to
21 the prevailing height and bulk of newly proposed historic districts in those circumstances where height
22 and bulk are determined to be character-defining features of a newly proposed historic district. In
23 addition, it is the intent of this section to reduce uncertainty in the entitlement process for permit

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1 applications pertaining to new structures or additions to existing structures in any historic district
2 designated under this Article after January 1, 2009.

3 (d) For applications pertaining to all property in historic districts, the proposed work
4 shall also conform to such further standards as may be embodied in the ordinance
5 designating the historic district.

6 (e) For applications pertaining to the addition of murals on a landmark or contributory
7 structure in a historic district, the ~~Advisory Board~~Historic Preservation Commission and the
8 Planning Commission shall consider only the placement, size and location of the mural, to
9 determine whether the mural covers or obscures significant architectural features of the
10 landmark or contributory structure. For purposes of review under this Article 10, the City shall
11 not consider the content or artistic merit of the mural.

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13 Section 6. The San Francisco Planning Code is hereby amended by amending Section
14 1111.6, to read as follows:

15 **SEC. 1111.6. STANDARDS AND REQUIREMENTS FOR REVIEW OF**
16 **APPLICATIONS FOR ALTERATIONS.**

17 The Board of Permit Appeals, the City Planning Commission, the Director of Planning,
18 and the ~~Landmarks Board~~Historic Preservation Commission shall be governed by the following
19 standards in the review of applications for major alteration permits.

20 (a) The proposed alteration shall be consistent with and appropriate for the
21 effectuation of the purposes of this Article 11.

22 (b) For Significant Buildings - Categories I and II, and for Contributory Buildings -
23 Categories III and IV, proposed alterations of structural elements and exterior features shall

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1 be consistent with the architectural character of the building, and shall comply with the
2 following specific requirements:

3 (1) The distinguishing original qualities or character of the building may not be
4 damaged or destroyed. Any distinctive architectural feature which affects the overall
5 appearance of the building shall not be removed or altered unless it is the only feasible means
6 to protect the public safety.

7 (2) The integrity of distinctive stylistic features or examples of skilled craftsmanship
8 that characterize a building shall be preserved.

9 (3) Distinctive architectural features which are to be retained pursuant to Paragraph (1)
10 but which are deteriorated shall be repaired rather than replaced, whenever possible. In the
11 event replacement is necessary, the new material shall match the material being replaced in
12 composition, design, color, texture and other visual qualities. Repair or replacement of
13 missing architectural features shall be based on accurate duplication of features,
14 substantiated by historic, physical or pictorial evidence, if available, rather than on conjectural
15 designs or the availability of different architectural elements from other buildings or structures.
16 Replacement of nonvisible structural elements need not match or duplicate the material being
17 replaced.

18 (4) Contemporary design of alterations is permitted, provided that such alterations do
19 not destroy significant exterior architectural material and that such design is compatible with
20 the size, scale, color, material and character of the building and its surroundings.

21 (5) The degree to which distinctive features need be retained may be less when the
22 alteration is to exterior elements not constituting a part of a principal facade or when it is an
23 alteration of the ground-floor frontage in order to adapt the space for ground-floor uses.

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1 (6) In the case of Significant Buildings - Category I, any additions to height of the
2 building (including addition of mechanical equipment) shall be limited to one story above the
3 height of the existing roof, shall be compatible with the scale and character of the building,
4 and shall in no event cover more than 75 percent of the roof area.

5 (7) In the case of Significant Buildings - Category II, a new structure or addition,
6 including one of greater height than the existing building, may be permitted on that portion of
7 the lot not restricted in Appendix B even if such structure or addition will be visible when
8 viewing the principal facades at ground level, provided that the structure or addition does not
9 affect the appearance of the retained portion as a separate structure when so viewing the
10 principal facades and is compatible in form and design with the retained portion. Alteration of
11 the retained portion of the building is permitted as provided in Paragraphs (1) through (6) of
12 this Subsection (b).

13 (c) Within Conservation Districts, all major exterior alterations, of Category V
14 Buildings, shall be compatible in scale and design with the District as set forth in Sections 6
15 and 7 of the Appendix which describes the District.

16 (d) In reviewing applications under this Article, including where reviewing decisions of the
17 Historic Preservation Commission on such applications, the Planning Commission may also consider
18 any policies set forth in the General Plan and the Priority Policies of Section 101(b) and is not limited
19 solely to the preservation standards set forth in this Article.

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21 Section 7. The San Francisco Planning Code is hereby amended by amending Section
22 1113, to read as follows:

23 **SEC. 1113. NEW AND REPLACEMENT CONSTRUCTION IN CONSERVATION**
24 **DISTRICTS.**

1 No person shall construct or cause to be constructed any new or replacement structure
2 or add to any existing structure in a Conservation District unless it is found that such
3 construction is compatible in scale and design with the District as set forth in Sections 6 and 7
4 of the Appendix which describes the District. Applications for a building or site permit to
5 construct or add to a structure in any Conservation District shall be reviewed pursuant to the
6 procedures set forth in Section 309 and shall only be approved pursuant to Section 309 if they
7 meet the standards set forth herein, if a building or site permit application for construction of a
8 building is approved pursuant to this Section and if the building is constructed in accordance
9 with such approval, and if the buildings located in a Conservation District for which, pursuant
10 to Section 8 of the Appendix establishing that district, such a transfer is permitted, the building
11 shall be deemed a Compatible Replacement Building, and the lot on which such building is
12 located shall be eligible as a Preservation Lot for the transfer of TDR. In reviewing applications
13 under this Article, including where reviewing decisions of the Historic Preservation Commission on
14 such applications, the Planning Commission may also consider any policies set forth in the General
15 Plan and the Priority Policies of Section 101(b) and is not limited solely to the preservation standards
16 set forth in this Article.

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

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21 By: _____
22 Marlena G. Byrne
23 Deputy City Attorney

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