

AMENDMENT OF THE WHOLE 10/22/01

FILE NO. 011744

RESOLUTION NO.

1 [Interim Controls Regulating Certain Uses in the Mission District in the Area Bounded by
2 Guerrero Street, Cesar Chavez Street, Potrero Avenue and the Central Freeway, in the
3 Valencia Street Neighborhood Commercial District, in the 24th Street – Mission Neighborhood
Commercial District, on Mission Street From 15th Street to Cesar Chavez Street Zoned NC-3,
and in the NEMIZ.]

4
5 **Resolution adopting interim controls that would, in the Mission District in the area**
6 **bounded by Guerrero Street, Cesar Chavez Street, Potrero Avenue and the Central**
7 **Freeway, prohibit certain tourist hotels, prohibit demolition of a residential use except**
8 **to construct affordable housing, require mandatory discretionary review and sign**
9 **posting for a change of use, require certain new market-rate housing projects or**
10 **conversions to market-rate housing to obtain conditional use authorization and allow**
11 **other types of housing as a permitted use, prohibit an office or information technology**
12 **use in excess of 1,500 gross square feet in areas zoned M (Industrial), and require**
13 **conditional use authorization for a utility installation in areas zoned C (Commercial);**
14 **that would, in the Valencia Street and 24th Street – Mission NCDs, prohibit conversions**
15 **or demolitions of residential uses, prohibit information technology uses, and require**
16 **conditional use for a business or professional service use of more than 2,000 square**
17 **feet above the 1st story unless it is a community service; that would, in the Valencia**
18 **Street NCD, permit use sizes up to 2,000 square feet as a principal use, require a**
19 **conditional use for use sizes above 2,000 square feet, and prohibit new tourist hotels;**
20 **that would, on Mission Street from 15th Street to Cesar Chavez Street Zoned NC-3,**
21 **permit use sizes up to 2,999 square feet as a principal use, require a conditional use for**
22 **certain use sizes above 2,999 square feet, require all lots over 40,000 square feet to**
23 **obtain a conditional use authorization for all uses, prohibit conversions or demolition**
24 **of residential uses, prohibit certain administrative service uses unless they are a**
25 **community service, and authorize a community service on all stories, and prohibit an**

1 **information technology use on the 1st and 2nd stories and permit it as a principal use on**
2 **the 3rd story and above; that would, in the Northeast Mission Industrial Zone (NEMIZ),**
3 **prohibit any office or information technology use in excess of 1,500 gross square feet**
4 **unless it is a community service, and prohibit new live/work projects and all**
5 **conversions of live/work to office; Adopting Findings.**

6 WHEREAS, The Commerce and Industry Element of San Francisco's General Plan
7 advances Objectives and Policies calling for a balanced economic base for San Francisco,
8 particularly those economic sectors that employ a high percentage of San Franciscans and
9 provide entry-level employment opportunities; and,

10 WHEREAS, The industrial, manufacturing, tourist and service sectors have a long
11 tradition in the Mission District's employment history, adding to the District's diversity both as
12 an economic base and as a community that embraces, values and provides employment
13 opportunities for people with a broad range of skills, trades and talents; and,

14 WHEREAS, The economic vitality and health of other major sectors of San Francisco's
15 economy, such as retail, downtown office and medical services, among others, depend on
16 adequate and essential support from the industrial, manufacturing, entertainment and service
17 sectors; and,

18 WHEREAS, The availability of land zoned for industrial, manufacturing, nighttime
19 entertainment and service use has decreased progressively over the years, particularly by
20 construction of live/work and office uses whose owners and tenants may find such activities
21 offensive and incompatible, which results in pressures to diminish the viability of industrial,
22 manufacturing, entertainment and service activity and further convert industrial land to other
23 uses; and,

24 WHEREAS, The industrial areas of the Mission District have the original zoning
25 imposed when the City first adopted a zoning law more than fifty years ago, and these

1 controls have not been systematically reviewed or revised since their original adoption; and,

2 WHEREAS, The use tables setting out permitted and unpermitted uses in the industrial
3 areas of the Mission District are very out of date, particularly with respect to the office uses
4 now being introduced into the District; and,

5 WHEREAS, On December 15, 1994, after three years of public hearings concerning
6 potential uses in the Northeast Mission Industrial Zone (NEMIZ), the industrially-zoned portion
7 of the Mission District, the Planning Commission adopted Resolution 13794 designating an
8 Industrial Protection Zone (IPZ) in the NEMIZ and said it was concerned about live/work
9 projects, both in new construction and large conversions, due to their potential threat to the
10 viability and stability of the area's industrial, manufacturing, service and commercial activities;
11 and,

12 WHEREAS, In Resolution 13794 the Commission stated its policy to protect the NEMIZ
13 IPZ from all new live/work projects proposed for new construction or conversions of industrial
14 or commercial structures that would include ten or more live/work units in order to insure that
15 the vitality of industry and manufacturing uses continue to add to the economic diversity of the
16 NEMIZ so that these sectors could continue to provide employment opportunities for the
17 area's diverse population and to support and maintain the vitality of the other major sectors of
18 the economy of the NEMIZ and San Francisco as a whole; and,

19 WHEREAS, The NEMIZ has lost almost one-fifth of its developable land to non-
20 industrial uses in the six years since the Planning Commission adopted Resolution 13794
21 designating an IPZ in the NEMIZ; and,

22 WHEREAS, This lost space accounted for approximately sixty businesses providing
23 blue-collar jobs to local residents; and,

24 WHEREAS, The space developed in the NEMIZ between 1994 and 2000 provided
25 space for 6,000 new employees with no new transportation fees paid, and very little paid for

1 new housing and child care; and,

2 WHEREAS, On August 13, 1998, the Planning Department presented its Land Use
3 Study – Status Report to the Planning Commission to further discuss land use policy in
4 industrial areas; and,

5 WHEREAS, On April 8, 1999, the Planning Department issued its Zoning Options for
6 Industrial Land to address the issues and analyze the potential conflicts between live/work
7 and other types of development and to recommend certain actions aimed at balancing the
8 needs of live/work development and the industrial, manufacturing, tourist, maritime and
9 service sectors in order to protect the public health, safety and welfare; and,

10 WHEREAS, On April 22, 1999, the Planning Commission held a public hearing on the
11 Zoning Options Study, and four options for interim zoning controls; and,

12 WHEREAS, On May 13, 1999, after a public hearing, the Planning Commission
13 adopted Resolution 14825, which initiated imposition of the interim zoning controls; and,

14 WHEREAS, On August 5, 1999, after a public hearing, the Planning Commission
15 adopted Resolution 14861 imposing interim zoning controls for a period of eighteen months,
16 which created an IPZ where new live/work uses would not be permitted, a mixed-use housing
17 zone where live/work uses would be encouraged, and buffer zones where live/work uses
18 would require conditional use authorization; and,

19 WHEREAS, In the nineteen months since August 5, 1999 the Planning Commission
20 has failed to initiate or adopt permanent zoning controls in the industrial zones despite
21 Planning Code requirements that the Planning Department shall do a planning study and
22 propose permanent legislation during the pendency of the interim controls and make reports
23 at a public hearing at least every six months regarding the status of the permanent controls;
24 and,

25 WHEREAS, On November 2, 2000, after a public hearing, the Planning Commission

1 adopted Resolution 16020 extending the interim controls to August 4, 2001; and,

2 WHEREAS, Issues related to development in industrial areas have been raised by the
3 public during Planning Commission hearings since June 1997; and,

4 WHEREAS, Since January of 1997, when residents of the Mission District began
5 asking the Planning Commission to control live/work development because of the adverse
6 effects those projects were having on the District, the City has approved live/work projects in
7 the NEMIZ at an accelerating pace; and,

8 WHEREAS, Despite its policy against live/work development in the NEMIZ IPZ,
9 adopted in Resolution 13794, the Planning Commission has approved every live/work project
10 proposed in the NEMIZ IPZ for a total of 130 units; and,

11 WHEREAS, The Planning Department has approved 585 units of live/work in the non-
12 IPZ area of the NEMIZ; and,

13 WHEREAS, With the exception of Project Artaud, all of the live/work units in the
14 Mission District have been market-rate units with no affordable units; and,

15 WHEREAS, Construction of housing in the NEMIZ requires conditional use
16 authorization, setbacks and some inclusionary affordable units, but “artist live/work” is a
17 permitted use with no required setbacks or inclusionary affordable units; and,

18 WHEREAS, Construction of housing has not occurred in the NEMIZ because it is less
19 favored than “artist live/work” use, skewing the production of new housing to upper-income,
20 non-family, non-affordable housing in an area where low-income, family-housing
21 predominates; and,

22 WHEREAS, Construction of and conversion of other uses to office space has resulted
23 in hundreds of thousands of square feet of new office space in the NEMIZ, generally rented at
24 levels comparable to downtown office space; and,

25 WHEREAS, The amount of live/work and office space added to the NEMIZ has

1 resulted in the dislocation and removal of businesses, nonprofits, and arts organizations from
2 the Mission District; and,

3 WHEREAS, The Mission Street commercial corridor, zoned NC-3, has not been
4 reviewed for over a decade and needs evaluation as to appropriate zoning for large parcels to
5 ensure the appropriate mix of housing, community-serving businesses, nonprofit
6 organizations, arts activities, public uses, and commercial spaces; and,

7 WHEREAS, The Mission Street commercial corridor is an untapped resource for
8 transit-intensive, high-density housing, as well as commercial development; and,

9 WHEREAS, There remain few large lots on the Mission Street commercial corridor that
10 can be developed with significant affordable housing; and,

11 WHEREAS, Community-serving businesses, nonprofits, and arts organizations have
12 been increasingly displaced as office uses move from downtown to Mission Street; and,

13 WHEREAS, The neighborhood-serving pedestrian character of Valencia, Mission and
14 24th Streets have been compromised by an influx of information technology office
15 conversions, causing rising rents and evictions for long-time resident-serving businesses and
16 nonprofit organizations to make space for businesses which do not serve the general public;
17 and,

18 WHEREAS, The “business service” category has been used to introduce services like
19 “information technology” that provide no services to the general public; and,

20 WHEREAS, These changes of use have caused irreparable harm to the Mission
21 District business community, resulting in evictions from the Bayview Bank Building of over 25
22 nonprofit organizations, media, lawyers, accountants and others who have provided long-time
23 services to local residents; and,

24 WHEREAS, There was a 41% increase in average commercial lease rates in the
25 Mission District between 1997 and 1999; and,

1 WHEREAS, It is necessary to create a “community service” use category, which allows
2 nonprofits, arts activities and community-serving small businesses to be located where
3 commercial uses which do not provide direct services to Mission District residents may be
4 inappropriate; and,

5 WHEREAS, It is necessary to create an “information technology” category until the City
6 is able to revise the Planning Code language, which currently does not provide for such uses;
7 and,

8 WHEREAS, Housing units throughout commercially-zoned areas of the Mission District
9 have been eliminated through conversions to other uses, either for larger commercial or
10 residential spaces; and,

11 WHEREAS, Tourist hotels attract tourist-serving businesses in place of affordable
12 services for the residents and business community; and,

13 WHEREAS, In recent years, construction of lower-income housing in the Mission
14 District has fallen considerably short of demand; and,

15 WHEREAS, Lower-income households in the Mission District have become even more
16 overcrowded, face ever escalating rents, and are being forced to leave the City; and,

17 WHEREAS, The largest amount of new housing in the Mission District has been in
18 live/work units, which are not affordable, do not provide family housing, and occupy land
19 which will never be available for affordable housing; and,

20 WHEREAS, Most of the housing and all of the live/work units which have been recently
21 constructed in the Mission District have no affordable units because the projects are being
22 constructed in sizes just under the threshold that would trigger the requirement to provide
23 affordable units or as live/work which requires no affordability at all; and,

24 WHEREAS, The Board of Supervisors is currently proposing legislation to reduce the
25 inclusionary housing threshold and require inclusionary units in live/work projects; and,

1 WHEREAS, City Planning Code Section 306.7 authorizes the Board of Supervisors to
2 impose interim controls temporarily suspending the approval of permits and other land use
3 authorizations in conflict with a contemplated zoning proposal which the Board, the Planning
4 Commission, or the Department of Planning is considering or intends to study within a
5 reasonable period of time; and,

6 WHEREAS, Interim controls are authorized to control uses which are having an
7 adverse impact on areas of mixed residential and commercial uses in order to preserve the
8 existing character of such neighborhoods and areas; and,

9 WHEREAS, Interim controls are authorized to conserve the commerce and industry of
10 the City in order to maintain the economic vitality of the City, to provide its citizens with
11 adequate jobs and business opportunities, and to maintain adequate services for its residents,
12 visitors, businesses, and institutions; and,

13 WHEREAS, The Board of Supervisors finds that these interim controls are necessary
14 in order to direct office development into the Downtown core where there is transit capacity, to
15 protect residential and mixed-use areas of the City where office developments are
16 proliferating, and to prevent displacement of other viable economic uses which provide
17 needed services and employment to San Francisco residents until the Department of City
18 Planning can complete studies of appropriate General Plan, Zoning Map, and Planning Code
19 amendments for these areas; and,

20 WHEREAS, The Board of Supervisors finds that these interim controls enhance and
21 are consistent with the purpose of the Planning Code as set forth in Section 101 and with the
22 Priority Policies of Planning Code Section 101.1 in that: (a) they conserve and protect existing
23 housing and neighborhood character (Policies 2 and 3) by prohibiting the conversion and
24 demolition of residential uses and by prohibiting or requiring conditional use for certain large
25 non-retail uses; (b) they maintain a diverse economic base by protecting the City's industrial

1 and service sectors from displacement due to commercial office development (Policy 5); and
2 (c) they have no impact on existing neighborhood-serving retail uses or resident employment
3 (Policy 1), commuter traffic or transit service (Policy 4), earthquake preparedness (Policy 6),
4 landmarks and historic buildings (Policy 7), or parks and open space (Policy 8); and,

5 WHEREAS, The Board of Supervisors is authorized by Planning Code Section 306.7(c)
6 to initiate the procedure for imposing interim controls by a resolution adopted by majority vote;
7 now, therefore, be it

8 RESOLVED, That the interim controls set forth below are hereby imposed on all
9 property within the defined sub-areas. No City agency, board, commission, officer, or
10 employee may approve any demolition permit, site permit, building permit, grading permit,
11 conditional use authorization, or any other land use entitlement inconsistent with the following
12 controls for as long as they are in effect:

13 (a) **The Mission District in the Area Bounded by Guerrero Street, Cesar**
14 **Chavez Street, Potrero Avenue, and the Central Freeway.**

15 (i) New tourist hotels are not permitted unless such hotels contain 9 or more single
16 room occupancy rooms or apartments for rent of which at least 40% will be rented at below
17 market rates under Mayor's Office of Housing Guidelines, and contain at least 1000 gross
18 square feet of Administrative Services Space devoted to a non-profit tenant at a below market
19 rental rate.

20 (ii) Any demolition of a residential use is prohibited, except to construct an
21 "affordable housing, including group housing, and residential care facilities, that are
22 "affordable to qualifying households," as defined in Planning Code Section 313.1, for a
23 continuous 50 year period, as provided in affordability restrictions set forth in a Notice of
24 Special Restrictions or similar instrument to be recorded in the official records of San
25

1 Francisco County. Any housing constructed under this Subsection (ii) will be subject to the
2 monitoring and enforcement provisions of Planning Code Sections 315.6 and 315.7.

3 (iii) For any change of use, whether or not it is considered a change of use under
4 the Building Code, a discretionary review hearing by the Planning Commission and posting of
5 a sign on the property in compliance with the requirements of Planning Code Section 306.8
6 are mandatory.

7 (iv) All new market-rate housing projects or conversions of existing residential uses
8 to market-rate housing shall require conditional use authorization, unless a new market rate
9 housing project contains 10 or more group housing units, and contains 9 or more single room
10 occupancy rooms or apartments of which at least 40% will be rented at below market rates
11 under Mayor's Office of Housing Guidelines.

12 (v) The following shall be a principal permitted use:

13 (A) projects where at least 25% of the units are "affordable to qualifying
14 households," as defined in Planning Code Section 313.1, earning no more than 60% of the
15 area median income (AMI) for a continuous 50 year period, as provided in affordability
16 restrictions set forth in a Notice of Special Restrictions or similar instrument to be recorded in
17 the official records of San Francisco County, which provides in each case that the project is
18 subject to the monitoring and enforcement provisions of Planning Code Sections 315.6 and
19 315.7;

20 (B) senior housing projects in which all units are "affordable to a household," as
21 defined in Planning Code Section 313.1, earning no more than 60% of the AMI for a
22 continuous 50 year period, as provided in affordability restrictions set forth in a Notice of
23 Special Restrictions or similar instrument to be recorded in the official records of San
24 Francisco County, which provides in each case that the project is subject to the monitoring
25 and enforcement provisions of Planning Code Sections 315.6 and 315.7;

1 (C) limited equity cooperative projects; and

2 (D) community land trust.

3 (vi) In areas zoned M-1 and M-2, no office use (which includes an “information
4 technology” use) in excess of 1,500 gross square feet is permitted.

5 (vii) In areas zoned C-1, C-2, C-3-0, C-3-R, C-3-G, C-3-S, and C-M, a utility
6 installation as defined in Planning Code Section 209.6(b) shall require a conditional use
7 authorization.

8 (b) **Valencia Street Neighborhood Commercial District.** The Zoning Control
9 Table in Planning Code Section 726 is modified as follows:

10 (i) Section 726.21, Use Size [Non-residential], is modified to permit use sizes up to
11 2,000 square feet as a principal use and to require use sizes above 2,000 square feet to
12 obtain a conditional use authorization.

13 (ii) Section 726.38, Residential Conversion, is modified to prohibit conversion of a
14 residential use on all stories.

15 (iii) Section 726.39, Residential Demolition, is modified to prohibit demolition of a
16 residential use on all stories.

17 (iv) Section 726.53, Business or Professional Service, is modified to permit as a
18 principal use on the 1st story a “community service” use (as defined in these interim controls)
19 of any square footage, to allow on the 1st story a business or professional service that is not a
20 community service use of up to 2,000 square feet as a principal permitted use and of more
21 than 2,000 square feet as a conditional use.

22 (v) Section 726.55, Tourist Hotel, is modified to prohibit a tourist hotel use on all
23 stories.

24 (vi) An “information technology” use (as defined in these interim controls) is
25 prohibited on all stories.

1 (c) **24th Street – Mission Neighborhood Commercial District.** The Zoning
2 Control Table in Planning Code Section 727 is modified as follows:

3 (i) Section 727.38, Residential Conversion, is modified to prohibit conversion of a
4 residential use on all stories.

5 (ii) Section 727.39, Residential Demolition, is modified to prohibit demolition of a
6 residential use on all stories.

7 (iii) Section 727.53, Business or Professional Service, is modified to permit as a
8 principal use on the 1st story a “community service” use (as defined in these interim controls)
9 of any square footage, to allow on the 1st story a business or professional service that is not a
10 community service use of up to 2,000 square feet as a principal permitted use and of more
11 than 2,000 square feet as a conditional use.

12 (iv) An “information technology” use (as defined in these interim controls) is
13 prohibited on all stories.

14 (d) **Mission Street from 15th Street to Cesar Chavez Street Zoned NC-3.** The
15 NC-3 Zoning Control Table in Planning Code Section 712 is modified as follows:

16 (i) Section 712.21, Use Size [Non-residential], is modified to permit use sizes up to
17 2,999 square feet as a principal use and to require use sizes above 2,999 square feet to
18 obtain a conditional use authorization, except buildings above 2,999 square feet that contain
19 at least 1000 gross square feet of Administrative Service Space rented to a non-profit
20 organization at a below market rate, and contain 9 or more new SRO rooms or apartments
21 and at least 10 units of group housing shall be permitted as a principal use.

22 (ii) Section 712.38, Residential Conversion, is modified to prohibit conversion of a
23 residential use on all stories.

24 (iii) Section 712.39, Residential Demolition, is modified to prohibit demolition of a
25 residential use on all stories.

1 (iv) Section 712.70, Administrative Service, is modified to prohibit an administrative
2 service use on all stories unless it is a “community service” use (as defined in these interim
3 controls); provided, however, that if at least 1000 gross square feet of the Administrative
4 Service use is rented to a non-profit organization at a below market rate rent, such prohibition
5 shall not apply. A community service use is permitted as a principal use on all stories.

6 (v) An “information technology” use (as defined in these interim controls) is
7 prohibited on the 1st and 2nd stories and is permitted as a principal use on the 3rd story and
8 above.

9 (vi) All lots over 40,000 square feet require a conditional use authorization for all
10 uses.

11 (e) **Northeast Mission Industrial Zone (NEMIZ).** In the area defined as the
12 Northeast Mission Industrial Zone (NEMIZ) in Planning Commission Resolution 13794:

13 (i) no office use (which includes an “information technology” use) in excess of
14 1,500 gross square feet is permitted unless it is a “community service” use (as defined in
15 these interim controls);

16 (ii) all conversions of “live/work,” as defined in Planning Code Section 233, to an
17 office use are prohibited; and

18 (iii) all new “live/work” projects are prohibited.

19 FURTHER RESOLVED, That for the purpose of these interim controls, the term
20 “Community service” shall mean “a nonretail use which includes executive, technical,
21 management, clerical, and administrative support for the provision of social, health, housing,
22 employment, legal, cultural, or arts services to the general public, principally to persons of
23 who earn 60% of the Area Mean Income (AMI); and be it

24 FURTHER RESOLVED, That for the purpose of these interim controls, the term
25 “Information technology” shall mean “space within a structure intended or primarily suitable for

1 occupancy by persons who perform for their own benefit or provide to others at that location
2 multimedia, software development, web design, electronic commerce, research and
3 technology and other computer-based technology, either to the general public or to the
4 business community”; and be it

5 FURTHER RESOLVED, That for the purpose of these interim controls, “information
6 technology” shall be considered an office use; and be it

7 FURTHER RESOLVED, That these controls shall remain in effect for a period of twelve
8 months unless extended by the Board; and be it

9 FURTHER RESOLVED, That when permanent controls are enacted for the specific
10 sub-areas set forth above, the interim controls shall no longer be in effect for that sub-area.
11 APPROVED AS TO FORM

12 LOUISE H. RENNE
13 City Attorney

14 By _____
15 L. Joanne Sakai
16 Deputy City Attorney

17
18
19
20
21
22
23
24
25