

1 [Interim Zoning Controls - Specific Formula Retail Uses on Market Street, from 6th Street to
2 Van Ness Avenue]

3 **Resolution imposing interim zoning controls requiring conditional use authorization for**
4 **formula retail uses, as defined, on Market Street, from 6th Street to Van Ness Avenue,**
5 **subject to specified exceptions, for eighteen months; and making findings, including**
6 **findings of consistency with the priority policies of Planning Code, Section 101.1, and**
7 **environmental findings.**

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9 WHEREAS, Planning Code Section 306.7 provides for the imposition of interim zoning
10 controls to accomplish several objectives, including preservation of residential and mixed
11 residential and commercial areas in order to preserve the existing character of such
12 neighborhoods and areas, and development and conservation of the commerce and industry
13 of the City in order to maintain the economic vitality of the City, to provide its citizens with
14 adequate jobs and business opportunities, and to maintain adequate services for its residents,
15 visitors, businesses and institutions; and

16 WHEREAS, In April 2004, the City adopted Planning Code Section 703.3, which
17 defined a formula retail use and either permitted it, authorized it as a conditional use, or
18 prohibited it in various areas of the city. In adopting Section 703.3, this Board found that the
19 increase in formula retail stores in San Francisco had a number of undesirable effects,
20 including hampering the City's goal of a diverse retail base, with distinct neighborhood
21 retailing personalities, which form the base for the City's diverse and distinct neighborhoods;
22 and

23 WHEREAS, San Francisco needs to promote its vibrant small business sector and
24 create a supportive environment for new small business innovations. One of the eight Priority
25 Policies of the City's General Plan resolves that "existing neighborhood-serving retail uses be

1 preserved and enhanced and future opportunities for resident employment in and ownership
2 of such businesses enhanced;” and

3 WHEREAS, Retail uses are the land uses most critical to the success of the City’s
4 commercial districts; and

5 WHEREAS, In January 2010, the Mayor’s Office of Economic and Workforce
6 Development launched the Central Market Partnership, a public/private initiative to renew and
7 coordinate efforts to revitalize the Central Market neighborhood; and

8 WHEREAS, In November 2011, the Mayor released the Central Market Economic
9 Strategy, which has as Objective 1 the goal to stabilize the existing community and as
10 Objective 4 the desire to reduce vacancies; and

11 WHEREAS, With over 3,100 new residential units in the development pipeline, eleven
12 new technology companies, a food emporium and thousands of employees moving to the
13 Mid-Market corridor, the success of this rapidly growing neighborhood is tied to its ability to
14 maintain diverse small businesses which contribute to its character and vibrancy; and

15 WHEREAS, As the City continues to attract new businesses to this emerging retail
16 corridor, there is a desire to preserve and attract neighborhood retail that is in keeping with
17 the character of this historic area; and

18 WHERAS, Formula retail businesses can have a competitive advantage over
19 independent businesses, because they are typically better capitalized and can absorb larger
20 startup costs, pay more for lease space, and commit to longer lease contracts. This can put
21 pressure on existing businesses and potentially price out new startup independent
22 businesses, nonprofit organizations and arts organizations in an area where one of the
23 guiding principles is to prevent displacement of existing residents and businesses; and

24 WHEREAS, In the Central Market area there are already ten formula retail fast food
25 establishments and two formula retail pharmacies. If not monitored and regulated, additional

1 formula retail may hamper the City's goal of a diverse retail base with distinct neighborhood
2 retailing personalities comprised of a mix of businesses. Specifically, the unregulated and
3 unmonitored establishment of additional formula retail uses may unduly limit or eliminate
4 business establishment opportunities for smaller or medium-sized businesses, many of which
5 tend to be non-traditional or unique; and

6 WHEREAS, Allowing unregulated formula retail uses in the Central Market area needs
7 further study. These interim controls on formula retail uses on Market Street, from 6th Street
8 to Van Ness Avenue, will allow City to examine the cost and benefits of allowing formula retail
9 as this area is being promoted for business attraction and revitalization; and

10 WHEREAS, These interim controls are intended and designed to deal with and
11 ameliorate the problems and conditions associated with the proliferation and high
12 concentration of formula retail uses on Market Street, from 6th Street to Van Ness Avenue, by
13 requiring conditional use authorization for such establishments uses during the next year; and

14 WHEREAS, This Board has considered the impact on the public health, safety, peace,
15 and general welfare if the interim controls proposed herein were not imposed; and

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

20 WHEREAS, The Planning Department has determined that the actions contemplated in
21 this Resolution are in compliance with the California Environmental Quality Act (California
22 Public Resources Code Section 21000 et. seq.). Said determination is on file with the Clerk of
23 the Board of Supervisors in File No. 130712 and is incorporated herein by reference; now,
24 therefore, be it

1 RESOLVED, Pursuant to Planning Code Section 306.7, the Board of Supervisors, by
2 this resolution, hereby prohibits any City agency, board, commission, officer or employee from
3 approving any site permit, building permit or any other permit or license authorizing the
4 establishment of any formula retail uses, as defined herein, unless the action would conform
5 both to the existing provisions of the Planning Code and this resolution imposing interim
6 controls; and, be it

7 FURTHER RESOLVED, That for the purpose of these interim controls “formula retail
8 uses” shall be defined as set forth in Section 703.3 of the Planning Code; and, be it

9 FURTHER RESOLVED, That as of the effective date of this Resolution, the
10 establishment of any new formula retail establishments with frontage on Market Street,
11 between 6th Street and Van Ness Avenue that are also a) financial services, as defined in
12 Section 790.110; b) fringe financial services, as defined in Section 790.111; c) restaurants, as
13 defined in Section 790.91; d) limited restaurants, as defined in Section 790.90; or e)
14 pharmacies, as defined in Section 790.102(c, shall be subject to a conditional use
15 authorization; and, be it

16 FURTHER RESOLVED, That any use lawfully existing prior to the effective date of this
17 interim controls is exempt from these interim controls, unless such enterprise ceases to
18 operate or discontinues operation for ninety (90) days or longer, in which event the use shall
19 be deemed abandoned; and, be it

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1 FURTHER RESOLVED, That for purposes of these interim controls, the Planning
2 Commission shall use the conditional use criteria established in Planning Code Section
3 303(i)(3); and, be it

4 FURTHER RESOLVED, That for purposes of these interim controls, the Planning
5 Commission shall consider, in addition to the criteria listed in Planning Code Section 303(i)(3),
6 the economic and fiscal impact of the proposed formula retail use in the area. To this effect,
7 the applicant shall provide the Planning Department as part of its conditional use application a
8 complete economic impact analysis of the proposed use, prepared by an independent
9 licensed professional; and, be it

10 FURTHER RESOLVED, That these interim controls shall remain in effect for eighteen
11 months from the effective date of this legislation, or until the adoption of permanent legislation
12 regulating formula retail, as defined herein, on Market Street, from 6th Street to Van Ness
13 Avenue, whichever first occurs; and, be it

14 FURTHER RESOLVED, That these interim zoning controls advance and are consistent
15 with Priority Policies the Planning Code Section 101.1, particularly Policies 1 and 2, in that
16 they attempt to preserve and enhance the character and vitality of one of the City's
17 neighborhoods. With respect to Priority Policies 3, 4, 5, 6, 7, and 8, the Board finds that these
18 interim zoning controls do not, at this time, have an effect upon these policies, and thus, will
19 not conflict with said policies.

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

22 By: _____
23 ANDREA RUIZ-ESQUIDE
24 Deputy City Attorney

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