

File No. 101464

Committee Item No. \_\_\_\_\_  
Board Item No. 10

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date 2/15/11

#### Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/>            | Resolution                                   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Budget Analyst Report                        |
| <input type="checkbox"/> | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/> | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input type="checkbox"/> | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/> | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/> | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/> | <input type="checkbox"/>            | Contract/Agreement                           |
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#### OTHER

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Amendment of the Whole in 2/8/11 Meeting

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Completed by: Rana Calonsag

Completed by: \_\_\_\_\_

Date 2/9/11

Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.



[Zoning – Amendment of Upper Market Neighborhood Commercial District; Extension of Market and Octavia Impact Fees Area; Exemption of Certain Projects from Payment of Fee]

Ordinance amending the San Francisco Planning Code by amending Sections 134, 145.4, 151.1, 155, 207.7, 207.8, 263.20, 401, 416, 416.3, 416.5, 421.1, 421.3, 421.5, 721, and 721.1 to amend the Upper Market Street Neighborhood Commercial District and to extend the Market and Octavia impact fees area to include the portion of the Upper Market Street Neighborhood Commercial District lying outside the Market and Octavia Plan area; grandfathering certain pipeline projects from the new controls and payment of the infrastructure fee; and adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

NOTE: Additions are single-underline italics Times New Roman;  
deletions are ~~strike through italics Times New Roman~~.  
Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough-normal~~.

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

Section 1. General Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 101464 and is incorporated herein by reference.

(b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18220 and the Board incorporates

1 such reasons herein by reference. A copy of Planning Commission Resolution No.

2 18220 is on file with the Board of Supervisors in File No. 101464.

3 (c) This Board finds that these Planning Code amendments are consistent with the  
4 General Plan and with the priority policies of Planning Code Section 101.1 for the reasons set  
5 forth in Planning Commission Resolution No. 18220, and the Board hereby  
6 incorporates such reasons herein by reference.

7 Section 2. Findings Required by AB 1600 (California Government Code Section 66000  
8 et seq.)

9 (1) The application of the Market and Octavia Community Infrastructure Fee to the  
10 Upper Market Neighborhood Commercial District (Upper Market NCD) is consistent with the  
11 requirements of AB 1600, the legislation that enables the City to levy development impact  
12 fees to fund infrastructure to support new growth.

13 (2) The Planning Code controls proposed by this legislation require commercial  
14 ground floor development with residential development above in the Upper Market NCD.  
15 Relief from parking requirements and access to public transportation in this district encourage  
16 more transit oriented development similar to the development called for in the Market and  
17 Octavia Plan. Accordingly, the analysis completed in support of the Market and Octavia  
18 Community Infrastructure Impact Fee (Section 421 et seq. of this Code), which establishes a  
19 nexus between new residential and non-residential development and the demand for  
20 additional community improvements (transportation, open space, pedestrian amenities,  
21 childcare, library services, and other public amenities), also applies to the Upper Market NCD.  
22 New Development in the Upper Market NCD, which includes the north and south side of  
23 Market Street between Noe Street and Castro Street would place an equivalent demand for  
24 community improvements.  
25

1           (3)    The Market and Octavia Community Infrastructure Fee is intended to offset the  
2 demands of new development in the Upper Market NCD.

3           (4)    The development impact fees collected on new development in the Upper  
4 Market NCD will be deposited into the Market and Octavia Community Improvements Fund  
5 pursuant to Section 421.5 of this Code. Monies from this fund will be expended on necessary  
6 community improvements in the district or Market and Octavia Plan Area including  
7 transportation amenities, open space, library materials, childcare facilities, recreational  
8 facilities, or greening, as described in Section 421.5 of this Code.

9           (5)    As detailed in Section 421.1 of this Code, new development will clearly generate  
10 new infrastructure demands. To fund such community infrastructure and amenities, new  
11 development in the district shall be assessed development impact fees proportionate to the  
12 increased demand for such infrastructure and amenities. The City will use the proceeds of the  
13 fee to build new infrastructure and enhance existing infrastructure. A Community  
14 Infrastructure Impact Fee shall be established for the Upper Market Neighborhood  
15 Commercial District as described in Section 421.1 of this Code.

16           Development impact fees are an effective approach to achieve neighborhood  
17 mitigations and associate the costs with new residents, workers, and a new kind of  
18 development. The proposed application of the Market and Octavia Community Infrastructure  
19 Fee in the Upper Market NCD would be dedicated to infrastructure improvements in the Plan  
20 Area and the Upper Market NCD; directing benefits of the fund clearly to those who pay into  
21 the fund, by providing the infrastructure improvements needed to serve new development.  
22 The net increases in individual property values in these areas due to the enhanced  
23 neighborhood amenities financed with the proceeds of the fee are expected to exceed the  
24 payments of fees by project sponsors.

1 The fee rate has been calculated by the Planning Department based on accepted  
2 professional methods for the calculation of such fees. The Market and Octavia Community  
3 Improvements Program Document contains a full discussion of impact fee calculation. Cost  
4 estimates are based on an assessment of the potential cost to the City of providing the  
5 specific improvements described in the Market and Octavia Plan Area. The Department  
6 assigned a weighted value to new construction based on projected population increases in  
7 relation to the total population.

8 The addition of the Upper Market NCD to the fee area adds roughly 50 parcels to the  
9 "Market and Octavia Program Area" (47 map block lots). Any new development in this district  
10 would include a consistent increase in the demand for new community improvements  
11 including transportation improvements in the district, additional demands on recreation and  
12 open space amenities, and incremental demand for childcare and library services.

13 The proposed fee would cover less than 80 percent of the estimated costs of the  
14 community improvements calculated as necessary to mitigate the impacts of new  
15 development. By charging developers less than the maximum amount of the justified impact  
16 fee, the City avoids any need to refund money to developers if the fees collected exceed  
17 costs. The proposed fees only cover impacts caused by new development and are not  
18 intended to remedy existing deficiencies; those costs will be paid for by public, community,  
19 and other private sources.

20 Section 3. The San Francisco Planning Code is hereby amended by amending  
21 Sections 134, 145.4, 151.1, 155, 207.7, 207.8, 263.20, 401, 416, 416.3, 416.5, 421.1, 421.3,  
22 421.5, 721, and 721.1, to read as follows:

23 SEC. 134. REAR YARDS, R, NC, C, SPD, M, MUG, MUO, MUR, UMU, RSD, SLR,  
24 SLI AND SSO DISTRICTS.

25 The rear yard requirements established by this Section 134 shall apply to every

1 building in an R, NC-1, NC-2 District or Individual Neighborhood Commercial District as noted  
2 in Subsection (a), except those buildings which contain only single room occupancy (SRO) or  
3 live/work units and except in the Bernal Heights Special Use District and Residential  
4 Character Districts to the extent these provisions are inconsistent with the requirements set  
5 forth in Section 242 of this Code. With the exception of dwellings in the South of Market Mixed  
6 Use and Eastern Neighborhoods Mixed Use Districts containing only SRO units, the rear yard  
7 requirements of this Section 134 shall also apply to every dwelling in a(n) MUG, MUO, MUR,  
8 UMU, SPD, RSD, SLR, SLI, SSO, NC-2, NCT-1, NCT-2, NC-3, NCT-3, Individual Area  
9 Neighborhood Commercial Transit District, Individual Neighborhood Commercial District as  
10 noted in Subsection (a), C or M District. Rear yards shall not be required in NC-S Districts.  
11 These requirements are intended to assure the protection and continuation of established  
12 midblock, landscaped open spaces, and maintenance of a scale of development appropriate  
13 to each district, consistent with the location of adjacent buildings.

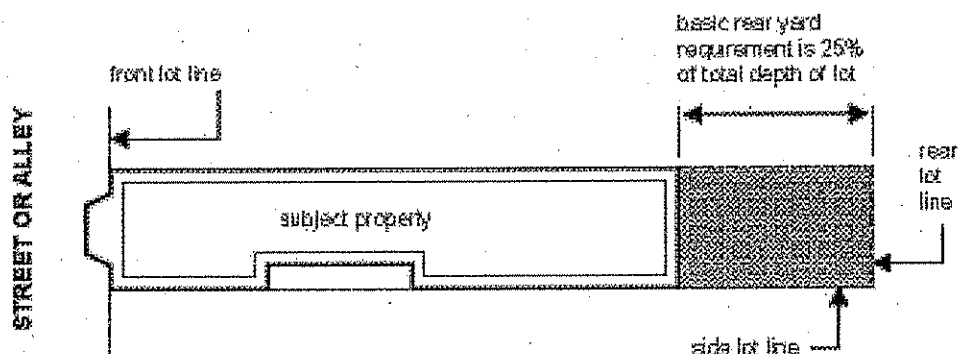
14 (a) Basic Requirements. The basic rear yard requirements shall be as follows for  
15 the districts indicated:

16 (1) RH-1(D), RH-1, RH-1(S), RM-3, RM-4, RC-1, RC-2, RC-3, RC-4, NC, C, M,  
17 MUG, MUO, MUR, UMU, RED, SPD, RSD, SLR, SLI and SSO Districts. The minimum rear  
18 yard depth shall be equal to 25 percent of the total depth of the lot on which the building is  
19 situated, but in no case less than 15 feet. For buildings containing only SRO units in the South  
20 of Market Mixed Use and Eastern Neighborhoods Mixed Use Districts, the minimum rear yard  
21 depth shall be equal to 25 percent of the total depth of the lot on which the building is situated,  
22 but the required rear yard of SRO buildings not exceeding a height of 65 feet shall be reduced  
23 in specific situations as described in Subsection (c) below.

24 (A) RH-1(D), RH-1, RH-1(S), RM-3, RM-4, RC-1, NC-1, NCT-1, Inner Sunset, Outer  
25 Clement Street, Haight Street, Sacramento Street, 24th Street-Noe Valley, and West Portal

1 Avenue Districts. Rear yards shall be provided at grade level and at each succeeding level or  
2 story of the building.

3 (B) NC-2, NCT-2, Ocean Avenue, Castro Street, Inner Clement Street, Upper  
4 Fillmore Street, North Beach, Union Street, Valencia Street, 24th Street-Mission Districts.  
5 Rear yards shall be provided at the second story, and at each succeeding story of the  
6 building, and at the first story if it contains a dwelling unit.



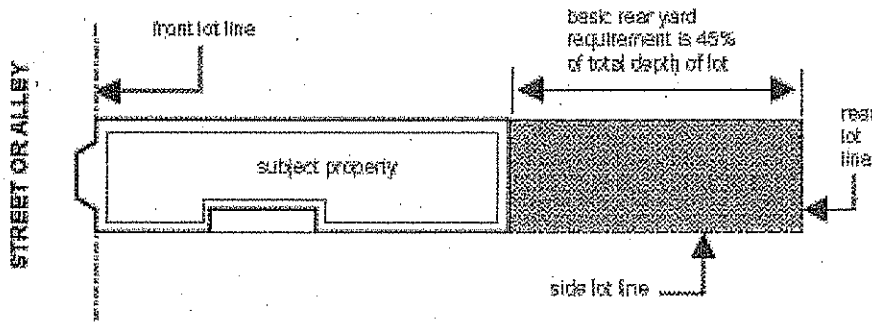
14 (C) RC-2, RC-3, RC-4, NC-3, NCT-3, Broadway, Hayes-Gough, Upper Market  
15 Street, SoMa, Mission Street, Polk Street, C, M, RED, SPD, RSD, SLR, SLI, SSO, MUR,  
16 MUG, MUO, and UMU Districts. Rear yards shall be provided at the lowest story containing a  
17 dwelling unit, and at each succeeding level or story of the building

18 (D) Upper Market NCT and Upper Market NCD. Rear yards shall be provided at the  
19 grade level, and at each succeeding story of the building. For buildings in the Upper Market  
20 NCT that do not contain residential uses and that do not abut adjacent lots with an existing  
21 pattern of rear yards or mid-block open space, the Zoning Administrator may waive or reduce  
22 this rear yard requirement pursuant to the procedures of subsection (e).

23 (2) RH-2, RH-3, RTO, RTO-M, RM-1 and RM-2 Districts. The minimum rear yard  
24 depth shall be equal to 45 percent of the total depth of the lot on which the building is situated,  
25 except to the extent that a reduction in this requirement is permitted by Subsection (c) below.



1 Rear yards shall be provided at grade level and at each succeeding level or story of the  
2 building.



9 (b) Permitted Obstructions. Only those obstructions specified in Section 136 of this  
10 Code shall be permitted in a required rear yard, and no other obstruction shall be constructed,  
11 placed or maintained within any such yard. No motor vehicle, trailer, boat or other vehicle  
12 shall be parked or stored within any such yard, except as specified in Section 136.

13 (c) Reduction of Requirements in RH-2, RH-3, RTO, RTO-M, RM-1 and RM-2  
14 Districts. The rear yard requirement stated in Paragraph (a)(2) above, for RH-2, RH-3, RTO,  
15 RTO-M, RM-1 and RM-2 Districts, and as stated in Paragraph (a)(1) above, for single room  
16 occupancy buildings located in either the South of Market Mixed Use or Eastern  
17 Neighborhoods Mixed Use Districts not exceeding a height of 65 feet, shall be reduced in  
18 specific situations as described in this Subsection (c), based upon conditions on adjacent lots.  
19 Except for those SRO buildings referenced above in this paragraph whose rear yard can be  
20 reduced in the circumstances described in Subsection (c) to a 15-foot minimum, under no  
21 circumstances, shall the minimum rear yard be thus reduced to less than a depth equal to 25  
22 percent of the total depth of the lot on which the building is situated, or to less than 15 feet,  
23 whichever is greater.

24 (1) General Rule. In such districts, the forward edge of the required rear yard shall  
25 be reduced to a line on the subject lot, parallel to the rear lot line of such lot, which is an

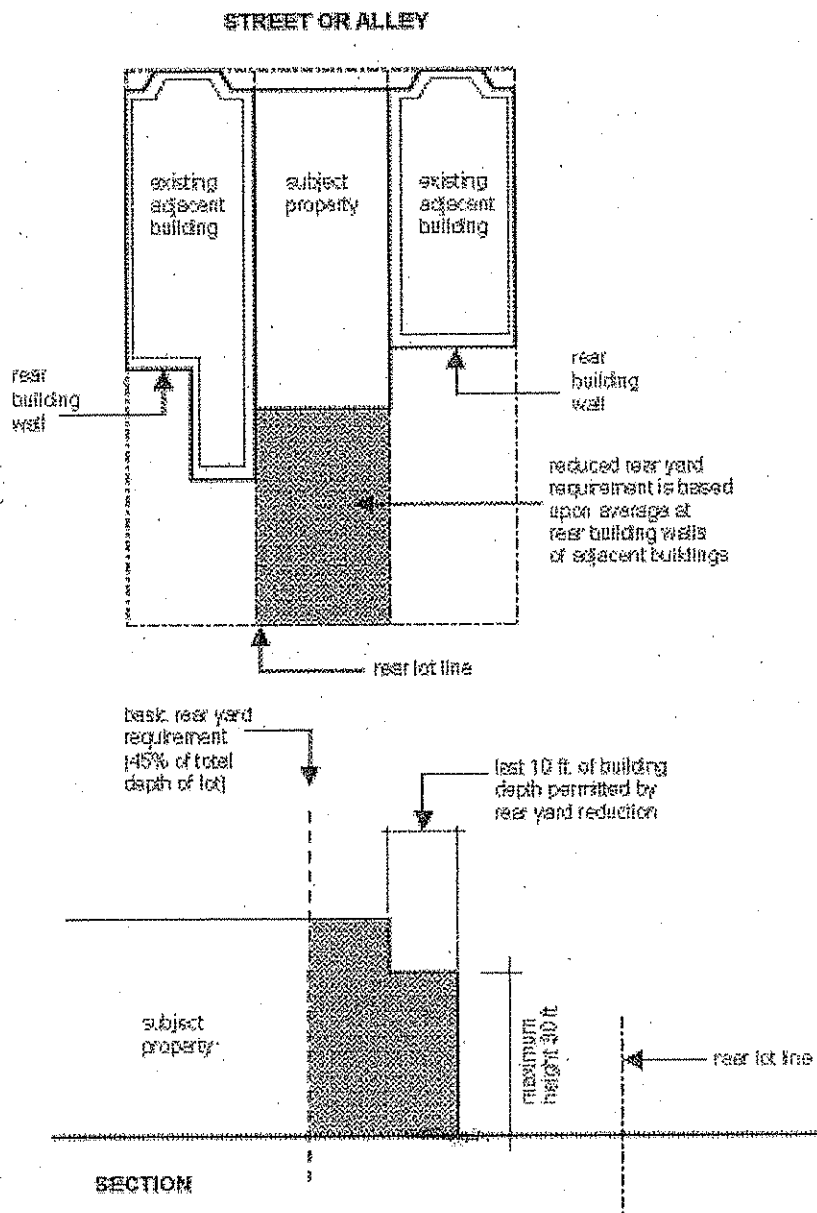
1 average between the depths of the rear building walls of the two adjacent buildings. Except for  
2 single room occupancy buildings in the South of Market Mixed Use Districts, in any case in  
3 which a rear yard requirement is thus reduced, the last 10 feet of building depth thus  
4 permitted on the subject lot shall be limited to a height of 30 feet, measured as prescribed by  
5 Section 260 of this Code, or to such lesser height as may be established by Section 261 of  
6 this Code.

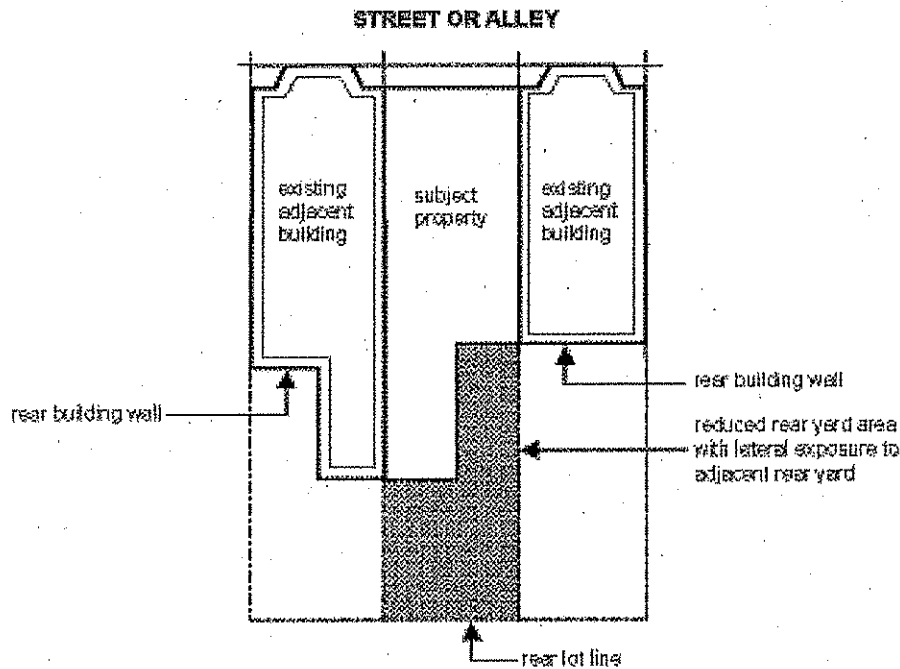
7 (2) Alternative Method of Averaging. If, under the rule stated in Paragraph (c)(1)  
8 above, a reduction in the required rear yard is permitted, the reduction may alternatively be  
9 averaged in an irregular manner; provided that the area of the resulting reduction shall be no  
10 more than the product of the width of the subject lot along the line established by Paragraph  
11 (c)(1) above times the reduction in depth of rear yard permitted by Paragraph (c)(1); and  
12 provided further that all portions of the open area on the part of the lot to which the rear yard  
13 reduction applies shall be directly exposed laterally to the open area behind the adjacent  
14 building having the lesser depth of its rear building wall.

15 (3) Method of Measurement. For purposes of this Subsection (c), an "adjacent  
16 building" shall mean a building on a lot adjoining the subject lot along a side lot line. In all  
17 cases the location of the rear building wall of an adjacent building shall be taken as the line of  
18 greatest depth of any portion of the adjacent building which occupies at least  $\frac{1}{2}$  the width  
19 between the side lot lines of the lot on which such adjacent building is located, and which has  
20 a height of at least 20 feet above grade, or two stories, whichever is less, excluding all  
21 permitted obstructions listed for rear yards in Section 136 of this Code. Where a lot adjoining  
22 the subject lot is vacant, or contains no dwelling or group housing structure, or is located in an  
23 RH-1(D), RH-1, RH-1(S), RM-3, RM-4, RC, RED, SPD, RSD, SLR, SLI, SSO, NC, C, M or P  
24 District, such adjoining lot shall, for purposes of the calculations in this Subsection (c), be  
25 considered to have an adjacent building upon it whose rear building wall is at a depth equal to

75 percent of the total depth of the subject lot.

(4) Applicability to Special Lot Situations. In the following special lot situations, the general rule stated in Paragraph (c)(1) above shall be applied as provided in this Paragraph (c)(4), and the required rear yard shall be reduced if conditions on the adjacent lot or lots so indicate and if all other requirements of this Section 134 are met.



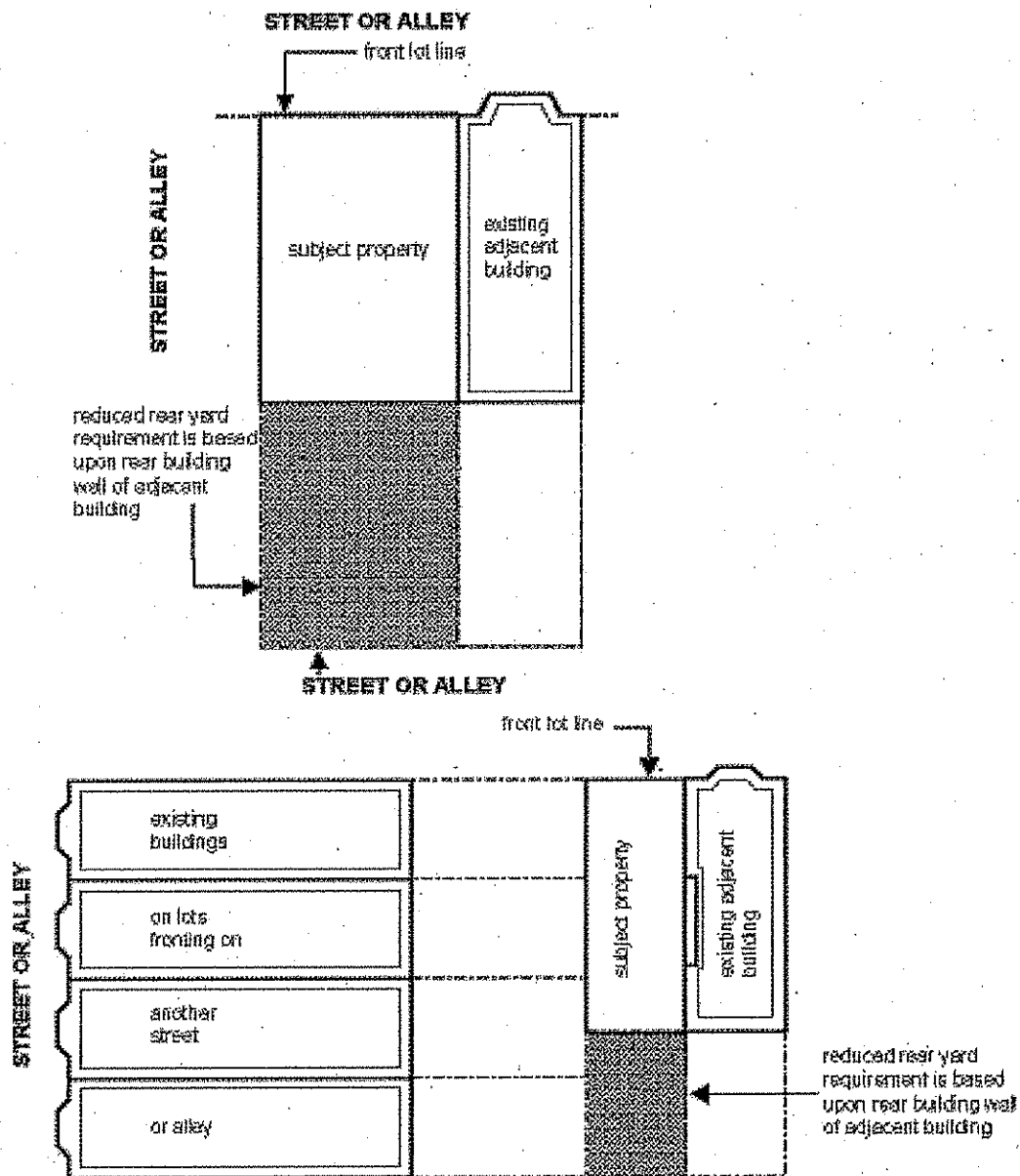


(A) Corner Lots and Lots at Alley Intersections. On a corner lot as defined by this Code, or a lot at the intersection of a street and an alley or two alleys, the forward edge of the required rear yard shall be reduced to a line on the subject lot which is at the depth of the rear building wall of the one adjacent building.

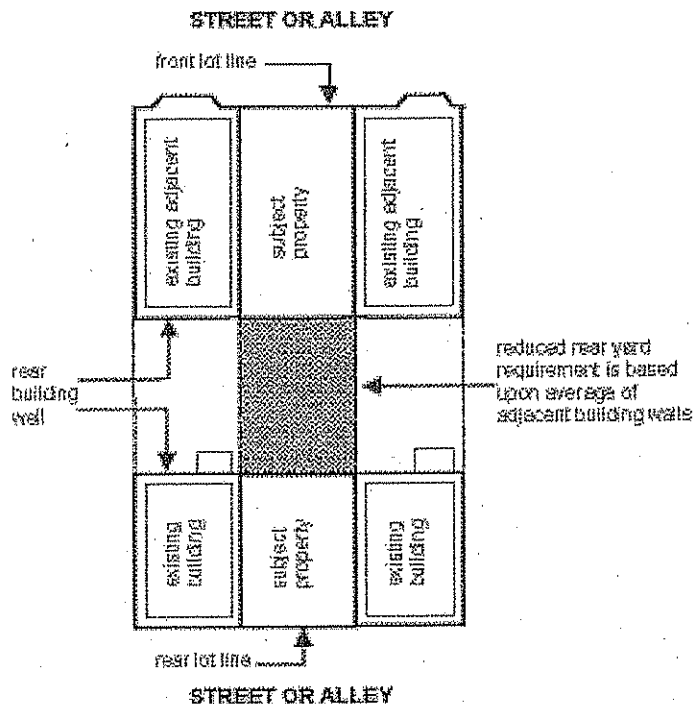
(B) Lots Abutting Properties with Buildings that Front on Another Street or Alley. In the case of any lot that abuts along one of its side lot lines upon a lot with a building that fronts on another street or alley, the lot on which it so abuts shall be disregarded, and the forward edge of the required rear yard shall be reduced to a line on the subject lot which is at the depth of the rear building wall of the one adjacent building fronting on the same street or alley. In the case of any lot that abuts along both its side lot lines upon lots with buildings that front on another street or alley, both lots on which it so abuts shall be disregarded, and the minimum rear yard depth for the subject lot shall be equal to 25 percent of the total depth of the subject lot, or 15 feet, whichever is greater.

(C) Through Lots Abutting Properties that Contain Two Buildings. Where a lot is a

1 through lot having both its front and its rear lot line along streets, alleys, or a street and an  
2 alley, and both adjoining lots are also through lots, each containing two dwellings or group  
3 housing structures that front at opposite ends of the lot, the subject through lot may also have  
4 two buildings according to such established pattern, each fronting at one end of the lot,  
5 provided all the other requirements of this Code are met. In such cases the rear yard required  
6 by this Section 134 for the subject lot shall be located in the central portion of the lot, between  
7 the two buildings on such lot, and the depth of the rear wall of each building from the street or  
8 alley on which it fronts shall be established by the average of the depths of the rear building  
9 walls of the adjacent buildings fronting on that street or alley. In no case, however, shall the  
10 total minimum rear yard for the subject lot be thus reduced to less than a depth equal to 25  
11 percent of the total depth of the subject lot, or to less than 15 feet, whichever is greater.  
12 Furthermore, in all cases in which this Subparagraph (c)(4)(C) is applied, the requirements of  
13 Section 132 of this Code for front setback areas shall be applicable along both street or alley  
14 frontages of the subject through lot.



(d) Reduction of Requirements in C-3 Districts. In C-3 Districts, an exception to the rear yard requirements of this Section may be allowed, in accordance with the provisions of Section 309, provided that the building location and configuration assure adequate light and air to windows within the residential units and to the usable open space provided.



(e) Modification of Requirements in NC and South of Market Mixed Use Districts.

The rear yard requirements in NC and South of Market Mixed Use Districts may be modified or waived in specific situations as described in this Subsection (e).

(1) General. The rear yard requirement in NC Districts may be modified or waived by the Zoning Administrator pursuant to the procedures which are applicable to variances, as set forth in Sections 306.1 through 306.5 and 308.2, in the case of NC Districts, and in accordance with Section 307(g), in the case of South of Market Mixed Use Districts if all of the following criteria are met for both NC and South of Market Mixed Use Districts:

(A) Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development; and

(B) The proposed new or expanding structure will not significantly impede the access of light and air to and views from adjacent properties; and

1 (C) The proposed new or expanding structure will not adversely affect the interior  
2 block open space formed by the rear yards of adjacent properties.

3 (2) Corner Lots and Lots at Alley Intersections. On a corner lot as defined by this  
4 Code, or on a lot at the intersection of a street and an alley of at least 25 feet in width, the  
5 required rear yard may be substituted with an open area equal to 25 percent of the lot area  
6 which is located at the same levels as the required rear yard in an interior corner of the lot, an  
7 open area between two or more buildings on the lot, or an inner court, as defined by this  
8 Code, provided that the Zoning Administrator determines that all of the criteria described  
9 below in this Paragraph are met.

10 (A) Each horizontal dimension of the open area shall be a minimum of 15 feet.

11 (B) The open area shall be wholly or partially contiguous to the existing midblock  
12 open space formed by the rear yards of adjacent properties.

13 (C) The open area will provide for the access to light and air to and views from  
14 adjacent properties.

15 (D) The proposed new or expanding structure will provide for access to light and air  
16 from any existing or new residential uses on the subject property.

17 The provisions of this Paragraph 2 of Subsection (e) shall not preclude such additional  
18 conditions as are deemed necessary by the Zoning Administrator to further the purposes of  
19 this Section.

20 (f) Modification of Requirements in the Eastern Neighborhoods Mixed Use Districts.  
21 The rear yard requirement in Eastern Neighborhoods Mixed Use Districts may be modified or  
22 waived by the Planning Commission pursuant to Section 329, and by the Zoning Administrator  
23 pursuant to the procedures and criteria set forth in Section 307(h) for other projects, provided  
24 that:

25 (1) Residential uses are included in the new or expanding development and a



1 comparable amount of readily accessible usable open space is provided elsewhere on the lot  
2 or within the development;

3 (2) The proposed new or expanding structure will not significantly impede the  
4 access to light and air from adjacent properties; and

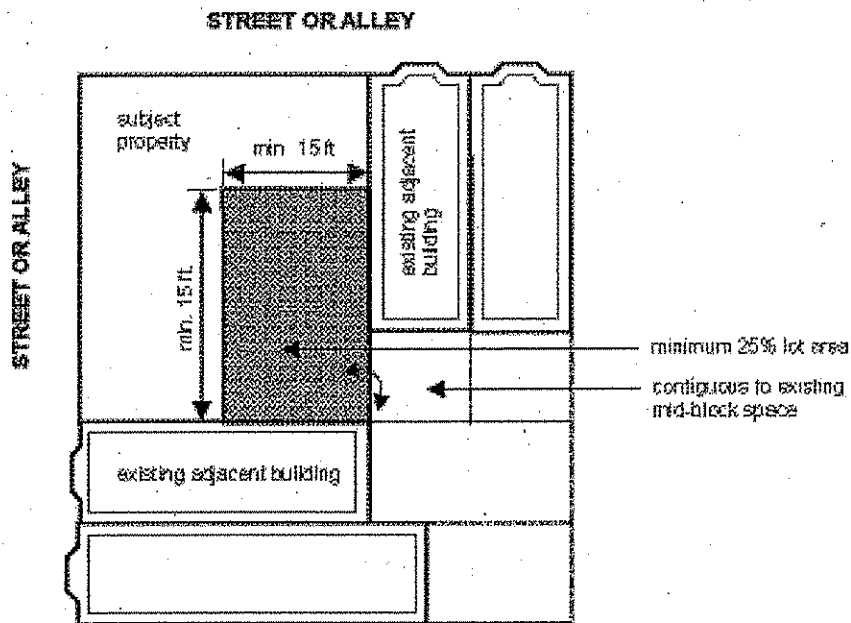
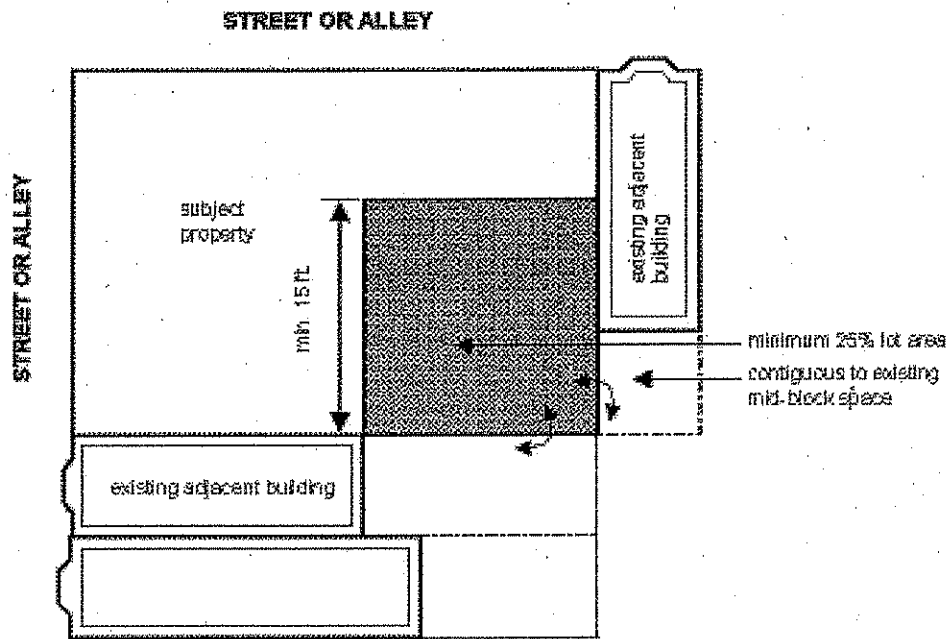
5 (3) The proposed new or expanding structure will not adversely affect the interior  
6 block open space formed by the rear yards of adjacent properties.

7 (g) Reduction of Requirements in the North of Market Residential Special Use  
8 District. The rear yard requirement may be substituted with an equivalent amount of open  
9 space situated anywhere on the site, provided that the Zoning Administrator determines that  
10 all of the following criteria are met:

11 (1) The substituted open space in the proposed new or expanding structure will  
12 improve the access of light and air to and views from existing abutting properties; and

13 (2) The proposed new or expanding structure will not adversely affect the interior  
14 block open space formed by the rear yards of existing abutting properties.

15 This provision shall be administered pursuant to the notice and hearing procedures  
16 which are applicable to variances as set forth in Sections 306.1 through 306.5 and 308.2.  
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#### SEC. 145.4. REQUIRED GROUND FLOOR COMMERCIAL USES.

(a) Purpose: To support active, pedestrian-oriented commercial uses on important commercial streets.

1 (b) Applicability. The requirements of this Section apply to the following street  
2 frontages.

3 (1) Folsom Street for the entirety of the Rincon Hill DTR, pursuant to Section 827;

4 (2) Folsom Street for the entirety of the Folsom and Main Residential/Commercial  
5 Special Use District;

6 (3) Van Ness Avenue, in the Van Ness and Market Downtown Residential Special  
7 Use District, from Fell Street to Market Street;

8 (4) South Van Ness Avenue, for the entirety of the Van Ness and Market Downtown  
9 Residential Special Use District;

10 (5) Market Street, for the entirety of the Van Ness and Market Downtown  
11 Residential Special Use District;

12 (6) 3rd Street, in the UMU districts for parcel frontages wholly contained within 100  
13 linear feet north or south of Mariposa Street or 100 linear feet north or south of 20th Street;

14 (7) 4th Street, between Bryant and Townsend in the SLI and MUO Districts;

15 (8) Hayes Street, for the entirety of the Hayes-Gough NCT;

16 (9) Octavia Boulevard, between Fell Street and Hayes Street, in the Hayes-Gough  
17 NCT;

18 (10) Market Street, for the entirety of the NCT-3, Upper Market NCD, and Upper  
19 Market NCT Districts;

20 (11) Church Street, for the entirety of the NCT-3 and Upper Market NCT Districts;

21 (12) 22nd Street, between 3rd Street and Minnesota Streets within the NCT-2  
22 District;

23 (13) Valencia Street, between 15th and 23rd Streets in the Valencia Street NCT  
24 District;

25 (14) Mission Street, for the entirety of the Mission Street NCT District;

- (15) 24th Street, for the entirety of the 24th Street-Mission NCT;
- (16) 16th Street, between Guerrero and Capp Streets;
- (17) 22nd Street, between Valencia and Mission Streets;
- (18) 6th Street for its entirety within the SoMa NCT District;
- (19) Ocean Avenue, for the entirety of the Ocean Avenue NCT District, except on the north side of Ocean Avenue between Plymouth and Brighton Avenues;
- (20) Geneva Avenue, between I-280 and Delano Avenue within the NCT-2 District.
- (c) Definitions.

"Active commercial uses" shall include those uses specifically identified below in Table 145.4, and:

- (1) Shall not include uses oriented to motor vehicles except for automobile sale or rental where curb-cuts, garage doors, or loading access are not utilized or proposed, and such sales or rental activity is entirely within an enclosed building and does not encroach on surrounding sidewalks or open spaces;
- (2) Shall include public uses except for utility installations; and
- (3) Shall not include residential care uses as defined in Sections 790.50, 790.51, and 890.50.

Table 145.4

| Reference for<br>Neighborhood<br>Commercial Districts | Reference for Mixed<br>Use Districts | Use  |
|---|--------------------------------------|--|
| 790.4   | 890.4                                | Amusement Game Arcade                                |
| 790.6   | 890.6                                | Animal Hospital                                      |
| 790.12  | 890.13                               | Automobile Sale or Rental (see qualification, above) |

|    |                |         |   |
|----|----------------|---------|---|
| 1  | 790.22         | 890.22  | Bar                                     |
| 2  | N/A            | 890.23  | Business Goods and Equipment            |
| 3  |                |         | Sales and Repair Service                |
| 4  | 790.34         | 890.34  | Eating and Drinking Use                 |
| 5  | 790.38         | 890.37  | Entertainment, Other                    |
| 6  | N/A            | 890.39  | Gift Store-Tourist Oriented             |
| 7  | 790.50, 790.51 | 890.50  | Institutions, Other (see qualification, |
| 8  |                |         | above)                                  |
| 9  | N/A            | 890.51  | Jewelry Store                           |
| 10 | 790.68         | 890.68  | Neighborhood-Serving Business           |
| 11 | N/A            | 890.69  | Non-Auto Vehicle Sales or Rental        |
| 12 |                |         | (see qualification, above)              |
| 13 | 790.80         | 890.80  | Public Use (see qualification, above)   |
| 14 | 790.91         | 890.90  | Restaurant, Fast-Food (Small)           |
| 15 | 790.90         | 890.91  | Restaurant, Fast-Food (Large)           |
| 16 | 790.92         | 890.92  | Restaurant, Full-Service                |
| 17 | 790.102        | 890.102 | Sales and Service, Other Retail         |
| 18 | 790.104        | 890.104 | Sales and Services, Retail              |
| 19 | 790.110        | 890.110 | Service, Financial                      |
| 20 | 790.112        | 890.112 | Service, Limited Financial              |
| 21 | 790.114        | 890.114 | Service, Medical                        |
| 22 | 790.116        | 890.116 | Service, Personal                       |
| 23 | 790.122        | 890.122 | Take-Out Food                           |
| 24 | 790.124        | 890.124 | Trade Shop                              |
| 25 |                |         |   |

790.140

890.140

Walk-Up Facility

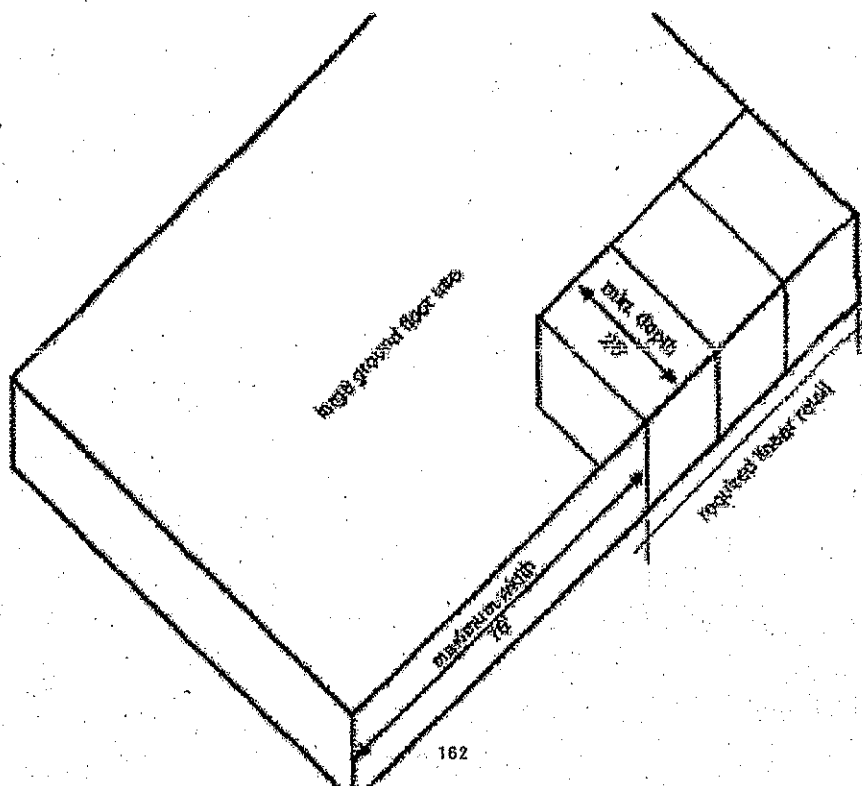
(d) Controls.

(1) Active commercial uses which are permitted by the specific district in which they are located are required on the ground floor of all street frontages listed in Subsection (b) above.

(2) Active commercial uses shall comply with the standards applicable to active uses as set forth in Section 145.1(c)(3) and shall further be consistent with any applicable design guidelines.

(3) On those street frontages listed in Subsection (b), an individual ground floor nonresidential use may not occupy more than 75 contiguous linear feet for the first 25 feet of depth along a street-facing facade. Separate individual storefronts shall wrap large ground floor uses for the first 25 feet of depth, as illustrated in Figure 145.4.

Figure 145.4.



1 (e) Modifications. Modifications to the requirements of this Section are not permitted  
2 in DTR Districts. In Neighborhood Commercial Districts, modifications to the requirements of  
3 this Section may be granted through the Conditional Use process, as set forth in Section 303.  
4 In the Eastern Neighborhoods Mixed Use Districts, modifications to the requirements of this  
5 Section may be granted through the procedures of Section 329 for projects subject to that  
6 Section or through an Administrative Modification from the Zoning Administrator for other  
7 projects, as set forth in Section 307(g).

8 Sec. 151.1. SCHEDULE OF PERMITTED OFF-STREET PARKING SPACES IN  
9 SPECIFIED DISTRICTS.

10 (a) Applicability. This subsection shall apply only to DTR, NCT, Upper Market Street  
11 NCD, RTO, Eastern Neighborhood Mixed Use, PDR-1-D, and PDR-1-G or C-3 Districts.

12 (b) Controls. Off-street accessory parking shall not be required for any use, and the  
13 quantities of off-street parking specified in Table 151.1 shall serve as the maximum amount of  
14 off-street parking that may be provided as accessory to the uses specified. For non-residential  
15 and non-office uses in the UMU, PDR-1-D, and PDR-1-G Districts, the maximum amount of  
16 off-street parking that may be provided as accessory shall be no more than 50% greater than  
17 that indicated in Table 151.1. Variances from accessory off-street parking limits, as described  
18 in this Section, may not be granted. Where off-street parking is provided that exceeds the  
19 quantities specified in Table 151.1 or as explicitly permitted by this Section, such parking shall  
20 be classified not as accessory parking but as either a principally permitted or conditional use,  
21 depending upon the use provisions applicable to the district in which the parking is located. In  
22 considering an application for a conditional use for any such parking due to the amount being  
23 provided, the Planning Commission shall consider the criteria set forth in Section 157 and  
24 157.1 of this Code.  
25

(c) Definition. Where a number or ratio of spaces are described in Table 151.1, such number or ratio shall refer to the total number of parked cars accommodated in the project proposal, regardless of the arrangement of parking, and shall include all spaces accessed by mechanical means, valet, or non-independently accessible means. For the purposes of determining the total number of cars parked, the area of an individual parking space, except for those spaces specifically designated for persons with physical disabilities, may not exceed 185 square feet, including spaces in tandem, or in parking lifts, elevators or other means of vertical stacking. Any off-street surface area accessible to motor vehicles with a width of 7.5 feet and a length of 17 feet (127.5 square feet) not otherwise designated on plans as a parking space may be considered and counted as an off-street parking space at the discretion of the Zoning Administrator if the Zoning Administrator, in considering the possibility for tandem and valet arrangements, determines that such area is likely to be used for parking a vehicle on a regular basis and that such area is not necessary for the exclusive purpose of vehicular circulation to the parking or loading facilities otherwise permitted.

(d) Car-share parking. Any off-street parking space dedicated for use as a car-share parking space, as defined in Section 166, shall not be credited toward the total parking permitted as accessory in this Section.

Table 151.1  
OFF-STREET PARKING PERMITTED AS ACCESSORY

| Use or Activity                    | Number of Off-Street Car Parking Spaces or Space Devoted to Off-Street Car Parking Permitted  |
|------------------------------------|---|
| Dwelling units in RH-DTR Districts | P up to one car for each two dwelling units; up to one car for each dwelling unit, subject to the criteria and procedures of Section 151.1(e) (d); NP above one space per unit. |
| Dwelling units in C-3 and SB-      | P up to one car for each four dwelling units; up to 0.75 cars   |



|  |  |
|--|--|
| 1 DTR, Districts, except as<br>2 specified below<br>3  | for each dwelling unit, subject to the criteria and procedures<br>of Section 151.1( <del>h</del> ) ( <del>e</del> ); NP above 0.75 cars for each dwelling<br>unit.   |
| 4 Dwelling units in C-3 and SB-<br>5 DTR, Districts with at least 2<br>6 bedrooms and at least 1,000<br>7 square feet of occupied floor<br>8 area        | P up to one car for each four dwelling units; up to one car for<br>each dwelling unit, subject to the criteria and procedures of<br>Section 151.1( <del>h</del> ) ( <del>e</del> ); NP above one car for each dwelling<br>unit.                    |
| 9 Dwelling units in C-3 Districts<br>10 and in the Van Ness and<br>11 Market Downtown<br>12 Residential Special Use<br>13 District                       | P up to one car for each four dwelling units; C up to .5 cars<br>for each dwelling unit, subject to the criteria and procedures<br>of Section 151.1( <del>h</del> ) ( <del>e</del> ); NP above two cars for each four<br>dwelling units.           |
| 14 Dwelling units and SRO units<br>15 in MUG, MUR, MUO, SPD<br>16 Districts, except as specified<br>17 below   | P up to one car for each four dwelling units; up to 0.75 cars<br>for each dwelling unit, subject to the criteria and conditions<br>and procedures of Section 151.1( <del>g</del> ) ( <del>f</del> ); NP above 0.75 cars<br>for each dwelling unit. |
| 18 Dwelling units in MUG, MUR,<br>19 MUO, SPD Districts with at<br>20 least 2 bedrooms and at<br>21 least 1,000 square feet of<br>22 occupied floor area | P up to one car for each four dwelling units; up to one car for<br>each dwelling unit, subject to the criteria and conditions and<br>procedures of Section 151.1( <del>g</del> ) ( <del>f</del> ); NP above one car for<br>each dwelling unit.     |
| 23 Dwelling units in NCT<br>24 Districts <i>and the Upper Market</i><br>25 <i>Street NCD</i> , except as   | P up to one car for each two dwelling units; C up to 0.75<br>cars for each dwelling unit, subject to the criteria and<br>procedures of Section 151.1( <del>g</del> ) ( <del>f</del> ); NP above 0.75 cars for                                      |

|    |                                |  |
|----|--------------------------------|--|
| 1  | specified below                | each dwelling unit.  |
| 2  | Dwelling units in the Ocean    | P up to one car for each unit; NP above.                     |
| 3  | Avenue NCT Districts           |  |
| 4  | Dwelling units in RTO          | P up to three cars for each four dwelling units; C up to one |
| 5  | Districts, except as specified | car for each dwelling unit, subject to the criteria and      |
| 6  | below                          | procedures of Section 151.1(g) (f); NP above one car for     |
| 7  |                                | each dwelling unit.  |
| 8  | Dwelling units and SRO units   | P up to 0.75 cars for each dwelling unit and subject to the  |
| 9  | in UMU Districts, except as    | conditions of 151.1(g) (f); NP above.                        |
| 10 | specified below                |  |
| 11 | Dwelling units in UMU          | P up to 1 car for each dwelling unit and subject to the      |
| 12 | District with at least 2       | conditions of 151.1(g) (f); NP above.                        |
| 13 | bedrooms and at least 1,000    |  |
| 14 | square feet of occupied floor  |  |
| 15 | area                           |  |
| 16 | Group housing of any kind      | P up to one car for each three bedrooms or for each six      |
| 17 |                                | beds, whichever results in the greater requirement, plus one |
| 18 |                                | for the manager's dwelling unit if any. NP above.            |
| 19 | All non-residential uses in C- | Not to exceed 7% of gross floor area of such uses. See       |
| 20 | 3 Districts                    | requirements in Section 204.5.                               |
| 21 | Hotel, inn, or hostel          | P up to one for each 16 guest bedrooms, plus one for the     |
| 22 |                                | manager's dwelling unit, if any.                             |
| 23 | Motel                          | P up to one for each guest unit, plus one for the manager's  |
| 24 |                                | dwelling unit, if any.                                       |

|    |                              |  |
|----|------------------------------|--|
| 1  | Hospital or other inpatient  | P up to one for each 16 guest excluding bassinets or for     |
| 2  | medical institution          | each 2,400 square feet of gross floor area devoted to        |
| 3  |                              | sleeping rooms, whichever results in the lesser requirement  |
| 4  | Residential care facility    | P up to one for each 10 residents.                           |
| 5  | Child care facility          | P up to one for each 25 children to be accommodated at any   |
| 6  |                              | one time.  |
| 7  | Elementary school            | P up to one for each six classrooms.                         |
| 8  | Secondary school             | P up to one for each two classrooms.                         |
| 9  | Post-secondary educational   | P up to one for each two classrooms.                         |
| 10 | institution                  |  |
| 11 | Church or other religious    | P up to one for each 20 seats.                               |
| 12 | institutions                 |  |
| 13 | Theater or auditorium        | P up to one for each eight seats up to 1,000 seats, plus one |
| 14 |                              | for each 10 seats in excess of 1,000.                        |
| 15 | Stadium or sports arena      | P up to one for each 15 seats.                               |
| 16 | Medical or dental office or  | P up to one for each 300 square feet of occupied floor area. |
| 17 | outpatient clinic            |  |
| 18 | All office uses in C-3, DTR, | P up to seven percent of the gross floor area of such uses   |
| 19 | SPD, MUG, MUR, and MUO       | and subject to the pricing conditions of Section 155(g); NP  |
| 20 | Districts                    | above.   |
| 21 | Office uses in UMU, PDR-1-   | P up to one car per 1,000 square feet of gross floor area    |
| 22 | D, and PDR-1-G Districts,    | and subject to the pricing conditions of Section 155(g); NP  |
| 23 | except as specified below    | above.   |
| 24 | Office uses in UMU, PDR-1-   | P up to one car per 500 square feet of gross floor area; NP  |
| 25 |                              |  |

|  |   |   |
|--|---|---|
| 1<br>2<br>3<br>4<br>5                  | D, and PDR-1-G Districts where the entire parcel is greater than 1/4-mile from Market, Mission, 3rd and 4th Streets   | above.  |
| 6<br>7<br>8                            | Non-residential uses in RTO districts permitted under Sections 209.8 (e) and 231.   | None permitted.   |
| 9<br>10<br>11<br>12<br>13              | All non-residential uses in NCT districts <i>and the Upper Market Street NCD</i> , except as specified below  | For uses in Table 151 that are described as a ratio of occupied floor area, P up to 1 space per 1,500 square feet of occupied floor area or the quantity specified in Table 151, whichever is less, and subject to the conditions and criteria of Section 151.1(g) <del>NP</del> above.   |
| 14<br>15<br>16<br>17<br>18             | Retail grocery store uses in NCT districts <i>and the Upper Market Street NCD</i> with over 20,000 square feet of occupied floor area   | P up 1 space per 500 square feet of occupied floor area, and subject to the conditions and criteria of Section 151.1(g) <del>NP</del> C up to 1 space per 250 square feet of occupied floor area for that area in excess of 20,000 square feet, subject to the conditions and criteria of Section 151.1(g) <del>NP</del> above. |
| 19<br>20<br>21<br>22<br>23<br>24<br>25 | All retail in the Eastern Neighborhoods Mixed Use Districts where any portion of the parcel is less than 1/4 mile from Market, Mission, 3rd and 4th Streets, except grocery stores of over 20,000 | P up to one for each 1,500 square feet of gross floor area.   |

|    |                                |  |
|----|--------------------------------|--|
| 1  | gross square feet.             |  |
| 2  | With the exception of          | P up to one for each 200 square feet of occupied floor area. |
| 3  | Eastern Neighborhoods          |  |
| 4  | Mixed Use Districts as set     |  |
| 5  | forth above, all other         |  |
| 6  | restaurant, bar, nightclub,    |  |
| 7  | pool hall, dance hall, bowling |  |
| 8  | alley or other similar         |  |
| 9  | enterprise                     |  |
| 10 | With the exception of          | P up to one for each 1,000 square feet of occupied floor     |
| 11 | Eastern Neighborhoods          | area.  |
| 12 | Mixed Use Districts as set     |  |
| 13 | forth above, all other retail  |  |
| 14 | space devoted to the           |  |
| 15 | handling of bulky              |  |
| 16 | merchandise such as motor      |  |
| 17 | vehicles, machinery or         |  |
| 18 | furniture                      |  |
| 19 | With the exception of          | P up to one for each 4,000 square feet of occupied floor     |
| 20 | Eastern Neighborhoods          | area.  |
| 21 | Mixed Use Districts as set     |  |
| 22 | forth above, all other         |  |
| 23 | greenhouse or plant nursery    |  |
| 24 | With the exception of          | P up to one for each 500 square feet of gross floor area up  |
| 25 | Eastern Neighborhoods          | to 20,000 square feet, plus one for each 250 square feet of  |

|    |                               |  |
|----|-------------------------------|--|
| 1  | Mixed Use Districts as set    | gross floor area in excess of 20,000.                    |
| 2  | forth above, all other retail |  |
| 3  | space                         |  |
| 4  | Service, repair or wholesale  | P up to one for each 1,000 square feet of occupied floor |
| 5  | sales space, including        | area.  |
| 6  | personal, home or business    |  |
| 7  | service space in South of     |  |
| 8  | Market Districts              |  |
| 9  | Mortuary                      | P up to five.  |
| 10 | Storage or warehouse          | P up to one for each 2,000 square feet of occupied floor |
| 11 | space, and space devoted to   | area.  |
| 12 | any use first permitted in an |  |
| 13 | M-2 District                  |  |
| 14 | Arts activities and spaces    | P up to one for each 2,000 square feet of occupied floor |
| 15 | except theater or auditorium  | area.  |
| 16 | spaces                        |  |
| 17 | Laboratory                    | P up to one for each 1,500 square feet of occupied floor |
| 18 |                               | area.  |
| 19 | Small Enterprise Workspace    | P up to one for each 1,500 square feet of occupied floor |
| 20 | Building                      | area.  |
| 21 | Integrated PDR                | P up to one for each 1,500 square feet of occupied floor |
| 22 |                               | area.  |
| 23 | Other manufacturing and       | P up to one for each 1,500 square feet of occupied floor |
| 24 | industrial uses               | area.  |

1        ~~(e)~~ (d) In DTR districts, any request for accessory parking in excess of what is  
2 permitted by right shall be reviewed on a case-by-case basis by the Planning Commission,  
3 subject to the procedures set forth in Section 309.1 of this Code. In granting approval for  
4 parking accessory to residential uses above that permitted by right in Table 151.1, the  
5 Commission shall make the following affirmative findings:

6        (1) All parking in excess of that allowed by right is stored and accessed by  
7 mechanical means, valet, or non-independently accessible method that maximizes space  
8 efficiency and discourages use of vehicles for commuting or daily errands;

9        (2) Vehicle movement on or around the project site associated with the excess  
10 accessory parking does not unduly impact pedestrian spaces or movement, transit service,  
11 bicycle movement, or the overall traffic movement in the district;

12        (3) Accommodating excess accessory parking does not degrade the overall urban  
13 design quality of the project proposal;

14        (4) All parking in the project is set back from facades facing streets and alleys and  
15 lined with active uses, and that the project sponsor is not requesting any exceptions or  
16 variances requiring such treatments elsewhere in this Code; and

17        (5) Excess accessory parking does not diminish the quality and viability of existing  
18 or planned streetscape enhancements.

19        ~~(f)~~ (e) In C-3 Districts, any request for accessory parking in excess of what is permitted  
20 by right in Table 151.1, shall be reviewed on a case-by-case basis by the Planning  
21 Commission, subject to the procedures set forth in Section 309 of this Code. In granting  
22 approval for parking accessory to residential uses above that permitted by right in Table  
23 151.1, the Planning Commission shall make the following affirmative findings:

24        (1) For projects with 50 units or more, all residential accessory parking in excess of  
25 0.5 parking spaces for each dwelling unit shall be stored and accessed by mechanical

1 stackers or lifts, valet, or other space-efficient means that allows more space above-ground  
2 for housing, maximizes space efficiency and discourages use of vehicles for commuting or  
3 daily errands. The Planning Commission may authorize the request for additional parking  
4 notwithstanding that the project sponsor cannot fully satisfy this requirement provided that the  
5 project sponsor demonstrates hardship or practical infeasibility (such as for retrofit of existing  
6 buildings) in the use of space-efficient parking given the configuration of the parking floors  
7 within the building and the number of independently accessible spaces above 0.5 spaces per  
8 unit is de minimus and subsequent valet operation or other form of parking space  
9 management could not significantly increase the capacity of the parking space above the  
10 maximums in Table 151.1;

11 (2) For any project with residential accessory parking in excess of 0.375 parking  
12 spaces for each dwelling unit, the project complies with the housing requirements of Sections  
13 315 through 315.9 of this Code except as follows: the inclusionary housing requirements that  
14 apply to projects seeking conditional use authorization as designated in Section 315.3(a)(2)  
15 shall apply to the project.

16 (3) The findings of Section 151.1(d)(2), (d)(3) and (d)(5) are satisfied;

17 (4) All parking meets the active use and architectural screening requirements in  
18 Sections 155(s)(1)(B) and 155(s)(1)(C) and the project sponsor is not requesting any  
19 exceptions or variances requiring such treatments elsewhere in this Code.

20 ~~(g)~~ ~~(f)~~ In RTO and NCT districts and the Upper Market Street NCD, any request for  
21 accessory parking in excess of what is principally permitted in Table 151.1, but which does  
22 not exceed the maximum amount stated in Table 151.1, shall be reviewed by the Planning  
23 Commission as a Conditional Use. In MUG, MUR, MUO, and SPD Districts, any project  
24 subject to Section 329 and that requests residential accessory parking in excess of that which  
25 is principally permitted in Table 151.1, but which does not exceed the maximum amount



1 stated in Table 151.1, shall be reviewed by the Planning Commission according to the  
2 procedures of Section 329. Projects that are not subject to Section 329 shall be reviewed  
3 under the procedures detailed in subsection (g), below. In granting such Conditional Use or  
4 exception per 329 for parking in excess of that principally permitted in Table 151.1, the  
5 Planning Commission shall make the following affirmative findings according to the uses to  
6 which the proposed parking is accessory:

7 (1) Parking for all uses

8 (A) Vehicle movement on or around the project does not unduly impact pedestrian  
9 spaces or movement, transit service, bicycle movement, or the overall traffic movement in the  
10 district;

11 (B) Accommodating excess accessory parking does not degrade the overall urban  
12 design quality of the project proposal;

13 (C) All above-grade parking is architecturally screened and, where appropriate, lined  
14 with active uses according to the standards of Section 145.1, and the project sponsor is not  
15 requesting any exceptions or variances requiring such treatments elsewhere in this Code; and

16 (D) Excess accessory parking does not diminish the quality and viability of existing  
17 or planned streetscape enhancements.

18 (2) Parking for Residential Uses

19 (A) For projects with 50 dwelling units or more, all residential accessory parking in  
20 excess of 0.5 spaces per unit shall be stored and accessed by mechanical stackers or lifts,  
21 valet, or other space-efficient means that reduces space used for parking and maneuvering,  
22 and maximizes other uses.

23 (3) Parking for Non-Residential Uses

24 (A) Projects that provide more than 10 spaces for non-residential uses must  
25 dedicate 5% of these spaces, rounded down to the nearest whole number, to short-term,

1 transient use by vehicles from certified car sharing organizations per Section 166, vanpool,  
2 rideshare, taxis, or other co-operative auto programs. These spaces shall not be used for  
3 long-term storage nor satisfy the requirement of Section 166, but rather to park them during  
4 trips to commercial uses. These spaces may be used by shuttle or delivery vehicles used to  
5 satisfy subsection (B).

6 (B) Retail uses larger than 20,000 square feet, including but not limited to grocery,  
7 hardware, furniture, consumer electronics, greenhouse or nursery, and appliance stores,  
8 which sell merchandise that is bulky or difficult to carry by hand or by public transit, shall offer,  
9 at minimal or no charge to its customers, door-to-door delivery service and/or shuttle service.  
10 This is encouraged, but not required, for retail uses less than 20,000 square feet.

11 (C) Parking shall be limited to short-term use only.

12 (D) Parking shall be available to the general public at times when such parking is  
13 not needed to serve the use or uses to which it is accessory.

14 (h) ~~(g)~~ Small residential projects in MUG, MUR, MUO, and SPD Districts. Any project  
15 that is not subject to the requirements of Section 329 and that requests residential accessory  
16 parking in excess of what is principally permitted in Table 151.1 shall be reviewed by the  
17 Zoning Administrator subject to Section 307(h). The Zoning Administrator may grant parking  
18 in excess of what is principally permitted in Table 151.1, not to exceed the maximum amount  
19 stated in Table 151.1, only if the Zoning Administrator determines that all of the following  
20 conditions are met:

21 (A) all the conditions of subsection (f)(1) above have been met.

22 (B) parking is not accessed from any protected Transit or Pedestrian Street described  
23 in Section 155(r), and

24 (C) where more than ten spaces are proposed at least half of them, rounded down  
25 to the nearest whole number, are stored and accessed by mechanical stackers or lifts, valet,

1 or other space-efficient means that reduces space used for parking and maneuvering, and  
2 maximizes other uses.

3 SEC. 155. GENERAL STANDARDS AS TO LOCATION AND ARRANGEMENT OF  
4 OFF-STREET PARKING, FREIGHT LOADING AND SERVICE VEHICLE FACILITIES.

5 Required off-street parking and freight loading facilities shall meet the following  
6 standards as to location and arrangement. In addition, facilities which are not required but are  
7 actually provided shall meet the following standards unless such standards are stated to be  
8 applicable solely to required facilities. In application of the standards of this Code for off-street  
9 parking and loading, reference may be made to provisions of other portions of the Municipal  
10 Code concerning off-street parking and loading facilities, and to standards of the Bureau of  
11 Engineering of the Department of Public Works. Final authority for the application of such  
12 standards under this Code, and for adoption of regulations and interpretations in furtherance  
13 of the stated provisions of this Code shall, however, rest with the Planning Department.

14 (a) Every required off-street parking or loading space shall be located on the same  
15 lot as the use served by it, except as provided in Sections 159, 160 and 161 of this Code.

16 (b) Every required off-street parking or loading space shall be located in its entirety  
17 within the lot lines of private property.

18 (c) Every off-street parking or loading space shall have adequate means of ingress  
19 from and egress to a street or alley. Access to off-street loading spaces shall be from alleys in  
20 preference to streets, except where otherwise specified in this code.

21 Adequate reservoir space shall be provided on private property for entrance of vehicles to off-  
22 street parking and loading spaces, except with respect to spaces independently accessible  
23 directly from the street.

24 (1) For residential uses, independently accessible off-street parking spaces shall  
25 include spaces accessed by automated garages, or car elevators, lifts or other space-efficient

1 parking as defined in Section 154(a)(4) and Section 154(a)(5) provided that no more than one  
2 car needs to be moved under its own power to access any one space.

3 (d) All off-street freight loading and service vehicle spaces in the C-3-O, C-3-R, C-3-  
4 G, DTR, MUO, MUG, MUR, and South of Market Mixed Use Districts shall be completely  
5 enclosed and access from a public street or alley shall be provided by means of a private  
6 service driveway, which is totally contained within the structure. Such a private service  
7 driveway shall include adequate space to maneuver trucks and service vehicles into and out  
8 of all provided spaces, and shall be designed so as to facilitate access to the subject property  
9 while minimizing interference with street and sidewalk circulation. Any such private service  
10 driveway shall be of adequate width to accommodate drive-in movement from the adjacent  
11 curb or inside traffic lane but shall in no case exceed 30 feet. Notwithstanding the foregoing, if  
12 an adjacent street or alley is determined by the Zoning Administrator to be primarily used for  
13 building service, up to four off-street freight or loading spaces may be allowed to be  
14 individually accessible directly from such a street or alley, pursuant to the provisions of  
15 Section 309 in a C-3-O, C-3-R or C-3-G District, the provisions of Section 307(g) in a South of  
16 Market Mixed Use District, the provisions of Section 309.1 in a DTR District, the provisions of  
17 Section 329 for projects subject to Section 329 in a MUO, MUG, or MUR District, or by  
18 administrative decision of the Zoning Administrator for projects that do are not subject to  
19 Section 329 in a MUO, MUG, or MUR District.

20 (e) In a C-3 or South of Market District, where site constraints would make a  
21 consolidated freight loading and service vehicle facility impractical, service vehicle spaces  
22 required by Sections 153(a)(6) and 154(b)(3) of this Code may be located in a parking garage  
23 for the structure or other location separate from freight loading spaces.

24 (f) In a C-3, Eastern Neighborhood Mixed Use District or South of Market Mixed  
25 Use District, whenever off-street freight loading spaces are provided, freight elevators

1 immediately accessible from the loading dock shall be provided to all floors which contain  
2 uses that are included in the calculation of required number of freight loading spaces. If freight  
3 loading facilities are subterranean, the location and operation of freight elevators shall be  
4 designed, where feasible, to discourage use of freight elevators for deliveries from the ground  
5 floor. Directories of building tenants shall be provided at all freight elevators. A raised loading  
6 dock or receiving area shall be provided with sufficient dimensions to provide for short-term  
7 storage of goods. All required freight loading and service vehicle spaces shall be made  
8 available only to those vehicles at all times, and provision shall be made to minimize  
9 interference between freight loading and service operations, and garbage dumpster  
10 operations and storage.

11 (g) In order to discourage long-term commuter parking, any off-street parking  
12 spaces provided for a structure or use other than residential or hotel in a C-3 District, whether  
13 classified as an accessory or conditional use, which are otherwise available for use for long-  
14 term parking by downtown workers shall maintain a rate or fee structure for their use such that  
15 the rate charge for four hours of parking duration is no more than four times the rate charge  
16 for the first hour, and the rate charge for eight or more hours of parking duration is no less  
17 than 10 times the rate charge for the first hour. Additionally, no discounted parking rate shall  
18 be permitted for weekly, monthly or similar time-specific periods.

19 (h) The internal layout of off-street parking and loading spaces, driveways, aisles  
20 and maneuvering areas shall be according to acceptable standards, and all spaces shall be  
21 clearly marked.

22 (i) For each 25 off-street parking spaces provided, one such space shall be  
23 designed and designated for handicapped persons.

24 (j) Except as provided by Section 155.1 and Section 155.2 below, for each 20 off-  
25 street parking spaces provided, one space shall be provided for parking of a bicycle. The most

1 restrictive provisions of 155(j) or 155.4 shall prevail.

2 (k) Off-street parking and loading facilities shall be arranged, designed and  
3 operated so as to prevent encroachments upon sidewalk areas, bicycle lanes, transit-only  
4 lanes and adjacent properties, in the maneuvering, standing, queuing and storage of vehicles,  
5 by means of the layout and operation of facilities and by use of bumper or wheel guards or  
6 such other devices as are necessary.

7 (l) Driveways crossing sidewalks shall be no wider than necessary for ingress and  
8 egress, and shall be arranged, to the extent practical, so as to minimize the width and  
9 frequency of curb cuts, to maximize the number and size of on-street parking spaces available  
10 to the public, and to minimize conflicts with pedestrian and transit movements.

11 (m) Every off-street parking or loading facility shall be suitably graded, surfaced,  
12 drained and maintained.

13 (n) Off-street parking and loading spaces shall not occupy any required open space,  
14 except as specified in Section 136 of this Code.

15 (o) No area credited as all or part of a required off-street parking space shall also be  
16 credited as all or part of a required off-street loading space, or used as all or part of an  
17 unrequired off-street loading space. No area credited as all or part of a required off-street  
18 loading space shall also be credited as all or part of a required off-street parking space, or  
19 used as all or part of an unrequired off-street parking space.

20 (p) Any off-street freight loading area located within 50 feet of any R District shall be  
21 completely enclosed within a building if such freight loading area is used in regular night  
22 operation.

23 (q) Rooftop parking shall be screened as provided in Section 141(d) of this Code.

24 (r) Protected Pedestrian and Transit-Oriented Street Frontages. In order to  
25 preserve the pedestrian character of certain downtown and neighborhood commercial districts

1 and to minimize delays to transit service, garage entries, driveways or other vehicular access  
2 to off-street parking or loading (except for the creation of new publicly-accessible streets and  
3 alleys) shall be regulated on development lots as follows on the following street frontages:

4 (1) Folsom Street, from Essex Street to the Embarcadero, not permitted except as  
5 set forth in Section 827.

6 (2) Not permitted:

7 (A) The entire portion of Market Street from The Embarcadero to Castro Street in the C  
8 3, NCT-3 and Upper Market NCT Districts,

9 (B) Hayes Street from Franklin Street to Laguna Street, Church Street in the NCT-3  
10 and Upper Market NCT Districts,

11 (C) Van Ness Avenue from Hayes Street to Mission Street,

12 (D) Mission Street from 10th Street to Division Street,

13 (E) Octavia Street from Hayes Street to Fell Street,

14 (F) Embarcadero in the DTR Districts,

15 (G) 22nd Street between 3rd Street and Minnesota Streets within the NCT-2 District,

16 (H) Valencia Street between 15th and 23rd Streets in the Valencia Street NCT  
17 District,

18 (I) Mission Street for the entirety of the Mission Street NCT District,

19 (J) 24th Street for the entirety of the 24th Street-Mission NCT,

20 (K) 16th Street between Guerrero and Capp Streets within the Valencia Street NCT  
21 and Mission Street NCT Districts,

22 (L) 16th Street between Kansas and Mississippi Streets in the UMU and PDR-1-D  
23 Districts,

24 (M) 6th Street for its entirety within the SoMa NCT District,  
25

1 (N) 3rd Street, in the UMU districts for 100 feet north and south of Mariposa and 100  
2 feet north and south of 20th Streets, and 4th Street between Bryant and Townsend in the SLI  
3 and MUO District,

4 (O) Ocean Avenue within the Ocean Avenue NCT District,

5 (P) Geneva Avenue from I-280 to San Jose Avenue within the NCT-2 District,

6 (Q) Columbus Avenue between Washington and North Point Streets.,

7 (R) Broadway from the Embarcadero on the east to Polk Street on the west, and

8 (S) All alleyways in the Chinatown Mixed Use Districts.

9 (3) Not permitted except with a Conditional Use authorization:

10 (A) The entire portion of California Street, The Embarcadero, Folsom Street, Geary  
11 Street, Mission Street, Powell Street and Stockton Street in the C-3 Districts,

12 (B) Grant Avenue from Market Street to Bush Street,

13 (C) Montgomery Street from Market Street to Columbus Avenue,

14 (D) Haight Street from Market Street to Webster Street,

15 (E) Church Street and 16th Street in the RTO District,

16 (F) Duboce Street from Noe Street to Market Street,

17 (G) Duboce Street from Noe Street to Market Street, and

18 (H) Octavia Street from Fell Street to Market Street.

19 (4) In C-3, NCT and RTO Districts, no curb cuts accessing off-street parking or  
20 loading shall be created or utilized on street frontages identified along any Transit Preferential,  
21 Citywide Pedestrian Network or Neighborhood Commercial Streets as designated in the  
22 Transportation Element of the General Plan or official City bicycle routes or bicycle lanes,  
23 where an alternative frontage is available. For bicycle lanes, the prohibition on curb cuts  
24 applies to the side or sides of the street where bicycle lanes are located; for one-way bicycle  
25 routes or lanes, the prohibition on curb cuts shall apply to the right side of the street only,



1 unless the officially adopted alignment is along the left side of the street. Where an alternative  
2 frontage is not available, parking or loading access along any Transit Preferential, Citywide  
3 Pedestrian Network or Neighborhood Commercial Streets as designated in the Transportation  
4 Element of the General Plan or official City bicycle lane or bicycle route, may be allowed on  
5 streets not listed in subsection (2) above as an exception in the manner provided in Section  
6 309 for C-3 Districts and in Section 303 for NCT and RTO Districts in cases where it can be  
7 clearly demonstrated that the final design of the parking access minimizes negative impacts to  
8 transit movement and to the safety of pedestrians and bicyclists to the fullest extent feasible.

9 (5) A "development lot" shall mean any lot containing a proposal for new  
10 construction, building alterations which would increase the gross square footage of a structure  
11 by 20 percent or more, or change of use of more than 50 percent of the gross floor area of a  
12 structure containing parking. Pre-existing access to off-street parking and loading on  
13 development lots that violates the restrictions of this Section 155(r) may not be maintained.

14 (s) Off-Street Parking and Loading in C-3 Districts. In C-3 Districts, restrictions on  
15 the design and location of off-street parking and loading and access to off-street parking and  
16 loading are necessary to reduce their negative impacts on neighborhood quality and the  
17 pedestrian environment.

18 (1) Ground floor or below-grade parking and street frontages with active uses.

19 (A) All off-street parking in C-3 Districts (both as accessory and principal uses) shall  
20 be built no higher than the ground-level (up to a maximum ceiling height of 20 feet from grade)  
21 unless an exception to this requirement is granted in accordance with Section 309 and  
22 subsection 155(s)(2) or a conditional use is authorized in accordance with Section 303 and  
23 subsections 155(s)(2) or 155(s)(3) below.

24 (B) Parking at the ground-level to the full height of the ground-level parking shall be  
25 lined with active uses, as defined by Section 145.4 (e), to a depth of at least 25 feet along all

1 street frontages, except for space allowed for parking and loading access, building egress,  
2 and access to mechanical systems. So as not to preclude conversion of parking space to  
3 other uses in the future, parking at the ground-level shall not be sloped, and shall have a  
4 minimum clear ceiling height of nine feet.

5 (i) Where a non-accessory off-street parking garage permitted under Section  
6 223(m)--(p) is located in the Mid-Market area described below in subsection 155(s)(3)(B) and  
7 fronts more than one street of less than 45 feet in width, a conditional use may be granted in  
8 accordance with Section 303 that allows an exception to this requirement for one of the street  
9 frontages. The above provision authorizing such conditional use shall sunset eight years from  
10 the effective date of the ordinance enacting this subsection 155(s)(1)(A)(i).

11 (C) Parking allowed above the ground-level in accordance with an exception under  
12 Section 309 or a conditional use in accordance with Section 303 as authorized by subsections  
13 155(s)(2) or 155(s)(3) shall be entirely screened from public rights-of-way in a manner that  
14 accentuates ground floor retail and other uses, minimizes louvers and other mechanical  
15 features and is in keeping with the overall massing and architectural vocabulary of the  
16 building's lower floors. So as not to preclude conversion of parking space to other uses in the  
17 future, parking allowed above the ground-level shall not be sloped and shall have a minimum  
18 clear ceiling height of nine feet.

19 (2) Residential accessory parking. For residential accessory off-street parking in C-  
20 3 Districts, two additional floors of above-grade parking beyond the at-grade parking allowed  
21 by Section 155(s)(1), to a maximum ceiling height of 35 feet from grade, may be permitted  
22 subject to the provisions of subsections 155(s)(2)(A) or 155(s)(2)(B) below:

23 (A) In a manner provided in Section 309 of this Code provided it can be clearly  
24 demonstrated that transportation easements or contaminated soil conditions make it  
25 practically infeasible to build parking below-ground. The determination of practical infeasibility

1 shall be made based on an independent, third-party geotechnical assessment conducted by a  
2 licensed professional and funded by the project sponsor. The Planning Director shall make a  
3 determination as to the objectivity of the study prior to the Planning Commission's  
4 consideration of the exception application under Section 309.

5 (B) As a conditional use in accordance with the criteria set forth in Section 303 of  
6 this Code, provided it can be clearly demonstrated that constructing the parking above-grade  
7 instead of underground would allow the proposed housing to meet affordability levels for  
8 which actual production has not met ABAG production targets as identified in the Housing  
9 Element of the General Plan.

10 (3) Non-accessory off-street parking garages. For non-accessory off-street parking  
11 garages in C-3 Districts permitted under Section 223(m)–(p), two additional floors of above-  
12 grade parking beyond the at-grade parking allowed by Section 155(s)(1), to a maximum  
13 ceiling height of 35 feet from grade, may be permitted subject to the provisions of subsections  
14 155(s)(3)(A) or 155(s)(3)(B) below:

15 (A) As a conditional use in accordance with the criteria set forth in Section 303,  
16 provided it can be clearly demonstrated that transportation easements or contaminated soil  
17 conditions make it practically infeasible to build parking below-ground. The determination of  
18 practical infeasibility shall be made based on an independent, third-party geotechnical  
19 assessment conducted by a licensed professional and funded by the project sponsor. The  
20 Planning Director shall make a determination as to the objectivity of the study prior to the  
21 Planning Commission's consideration of the conditional use permit application.

22 (B) As a conditional use in accordance with the criteria set forth in Section 303,  
23 provided the site contains an existing non-accessory off-street surface parking lot with valid  
24 permits for such parking as of the effective date of the ordinance enacting this subsection and  
25 the site is located in the following Mid-Market area: Assessor's Block 0341, Lots 4 through 9

1 and 13; Block 0342, Lots 1, 2, 4, 7, 11, 12 and 13; Block 0350, Lots 1 through 4; Block 0355,  
2 Lots 3 through 12 and 15; Block 3507, Lot 39; Block 3508, Lots 1, 13, 18, 19, 22, 24 through  
3 27, 39 and 40; Block 3509, Lots 18, 19, 36, 37 and 40 through 43; Block 3510, Lot 1; Block  
4 3701, Lots 5, 8, 10, 11, 12, 20 through 24, 53, 59, 60, 63 and 64; Block 3702, Lots 1, 2, 37,  
5 38, 39, 44, 44A, 45, 46, 47, 48, 48A, 51, 52, 53, 54, 56; Block 3703, Lots 1, 2, 3, 7, 10, 11, 12,  
6 25, 26, 33, 40, 41, 50, 53, 56 through 68, 70, 74, 75, 76, 78 through 81, 84, 85 and 86; Block  
7 3704, Lots 1, 3, 6, 9 through 13, 15, 17 through 22, 24, 35, 38, 39, 42, 43, 45, 62 and 67  
8 through 79, Block 3725, Lot 78, 82, 86 through 91 and 93; Block 3727, Lot 1, 91, 94, 96, 97,  
9 109, 117, 118, 120, 134, 168 and 173; Block 3728, Lot 1, 72, 75, 76, 81, 82, 83, 89, 103 and  
10 105; and Block 0351, Lots 1, 22, 32, 33, 37, 39, 41, 43, 46, 47, 49, 50 and 51 This subsection  
11 155(s)(3)(B) shall sunset eight years from the effective date of the ordinance enacting this  
12 subsection.

13 (4) Parking lots permitted in C-3 Districts as temporary uses according to Section  
14 156(h) and expansions of existing above-grade publicly accessible parking facilities are not  
15 subject to the requirements of subsections 155(s)(1)--(3).

16 (5) Parking and Loading Access.

17 (A) Width of openings. Any single development is limited to a total of two facade  
18 openings of no more than 11 feet wide each or one opening of no more than 22 feet wide for  
19 access to off-street parking and one facade opening of no more than 15 feet wide for access  
20 to off-street loading. Shared openings for parking and loading are encouraged. The maximum  
21 permitted width of a shared parking and loading garage opening is 27 feet.

22 (B) Porte cocheres to accommodate passenger loading and unloading are not  
23 permitted except as part of a hotel, inn or hostel use. For the purpose of this Section, a "porte  
24 cochere" is defined as an off-street driveway, either covered or uncovered, for the purpose of  
25 passenger loading or unloading, situated between the ground floor facade of the building and

1 the sidewalk.

2 SEC. 207.7. RESTRICTIONS ON DEMOLITION, CONVERSION, AND MERGER OF  
3 EXISTING DWELLING UNITS IN RTO, ~~AND NCT, AND THE UPPER MARKET~~  
4 NEIGHBORHOOD COMMERCIAL DISTRICTS.

5 (a) Purpose. The controls governing the RTO, ~~and NCT, and the Upper Market~~  
6 Neighborhood Commercial Districts are flexible with regard to dwelling unit density and parking,  
7 and intended to foster creative infill housing of moderate to high density while maintaining the  
8 character of the district. The intent of this flexibility, however, is not to encourage the  
9 demolition or removal of existing housing stock, particularly units in older buildings.

10 (b) Demolition of any dwelling unit, merger of any two or more dwelling units, or  
11 conversion of a dwelling unit to a non-residential use (herein all generally referred to as  
12 "demolition") in an RTO, ~~or NCT, or the Upper Market Neighborhood Commercial District~~ shall be  
13 permitted only with Conditional Use authorization from the Planning Commission. Under no  
14 circumstance may the Commission grant a Conditional Use for demolition of a dwelling unit  
15 absent consideration of a replacement Code-complying project on the same lot. In granting  
16 any Conditional Use, the Commission shall consider each of the following characteristics of  
17 the dwelling unit(s) proposed for demolition and of the proposed replacement project, and  
18 shall approve such demolition if, on balance, the proposal meets these criteria, and serves the  
19 public interest:

20 (1) the assessed value of the units proposed for demolition exceed that which is  
21 affordable to households earning 100% of median income;

22 (2) the units proposed for demolition are unsound, in accord with the Planning  
23 Commission's adopted definition of "unsound";

24 (3) there is no history of poor maintenance or Code violations;

25 (4) the property is not a historic resource under CEOA;

1 (5) the proposed replacement project results in a net increase in the number of units  
2 on-site;

3 (6) the proposed replacement project is of superb architectural and urban design,  
4 meets or exceeds all relevant design guidelines and Area Plan policies;

5 (7) the proposed replacement project preserves rental housing on site from  
6 conversion to other forms of occupancy or tenure;

7 (8) the proposed replacement project restores rent control to equivalent number of  
8 units on the site;

9 (9) the proposed replacement project features affordability at least equivalent to the  
10 existing units;

11 (10) the proposed replacement project represents no net loss in the number of  
12 family-sized units;

13 (11) the proposed replacement project serves as supportive housing or serves a  
14 special or underserved population;

15 (12) the proposed project seeks to convert a ground-floor, street-facing residential  
16 use to a commercial use in a neighborhood commercial district where such commercial uses  
17 are desirable; and

18 (13) the proposed replacement project serves a public interest or public use that  
19 cannot be met without the proposed demolition.

20 SEC. 207.8. DIVISION OF DWELLING UNITS IN THE RTO, UPPER MARKET NCD,  
21 AND NCT DISTRICTS.

22 In order to ensure an adequate supply of family-sized units in existing and new housing  
23 stock, the subdivision of existing units is restricted. The division of any existing dwelling unit  
24 into two or more units in RTO, Upper Market NCD, and NCT districts shall be permitted only if it  
25 meets both of the following conditions:

1 (a) The existing unit exceeds 2,000 occupied square feet or contains more than 3  
2 bedrooms; and

3 (b) At least one of the resulting units is no less than 2 bedrooms and 1,250 square  
4 feet in size.

5 SEC. 263.20. SPECIAL HEIGHT EXCEPTION: ADDITIONAL FIVE FEET HEIGHT  
6 FOR GROUND FLOOR USES IN NCT 40-X AND 50-X HEIGHT AND BULK DISTRICTS, IN  
7 NC-2 AND NC-3 DESIGNATED PARCELS FRONTING MISSION STREET, FROM SILVER  
8 AVENUE TO THE DALY CITY BORDER, AND IN SPECIFIED NC-1 DESIGNATED  
9 PARCELS AND IN SPECIFIED NC DISTRICTS.

10 (a) Intent. In order to encourage generous ground floor ceiling heights for  
11 commercial and other active uses, encourage additional light and air into ground floor spaces,  
12 allow for walk-up ground floor residential uses to be raised slightly from sidewalk level for  
13 privacy and usability of front stoops, and create better building frontage on the public street,  
14 up to an additional 5' of height is allowed along major streets in NCT districts, or in specific  
15 NC-3, NC-2, or NC-1 districts listed below, for buildings that feature either higher ground floor  
16 ceilings for non-residential uses or ground floor residential units (that have direct walk-up  
17 access from the sidewalk) raised up from sidewalk level.

18 (b) Applicability. The special height exception described in this section shall only  
19 apply to projects that meet all of the following criteria:

20 (1) project is located in a 40-X or 50-X Height and Bulk District as designated on the  
21 Zoning Map;

22 (2) project is located:

23 (A) in an NCT district as designated on the Zoning Map;

24 (B) in the Upper Market Street NCD; or

(C) in a NC-2 or NC-3 designated parcel fronting Mission Street, from Silver Avenue to the Daly City border; or

(D) on a NC-1 designated parcel with a commercial use on the ground floor within the boundaries of Sargent Street to Orizaba Avenue to Lobos Street to Plymouth Avenue to ~~Farellones~~ Farallones Street to San Jose Avenue to Alemany Boulevard to 19th Avenue to Randolph Street to Monticello Street and back to Sargent Street.

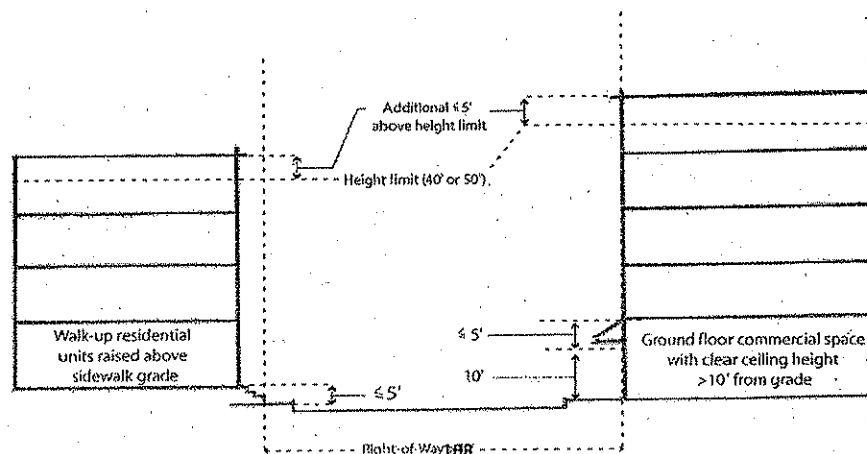
(3) project features ground floor commercial space or other active use as defined by Section 145.1(b)(2) with clear ceiling heights in excess of ten feet from sidewalk grade, or in the case of residential uses, such walk-up residential units are raised up from sidewalk level;

(4) said ground floor commercial space, active use, or walk-up residential use is primarily oriented along a right-of-way wider than 40 feet;

(5) said ground floor commercial space or active use occupies at least 50% of the project's ground floor area; and

(6) except for projects located in NCT districts, the project sponsor has conclusively demonstrated that the additional 5' increment allowed through Section 263.20 would not add new shadow to any public open spaces.

(c) One additional foot of height, up to a total of five feet, shall be permitted above the designated height limit for each additional foot of ground floor clear ceiling height in excess of 10 feet from sidewalk grade, or in the case of residential units, for each foot the unit is raised above sidewalk grade.





1 SEC. 401. DEFINITIONS.

2 (a) In addition to the specific definitions set forth elsewhere in this Article, the  
3 following definitions shall govern interpretation of this Article:

4 ~~(1)~~ "Affordable housing project." A housing project containing units constructed to  
5 satisfy the requirements of Sections 413.5, 413.8, 415.4, or 4.5.5 of this Article, or receiving  
6 funds from the Citywide Affordable Housing Fund.

7 ~~(2)~~ "Affordable to a household." A purchase price that a household can afford to pay  
8 based on an annual payment for all housing costs of 33 percent of the combined household  
9 annual net income, a 10 percent down payment, and available financing, or a rent that a  
10 household can afford to pay based on an annual payment for all housing costs of 30 percent  
11 of the combined annual net income.

12 ~~(3)~~ "Affordable to qualifying households":

13 (A) With respect to owned units, the average purchase price on the initial sale of all  
14 affordable owned units in an affordable housing project shall not exceed the allowable  
15 average purchase price. Each unit shall be sold:

16 (i) Only to households with an annual net income equal to or less than that of a  
17 household of moderate income; and

18 (ii) At or below the maximum purchase price.

19 (B) With respect to rental units in an affordable housing project, the average annual  
20 rent shall not exceed the allowable average annual rent. Each unit shall be rented:

21 (i) Only to households with an annual net income equal to or less than that of a  
22 household of lower income;

23 (ii) At or less than the maximum annual rent.

24 ~~(4)~~ "Allowable average purchase price":

1 (A) For all affordable one-bedroom units in a housing project, a price affordable to a  
2 two-person household of median income as set forth in Title 25 of the California Code of  
3 Regulations Section 6932 ("Section 6932") on January 1st of that year;

4 (B) For all affordable two-bedroom units in a housing project, a price affordable to a  
5 three-person household of median income as set forth in Section 6932 on January 1st of that  
6 year;

7 (C) For all affordable three-bedroom units in a housing project, a price affordable to  
8 a four-person household of median income as set forth in Section 6932 on January 1st of that  
9 year;

10 (D) For all affordable four-bedroom units in a housing project, a price affordable to a  
11 five-person household of median income as set forth in Section 6932 on January 1st of that  
12 year.

13 (~~H~~) "Affordable to qualifying middle income households":

14 (A) With respect to owned units, the average purchase price on the initial sale of all  
15 qualifying middle income units shall not exceed the allowable average purchase price deemed  
16 acceptable for households with an annual gross income equal to or less than the qualifying  
17 limits for a household of middle income, adjusted for household size. This purchase price shall  
18 be based on household spending of 35% of income for housing, and shall only apply to initial  
19 sale, and not for the life of the unit.

20 (B) With respect to rental units, the average annual rent--including the cost of  
21 utilities paid by the tenant according to the HUD utility allowance established by the San  
22 Francisco Housing Authority -- for qualifying middle income units shall not exceed the  
23 allowable average purchase price deemed acceptable for households with an annual gross  
24 income equal to or less than the qualifying limits for a household of middle income, adjusted  
25 for household size. This price restriction shall exist for the life of the unit.

1       (5) "Allowable average annual rent":

2       (A) For all affordable one-bedroom units in a housing project, 18 percent of the  
3 median income for a household of two persons as set forth in Section 6932 on January 1st of  
4 that year;

5       (B) For all affordable two-bedroom units in a housing project, 18 percent of the  
6 median income for a household of three persons as set forth in Section 6932 on January 1st  
7 of that year;

8       (C) For all affordable three-bedroom units in a housing project, 18 percent of the  
9 median income for a household of four persons as set forth in Section 6932 on January 1st of  
10 that year;

11       (D) For all affordable four-bedroom units in a housing project, 18 percent of the  
12 median income for a household of five persons as set forth in Section 6932 on January 1st of  
13 that year.

14       (6) "Annual gross income." Gross income as defined in CCR Title 25, Section 6914,  
15 as amended from time to time, except that MOH may, in order to promote consistency with  
16 the procedures of the San Francisco Redevelopment Agency, develop an asset test that  
17 differs from the State definition if it publishes that test in the Procedures Manual.

18       (7) "Annual net income." Net income as defined in Title 25 of the California Code of  
19 Regulations Section 6916.

20       (8) "Average annual rent." The total annual rent for the calendar year charged by a  
21 housing project for all affordable rental units in the project of an equal number of bedrooms  
22 divided by the total number of affordable units in the project with that number of bedrooms.

23       (9) "Average purchase price." The purchase price for all affordable owned units in  
24 an affordable housing project of an equal number of bedrooms divided by the total number of  
25 affordable units in the project with that number of bedrooms.

1       (10) "Balboa Park Community Improvements Fund." The fund into which all fee  
2 revenue the City collects from the Balboa Park Impact Fee is deposited.

3       (11) "Balboa Park Community Improvements Program." The program intended to  
4 implement the community improvements identified in the Balboa Park Area Plan, as  
5 articulated in the Balboa Park Community Improvements Program Document on file with the  
6 Clerk of the Board in File No. 090179.

7       (12) "Balboa Park Impact Fee." The fee collected by the City to mitigate impacts of  
8 new development in the Balboa Park Program Area, as described in the findings in Section  
9 422.1.

10       (13) "Balboa Park Program Area." The Balboa Park Plan Area in Figure 1 of the  
11 Balboa Park Station Area Plan of the San Francisco General Plan.

12       (14) "Base service standard." The relationship between revenue service hours  
13 offered by the Municipal Railway and the number of automobile and transit trips estimated to  
14 be generated by certain non-residential uses, expressed as a ratio where the numerator  
15 equals the average daily revenue service hours offered by MUNI and the denominator equals  
16 the daily automobile and transit trips generated by non-residential land uses as estimated by  
17 the TIDF Study or updated under Section 411.5 of this Article.

18       (15) "Base service standard fee rate." The TIDF that would allow the City to recover  
19 the estimated costs incurred by the Municipal Railway to meet the demand for public transit  
20 resulting from new development in the economic activity categories for which the fee is  
21 charged, after deducting government grants, fare revenue, and costs for non-vehicle  
22 maintenance and general administration.

23       (16) "Board" or "Board of Supervisors." The Board of Supervisors of the City and  
24 County of San Francisco.  
25

1           (17) "Change of Use." A change of gross floor area from one category of use to  
2 another category of use listed in the use table for the zoning district of the subject lot.

3           (18) "Child-care facility." A child-care facility as defined in California Health and  
4 Safety Code Section 1596.750.

5           (19) "Child-care provider." A provider as defined in California Health and Safety Code  
6 Section 1596.791.

7           (20) "City" or "San Francisco." The City and County of San Francisco.

8           (22) "Commission" or "Planning Commission." The San Francisco Planning  
9 Commission.

10          (23) "Community apartment." As defined in San Francisco Subdivision Code Section  
11 1308(b).

12          (24) "Community facilities." All uses as defined under Section 209.4(a) and 209.3(d)  
13 of this Code.

14          (25) "Condition of approval" or "Conditions of approval." A condition or set of written  
15 conditions imposed by the Planning Commission or another permit-approving or issuing City  
16 agency or appellate body to which a project applicant agrees to adhere and fulfill when it  
17 receives approval for the construction of a development project subject to this Article .

18          (26) "Condominium." As defined in California Civil Code Section 783.

19          (27) "Cultural/Institution/Education (CIE)." An economic activity category subject to  
20 the TIDF that includes, but is not limited to, schools, as defined in Sections 209.3(g), (h), and  
21 (i) and 217(f)-(i) of this Code; child care facilities; museums and zoos; and community facilities  
22 , as defined in Sections 209.4 and 221(a)-(c) of this Code.

23          (28) "DBI." The San Francisco Department of Building Inspection or its successor.

24          (29) "Dedicated." Legally transferred to the City and County of San Francisco,  
25 including all relevant legal documentation, at no cost to the City.

1       ~~(30)~~ "Dedicated site." The portion of site proposed to be legally transferred at no cost  
2 to the City and County of San Francisco under the requirements of this section.

3       ~~(31)~~ "Department" or "Planning Department." The San Francisco Planning  
4 Department or the Planning Department's designee, including the Mayor's Office of Housing  
5 and other City agencies or departments.

6       ~~(32)~~ "Designated affordable housing zones." For the purposes of implementing the  
7 Eastern Neighborhoods Public Benefits Fund, shall mean the Mission NCT defined in Section  
8 736 and the Mixed Use Residential District defined in Section 841.

9       ~~(33)~~ "Development fee." Either a development impact fee or an in-lieu fee. It shall not  
10 include a fee for service or any time and material charges charged for reviewing or processing  
11 permit applications.

12       ~~(34)~~ "Development Fee Collection Unit" or "Unit." The Development Fee Collection  
13 Unit at DBI.

14       ~~(35)~~ "Development impact fee." A fee imposed on a development project as a  
15 condition of approval to mitigate the impacts of increased demand for public services, facilities  
16 or housing caused by the development project that may or may not be an impact fee  
17 governed by the California Mitigation Fee Act (California Government Code Section 66000 et  
18 seq.).

19       ~~(36)~~ "Development impact requirement." A requirement to provide physical  
20 improvements, facilities or below market rate housing units imposed on a development project  
21 as a condition of approval to mitigate the impacts of increased demand for public services,  
22 facilities or housing caused by the development project that may or may not be governed by  
23 the California Mitigation Fee Act (California Government Code Section 66000 et seq.).

24       ~~(37)~~ "Development project." Any change of use within an existing structure, addition  
25 to an existing structure, or new construction, which includes any occupied floor area.

1           (38) "Development under the TIDF." Any new construction, or addition to or  
2 conversion of an existing structure under a building or site permit issued on or after  
3 September 4, 2004, that results in 3,000 gross square feet or more of a covered use. In the  
4 case of mixed use development that includes residential development, the term "new  
5 development" shall refer to only the non-residential portion of such development. "Existing  
6 structure" shall include a structure for which a sponsor already paid a fee under the prior TIDF  
7 ordinance, as well as a structure for which no TIDF was paid.

8           (39) "Director." The Director of Planning or his or her designee.

9           (40) "DPW." The Department of Public Works, or its successor.

10          (41) "Eastern Neighborhoods Infrastructure Impact Fee." The fee collected by the  
11 City to mitigate impacts of new development in the Eastern Neighborhoods Program Area, as  
12 described in the Findings in Section 423.1

13          (42) "Eastern Neighborhoods Public Benefits Fund." The fund into which all fee  
14 revenue collected by the City from the Eastern Neighborhoods Impact Fee is deposited.

15          (43) "Eastern Neighborhoods Public Benefits Program." The program intended to  
16 implement the community improvements identified in the four Area Plans affiliated with the  
17 Eastern Neighborhoods (Central Waterfront, East SoMa, Mission, and Showplace  
18 Square/Potrero Hill), as articulated in the Eastern Neighborhoods Public Benefits Program  
19 Document, on file with the Clerk of the Board in File No. 081155.)

20          (44) "Eastern Neighborhoods Program Area." The Eastern Neighborhoods Plan Area  
21 in Map 1 (Land Use Plan) of the Eastern Neighborhoods Area Plan of the San Francisco  
22 General Plan.

23          (45) "Economic activity category." Under the TIDF, one of the following six categories  
24 of non-residential uses: Cultural/Institution/Education (CIE), Management, Information and  
25

1 Professional Services (MIPS), Medical and Health Services, Production/Distribution/Repair  
2 (PDR), Retail/Entertainment, and Visitor Services.

3 (46) "Entertainment use." Space within a structure or portion thereof intended or  
4 primarily suitable for or accessory to the operation of uses defined in San Francisco Planning  
5 Code Sections 102.17 (Nighttime Entertainment), 790.38 and 890.37 (Other Entertainment),  
6 790.36 and 890.36 (Adult Entertainment), 790.64 and 890.64 (Movie Theater), and 790.4 and  
7 890.4 (Amusement Arcade), regardless of the zoning district that the use is located in.

8 (47) "First certificate of occupancy." Either a temporary certificate of occupancy or a  
9 Certificate of Final Completion and Occupancy as defined in San Francisco Building Code  
10 Section 109A, whichever is issued first.

11 (48) "First construction document." As defined in Section 107A.13.1 of the San  
12 Francisco Building Code.

13 (49) "Gross floor area." The total area of each floor within the building's exterior  
14 walls, as defined in Section 102.9(b)(12) of this Code.

15 (50) "Gross square feet of use." The meaning set forth in Section 102.9 of this Code,  
16 with the exception of the TIDF. With respect to the TIDF, the total square feet of gross floor  
17 area in a building and/or space within or adjacent to a structure devoted to all uses covered by  
18 the TIDF, including any common areas exclusively serving such uses and not serving  
19 residential uses. Where a structure contains more than one use, areas common to two or  
20 more uses, such as lobbies, stairs, elevators, restrooms, and other ancillary spaces included  
21 in gross floor area that are not exclusively assigned to one uses shall be apportioned among  
22 the two or more uses in accordance with the relative amounts of gross floor area, excluding  
23 such space, in the structure or on any floor thereof directly assignable to each use.  
24  
25



1           (51) "Hotel" or "Hotel use." Space within a structure or portion thereof intended or  
2 primarily suitable for or accessory to the operation of uses defined in San Francisco Planning  
3 Code Sections 790.46 and 890.46, regardless of the zoning district that the use is located in.

4           (52) "Household." Any person or persons who reside or intend to reside in the same  
5 housing unit.

6           (53) "Household of lower income." A household composed of one or more persons  
7 with a combined annual net income for all adult members which does not exceed the  
8 qualifying limit for a lower-income family of a size equivalent to the number of persons  
9 residing in such household, as set forth for the County of San Francisco in Title 25 of the  
10 California Code of Regulations Section 6932.

11          (54) "Household of median income." A household composed of one or more persons  
12 with a combined annual net income for all adult members which does not exceed the  
13 qualifying limit for a median-income family of a size equivalent to the number of persons  
14 residing in such household, as set forth for the County of San Francisco in Title 25 of the  
15 California Code of Regulations Section 6932.

16          (55) "Household of moderate income." A household composed of one or more  
17 persons with a combined annual net income for all adult members which does not exceed the  
18 qualifying limit for a moderate-income family of a size equivalent to the number of persons  
19 residing in such household, as set forth for the County of San Francisco in Title 25 of the  
20 California Code of Regulations Section 6932.

21          (56) "Housing developer." Any business entity building housing units which receives a  
22 payment from a sponsor for use in the construction of the housing units. A housing developer  
23 may be (a) the same business entity as the sponsor, (b) an entity in which the sponsor is a  
24 partner, joint venturor, or stockholder, or (c) an entity in which the sponsor has no control or  
25 ownership.

1       (57) "Housing project." Any development which has residential units as defined in the  
2 Planning Code, including but not limited to dwellings, group housing, independent living units,  
3 and other forms of development which are intended to provide long-term housing to  
4 individuals and households. "Housing project" shall not include that portion of a development  
5 that qualifies as an Institutional Use under the Planning Code. "Housing project" for purposes  
6 of this Program shall also include the development of live/work units as defined by Section  
7 102.13 of this Code. Housing project for purposes of this Program shall mean all phases or  
8 elements of a multi-phase or multiple lot residential development.

9       (58) "Housing unit" or "unit." A dwelling unit as defined in San Francisco Housing  
10 Code Section 401.

11       (59) "Improvements Fund." The fund into which all revenues collected by the City for  
12 each Program Area's impact fees are deposited.

13       (60) "In-Kind Agreement." An agreement acceptable in form and substance to the  
14 City Attorney and the Director of Planning, under which the project sponsor agrees to provide  
15 a specific set of community improvements, at a specific phase of construction, in lieu of  
16 contribution to the relevant Fund.

17       (61) "Infrastructure." Open space and recreational facilities; public realms  
18 improvements such as pedestrian improvements and streetscape improvements; public transit  
19 facilities; and community facilities such as libraries, child care facilities, and community  
20 centers.

21       (62) "In lieu fee." A fee paid by a project sponsor in lieu of complying with a  
22 requirement of this Code and that is not a development impact fee governed by the Mitigation  
23 Fee Act.

24       (63) "Institutional use." ~~shall mean~~ Space within a structure or portion thereof  
25 intended or primarily suitable for or accessory to the operation of uses contained in San

1 Francisco Planning Code Section 217 and 890.50, regardless of the zoning district that the  
2 use is located in.

3 (64) "Integrated PDR use." ~~shall mean~~ Space within a structure or portion thereof  
4 intended or primarily suitable for or accessory to the operation of uses defined in San  
5 Francisco Planning Code Section 890.49, regardless of the zoning district that the use is  
6 located in.

7 (65) "Interim Guidelines." ~~shall mean~~ The Office Housing Production Program Interim  
8 Guidelines adopted by the City Planning Commission on January 26, 1982, as amended.

9 (66) "Licensed Child-care facility." A child-care facility which has been issued a valid  
10 license by the California Department of Social Services pursuant to California Health and  
11 Safety Code Sections 1596.80-1596.875, 1596.95-1597.09, or 1597.30-1597.61.

12 (67) "Live/work project." A housing project containing more than one live/work unit.

13 (68) "Live/work unit" shall be as defined in Section 102.13 of this Code.

14 (69) "Long term housing." Housing intended for occupancy by a person or persons  
15 for 32 consecutive days or longer.

16 (70) "Low income." For purposes of this Article, up to 80% of median family income  
17 for the San Francisco PMSA, as calculated and adjusted by the United States Department of  
18 Housing and Urban Development (HUD) on an annual basis, except that as applied to  
19 housing-related purposes such as the construction of affordable housing and the provision of  
20 rental subsidies with funds from the SOMA Stabilization Fund established in Section 418.7, it  
21 shall mean up to 60% of median family income for the San Francisco PMSA, as calculated  
22 and adjusted by HUD on an annual basis.

23 (71) "Management, Information and Professional Services (MIPS). An economic  
24 activity category under the TIDF that includes, but is not limited to, office use; medical offices  
25 and clinics, as defined in Section 890.114 of this Code; business services, as defined in

1 Section 890.111 of this Code; Integrated PDR, as defined in Section 890.49 of this Code, and  
2 Small Enterprise Workspaces, as defined in Section 227(t) of this Code.

3 ~~(72)~~ "Market and Octavia Community Improvements Fund" The fund into which all  
4 fee revenue collected by the City from the Market and Octavia Community Improvements Fee  
5 is deposited.

6 ~~(73)~~—"Market and Octavia Community Improvements Impact Fee." The fee collected  
7 by the City to mitigate impacts of new development in the Market and Octavia Program Area,  
8 as described in the findings in Section 421.1.

9 ~~(74)~~ "Market and Octavia Community Improvements Program." The program  
10 intended to implement the community improvements identified in the Market and Octavia Area  
11 Plan, as articulated in the Market and Octavia Community Improvements Program Document  
12 on file with the Clerk of the Board in File No. 071157.)

13 ~~(75)~~ "Market and Octavia Program Area." The Market and Octavia Plan Area in Map  
14 1 (Land Use Plan) of the Market and Octavia Area Plan of the San Francisco General Plan,  
15 which includes those districts zoned RTO, NCT, or any neighborhood specific NCT, a few  
16 parcels zoned RH-1 or RH-2, and those parcels within the Van Ness and Market Downtown  
17 Residential Special Use District (VMDRSUD). The Program Area also includes the Upper Market  
18 NCD, which includes parcels one block west of the plan area that front Market Street.

19 ~~(76)~~ "Market rate housing." Housing constructed in the principal project that is not  
20 subject to sales or rental restrictions.

21 ~~(77)~~ "Maximum annual rent." The maximum rent that a housing developer may  
22 charge any tenant occupying an affordable unit for the calendar year. The maximum annual  
23 rent shall be 30 percent of the annual income for a lower-income household as set forth in  
24 Section 6932 on January 1st of each year for the following household sizes:

25 (A) For all one-bedroom units, for a household of two persons;

1 (B) For all two-bedroom units, for a household of three persons;

2 (C) For all three-bedroom units, for a household of four persons;

3 (D) For all four-bedroom units, for a household of five persons.

4 ~~(78)~~ "Maximum purchase price." The maximum purchase price that a household of  
5 moderate income can afford to pay for an owned unit based on an annual payment for all  
6 housing costs of 33 percent of the combined household annual net income, a 10 percent  
7 down payment, and available financing, for the following household sizes:

8 (A) For all one-bedroom units, for a household of two persons;

9 (B) For all two-bedroom units, for a household of three persons;

10 (C) For all three-bedroom units, for a household of four persons;

11 (D) For all four-bedroom units, for a household of five persons.

12 ~~(79)~~ "Medical and Health Services." An economic activity category under the TIDF  
13 that includes, but is not limited to, those non-residential uses defined in Sections 209.3(a) and  
14 217(a) of this Code; animal services, as defined in Section 224(a) and (b) of this Code; and  
15 social and charitable services, as defined in Sections 209.3(d) and 217(d) of this Code.

16 ~~(80)~~ "Middle Income Household." A household whose combined annual gross  
17 income for all members is between 120 percent and 150 percent of the local median income  
18 for the City and County of San Francisco, as calculated by the Mayor's Office of Housing  
19 using data from the United States Department of Housing and Urban Development (HUD) and  
20 adjusted for household size or, if data from HUD is unavailable, as calculated by the Mayor's  
21 Office of Housing using other publicly available and credible data and adjusted for household  
22 size.

23 ~~(81)~~ "MOH." The Mayor's Office of Housing, or its successor.

24 ~~(82)~~ "MTA." The Municipal Transportation Agency, or its successor.

25 ~~(83)~~ "MTA Director." The Director of MTA or his or her designee.

1       (84) "Municipal Railway; MUNI." The public transit system owned by the City and  
2 under the jurisdiction of the MTA.

3       (85) "Net addition." The total amount of gross floor area defined in Planning Code  
4 Section 102.9 contained in a development project, less the gross floor area contained in any  
5 structure demolished or retained as part of the proposed development project.

6       (86) "New development." Under the TIDF, any new construction, or addition to or  
7 conversion of an existing structure under a building or site permit issued on or after  
8 September 4, 2004 that results in 3,000 gross square feet or more of a use covered by the  
9 TIDF. In the case of mixed use development that includes residential development, the term  
10 "new development" shall refer to only the non-residential portion of such development.  
11 "Existing structure" shall include a structure for which a sponsor already paid a fee under the  
12 prior TIDF ordinance, as well as a structure for which no TIDF was paid.

13       (87) "Nonprofit child-care provider." A child-care provider that is an organization  
14 organized and operated for nonprofit purposes within the provisions of California Revenue  
15 and Taxation Code Sections 23701–23710, inclusive, as demonstrated by a written  
16 determination from the California Franchise Tax Board exempting the organization from taxes  
17 under Revenue and Taxation Code Section 23701.

18       (88) "Nonprofit organization." An organization organized and operated for nonprofit  
19 purposes within the provisions of California Revenue and Taxation Code Sections 23701–  
20 23710, inclusive, as demonstrated by a written determination from the California Franchise  
21 Tax Board exempting the organization from taxes under Revenue and Taxation Code Section  
22 23701.

23       (89) "Non-residential use." Space within any structure or portion thereof intended or  
24 primarily suitable for or accessory to occupancy by retail, office, commercial, or other non-  
25 residential uses defined in Section 209.3, 209.8, 217, 218, 219, and 221 of this Code,

1 regardless of the zoning district that the use is located in; except that residential components  
2 of uses defined in Section 209.3(a)-(c) and (g)-(i) shall be defined as a "residential use" for  
3 purposes of this Article. For the purposes of this Article, non-residential use shall not include  
4 PDR and publicly owned and operated community facilities.

5 ~~(90)~~ "Notice of Special Restrictions." A document recorded with the San Francisco  
6 Recorder's Office for any unit subject to this Program detailing the sale and resale or rental  
7 restrictions and any restrictions on purchaser or tenant income levels included as a Condition  
8 of Approval of the principal project relating to the unit.

9 ~~(91)~~ "Office use." Space within a structure or portion thereof intended or primarily  
10 suitable for or accessory to the operation of uses defined in San Francisco Planning Code  
11 Section 890.70, regardless of the zoning district that the use is located in.

12 ~~(92)~~ "Off-site unit." A unit affordable to qualifying households constructed pursuant to  
13 this Ordinance on a site other than the site of the principal project.

14 ~~(93)~~ "On-site unit." A unit affordable to qualifying households constructed pursuant to  
15 this Article on the site of the principal project.

16 ~~(94)~~ "Owned unit." A unit affordable to qualifying households which is a  
17 condominium, stock cooperative, community apartment, or detached single-family home. The  
18 owner or owners of an owned unit must occupy the unit as their primary residence.

19 ~~(95)~~ "Owner." The record owner of the fee or a vendee in possession.

20 ~~(96)~~ "PDR use." Space within any structure or portion thereof intended or primarily  
21 suitable for or accessory to the operation of uses defined in San Francisco Planning Code  
22 Sections 220, 222, 223, 224, 225, 226, 227(a), 227(b), and 227(p), regardless of the zoning  
23 district that the use is located in.

24 ~~(97)~~ "Principal project." A housing development on which a requirement to provide  
25 affordable housing units is imposed.

1       (98) "Principal site." The total site proposed for development, including the portion of  
2 site proposed to be legally transferred to the City and County of San Francisco.

3       (99) "Procedures Manual." The City and County of San Francisco Affordable Housing  
4 Monitoring Procedures Manual issued by the San Francisco Department of City Planning, as  
5 amended.

6       (100) "Rent" or "rental." The total charges for rent, utilities, and related housing  
7 services to each household occupying an affordable unit.

8       (101) "Rental unit." A unit affordable to qualifying households which is not a  
9 condominium, stock cooperative, or community apartment.

10       (102) "Replacement of use." The total amount of gross floor area, as defined in  
11 Section 102.9 of this Code, to be demolished and reconstructed by a development project.

12       (103) "Research and development use." Space within any structure or portion thereof  
13 intended or primarily suitable for or accessory to the operation of uses defined in San  
14 Francisco Planning Code Section 890.52, regardless of the zoning district that the use is  
15 located in.

16       (104) "Residential use." Space within any structure or portion thereof intended or  
17 primarily suitable for or accessory to occupancy by uses defined in San Francisco Planning  
18 Code Sections 209.1, 790.88, and 890.88 *of this Code*, as relevant for the subject zoning  
19 district, or containing group housing as defined in Section 209.2(a)-(c) of this Code and any  
20 residential components of institutional uses as defined in Section 209.3(a)-(c) and (g)-(i) of this  
21 Code.

22       (105) "Retail/entertainment." An economic activity category under the TIDF that  
23 includes, but is not limited to, a retail use; an entertainment use; massage establishments, as  
24 defined in Section 218.1 of this Code; laundering, and cleaning and pressing, as defined in  
25 Section 220 of this Code.



1           (106) "Retail use." Space within any structure or portion thereof intended or primarily  
2           suitable for or accessory to the operation of uses contained in San Francisco Planning Code  
3           Section 218, regardless of the zoning district that the use is located in.

4           (107) "Revenue services hours." The number of hours that the Municipal Railway  
5           provides service to the public with its entire fleet of buses, light rail (including streetcars), and  
6           cable cars.

7           (108) "Rincon Hill Community Improvements Fund." The fund into which all fee  
8           revenue collected by the City from the Rincon Hill Community Infrastructure Impact Fee is  
9           deposited.

10          (109) "Rincon Hill Community Infrastructure Impact Fee." The fee collected by the City  
11          to mitigate impacts of new development in the Rincon Hill Program Area, as described in the  
12          findings in Section 418.1.

13          (110) "Rincon Hill Program Area." Those districts identified as the Rincon Hill  
14          Downtown Residential (RH DTR) Districts in the Planning Code and on the Zoning Maps.

15          (111) "Section 6932." Section 6932 of Title 25 of the California Code of Regulations as  
16          such section applies to the County of San Francisco.

17          (112) "Small Enterprise Workspace use." ~~shall mean~~ Space within a structure or  
18          portion thereof intended or primarily suitable for or accessory to the operation of uses ~~as~~  
19          defined in San Francisco Planning Code Section 227(t), regardless of the zoning district that  
20          the use is located in.

21          (113) "SOMA." The area bounded by Market Street to the north, Embarcadero to the  
22          east, King Street to the south, and South Van Ness and Division to the west.

23          (114) "SOMA Community Stabilization Fee." The fee collected by the City to mitigate  
24          impacts on the residents and businesses of SOMA of new development in the Rincon Hill  
25          Program Area, as described in the findings in Section 418.1.

1       ~~(115)~~ "SOMA Community Stabilization Fund." The fund into which all fee revenue  
2 collected by the City from the SOMA Community Stabilization Fee is deposited.

3       ~~(116)~~ "Sponsor" or "project sponsor." An applicant seeking approval for construction of  
4 a development project subject to this Article, such applicant's successor and assigns, and/or  
5 any entity which controls or is under common control with such applicant.

6       ~~(117)~~ "Stock cooperative." As defined in California Business and Professions Code  
7 Section 11003.2.

8       ~~(118)~~ "Student housing." A building where 100 percent of the residential uses are  
9 affiliated with and operated by an accredited post-secondary educational institution. Typically,  
10 student housing is for rent, not for sale. This housing shall provide lodging or both meals and  
11 lodging, by prearrangement for one week or more at a time. This definition only applies in the  
12 Eastern Neighborhoods Mixed Use Districts.

13       ~~(119)~~ "TIDF; Transit Impact Development Fee." The development fee that is the  
14 subject of Section 411.1 et seq. of this Article.

15       ~~(120)~~ "TIDF Study." The study commissioned by the San Francisco Planning  
16 Department and performed by Nelson/Nygaard Associates entitled "Transit Impact  
17 Development Fee Analysis – Final Report," dated May 2001, including all the Technical  
18 Memoranda supporting the Final Report and the Nelson/Nygaard update materials contained  
19 in Board of Supervisors File No. 040141.

20       ~~(121)~~ "Total developable site area." That part of the site that can be feasibly  
21 developed as residential development, excluding land already substantially developed, parks,  
22 required open spaces, streets, alleys, walkways or other public infrastructure.

23       ~~(122)~~ "Treasurer." The Treasurer for the City and County of San Francisco.

24       ~~(123)~~ "Trip generation rate." The total number of automobile and Municipal Railway  
25 trips generated for each 1,000 square feet of development in a particular economic activity

1 category as established in the TIDF Study, or pursuant to the five-year review process  
2 established in Section 411.5 of this Article.

3 ~~(124)~~—"Use." The purpose for which land or a structure, or both, are legally designed,  
4 constructed, arranged, or intended, or for which they are legally occupied or maintained, let or  
5 leased.

6 ~~(125)~~—"Visitation Valley." The area bounded by Carter Street and McLaren Park to the  
7 west, Mansell Street to the north, Route 101 between Mansell Street and Bayshore Boulevard  
8 to the northeast, Bayview Park to the north, Candlestick Park and Candlestick Point  
9 Recreation Area to the east, the San Francisco Bay to the southeast, and the San Francisco  
10 County line to the south.

11 ~~(126)~~ "Visitor services." An economic activity category under the TIDF that includes,  
12 but is not limited to, hotel use; motel use, as defined in Section 216(c) and (d); and time-share  
13 projects, as defined in Section 11003.5(a) of the California Business and Professions Code.

14 ~~(127)~~ "Waiver Agreement." An agreement acceptable in form and substance to the  
15 City Attorney and the Planning Department under which the City agrees to waive all or a  
16 portion of the Community Improvements Impact Fee.

17 SEC. 416. MARKET AND OCTAVIA AREA PLAN AND UPPER MARKET  
18 NEIGHBORHOOD COMMERCIAL DISTRICT AFFORDABLE HOUSING FEE.

19 Sections 416.1 through 416.5, hereafter referred to as Section 416.1 et seq., set forth  
20 the requirements and procedures for the Market and Octavia Area Plan and Upper Market  
21 Neighborhood Commercial District Affordable Housing Fee. The effective date of these  
22 requirements shall be either May 30, 2008, which is the date that the requirements originally  
23 became effective, or the date a subsequent modification, if any, became effective.

24 SEC. 416.3. APPLICATION OF AFFORDABLE HOUSING REQUIREMENT. The  
25 requirements of Sections 415.1 through 415.9 shall apply in the Market and Octavia Plan Area

1 and the Upper Market NCD in addition to the following additional affordable housing  
2 requirement:

3 (a) Amount of Fee: All development projects that have not received Department or  
4 Commission approval as of the effective date of May 30, 2008 and that are subject to the  
5 Residential Inclusionary Affordable Housing Program shall pay an additional affordable  
6 housing fee per the fee schedule in Table 416.3A.

7 TABLE 416.3A  
8 AFFORDABLE HOUSING FEE SCHEDULE IN THE MARKET AND OCTAVIA  
9 PROGRAM AREA

|   | Van Ness and<br>Market Special<br>Use District | NCT                             | RTO                             |
|---|--|---------------------------------|---------------------------------|
| Net addition of residential use or change of<br>use to residential use        | \$7.20/gross<br>square foot                    | \$3.60/<br>gross<br>square foot | \$0.00/<br>gross<br>square foot |
| Replacement of, or change of use from, non-<br>residential to residential use | \$3.80/ gross<br>square foot                   | \$0.20/<br>gross<br>square foot | \$0.00/<br>gross<br>square foot |
| Replacement of, or change of use from,<br>PDR to residential use              | \$5.50/ gross<br>square foot                   | \$1.90/<br>gross<br>square foot | \$0.00/<br>gross<br>square foot |

24 (b) Other Fee Provisions. This additional affordable housing fee shall be subject to  
25 the inflation adjustment provisions of Section 409 and the waiver and reduction provisions of

1 Section 421.4. This additional affordable housing fee may not be met through the in-kind  
2 provision of community improvements or Community Facilities (Mello Roos) financing options  
3 of Sections 426.3(e) and (f).

4 (c) Exemption for Affordable Housing. A project applicant shall not pay a  
5 supplemental affordable housing fee for any square foot of space designated as a below  
6 market rate unit under Section 415.1 et seq., the Citywide Inclusionary Affordable Housing  
7 Program, or any other residential unit that is designated as an affordable housing unit under a  
8 Federal, State, or local restriction in a manner that maintains affordability for a term no less  
9 than 50 years.

10 (d) Timing of Payment. The Market and Octavia Plan Area and Upper Market NCD  
11 Affordable Housing Fee shall be paid before the City issues a first construction document,  
12 with an option for the project sponsor to defer payment to prior to issuance of the first  
13 certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with Section  
14 107A.13.3 of the San Francisco Building Code.

15 SEC. 416.5. USE OF FUNDS. The additional affordable housing requirement specified  
16 in this Section for the Market and Octavia Plan Area and the Upper Market NCD shall be paid  
17 into the Citywide Affordable Housing Fund, but the funds shall be separately accounted for.  
18 MOH shall expend the funds according to the following priorities: First, to increase the supply  
19 of housing affordable to qualifying households in the Market and Octavia Plan Area and the  
20 Upper Market NCD; second, to increase the supply of housing affordable to qualifying  
21 households within 1 mile of the boundaries of the Plan Area and the Upper Market NCD; third,  
22 to increase the supply of housing affordable to qualifying households in the City and County of  
23 San Francisco. The funds may also be used for monitoring and administrative expenses  
24 subject to the process described in Section 415.7(c).

25 SEC. 421.1. FINDINGS.

1           A.     Market and Octavia Plan Objectives. The Market and Octavia Area Plan  
2 embodies the community's vision of a better neighborhood, which achieves multiple objectives  
3 including creating a healthy, vibrant transit-oriented neighborhood. The Planning Department  
4 coordinated development of the Area Plan objectives around the tenants of the Better  
5 Neighborhood Planning process and within the larger framework of the General Plan.

6           The Market and Octavia Plan Area encompasses a variety of districts, most of which  
7 are primarily residential or neighborhood commercial. The Area Plan calls for a maintenance  
8 of the well-established neighborhood character in these districts with a shift to a more transit-  
9 oriented type of districts. A transit-oriented district, be it neighborhood commercial or  
10 residential in character, generates a unique type of infrastructure needs.

11          The overall objective of the Market and Octavia planning effort is to encourage  
12 balanced growth in a centrally located section of the City that is ideal for transit oriented  
13 development. The Area Plan calls for an increase in housing and retail capacity simultaneous  
14 to infrastructure improvements in an effort to maintain and strengthen neighborhood  
15 character.

16          B.     Need for New Housing and Retail. New residential construction in San Francisco  
17 is necessary to accommodate a growing population. The population of California has grown  
18 by more than 11 percent since 1990 and is expected to continue increasing. The San  
19 Francisco Bay Area is growing at a rate similar to the rest of the state.

20          The City should encourage new housing production in a manner that enhances existing  
21 neighborhoods and creates new high-density residential and mixed-use neighborhoods. One  
22 solution to the housing crisis is to encourage the construction of higher density housing in  
23 areas of the City best able to accommodate such housing. Areas like the Plan Area can better  
24 accommodate growth because of easy access to public transit, proximity to downtown,  
25 convenience of neighborhood shops to meet daily needs, and the availability of development

1 opportunity sites. San Francisco's land constraints, as described in Section 418.1(A), limit  
2 new housing construction to areas of the City not previously designated as residential areas,  
3 infill sites, or areas that can absorb increased density.

4 The Market and Octavia Plan Area presents opportunity for infill development on  
5 various sites, including parcels along Octavia Boulevard known as "the Central Freeway  
6 parcels," some parcels along Market Street, and the SoMa West portions of the Plan Area.  
7 These sites are compelling opportunities because new housing can be built within easy  
8 walking distance of the downtown and Civic Center employment centers and City and regional  
9 transit centers, while maintaining the comfortable residential character and reinforcing the  
10 unique and exciting neighborhood qualities.

11 To respond to the identified need for housing, repair the fabric of the neighborhood,  
12 and support transit-oriented development, the Market and Octavia Plan Area is zoned for the  
13 appropriate residential and commercial uses. The Planning Department is adding a Van Ness  
14 Market Downtown Residential Special Use District (VNMDR-SUD) in the Plan Area and  
15 establishing a Residential Transit-oriented (RTO) district and several Neighborhood  
16 Commercial Transit (NCT) districts. New zoning controls encourage housing and commercial  
17 development appropriate to each district.

18 The plan builds on existing neighborhood character and establishes new standards for  
19 amenities necessary for a transit-oriented neighborhood. A transit-oriented neighborhood  
20 requires a full range of neighborhood serving businesses. New retail and office space will  
21 provide both neighborhood- and City-serving businesses.

22 San Francisco is experiencing a severe shortage of housing available to people at all  
23 income levels, especially to those with the lowest incomes while seeing a sharp increase in  
24 housing prices. The Association of Bay Area Governments' (ABAG) Regional Housing Needs  
25 Determination (RHND) forecasts that San Francisco must produce 2,716 new units of housing

1 annually to meet projected needs. At least 5,639 of these new units should be available to  
2 moderate income households. New affordable units are funded through a variety of sources,  
3 including inclusionary housing and in lieu fees leveraged by new market rate residential  
4 development pursuant to Sections 413 and 415. The Planning Department projects that  
5 approximately 1,400 new units of affordable housing will be developed as a result of the plan.  
6 New Development Requires new Community Infrastructure.

7 The purpose for new development in the Plan Area is established above (Section  
8 421.1(A)). New construction should not diminish the City's open space, jeopardize the City's  
9 Transit First Policy, or place undue burden on the City's service systems. The new residential  
10 and non-residential construction should preserve the existing neighborhood services and  
11 character, as well as increase the level of service for all modes necessary to support transit-  
12 oriented development. New development in the area will create additional impact on the local  
13 infrastructure, thus generating a substantial need for community improvements as the  
14 district's population and workforce grows.

15 The amendments to the General Plan, Planning Code, and Zoning Maps that  
16 correspond to Section 421.1 et seq. will permit an increased amount of new residential and  
17 commercial development. The Planning Department anticipates an increase of 5,960 units  
18 within the next 20 years, and an increase of 9,875 residents, as published in the  
19 environmental impact report. This new development will have an extraordinary impact on the  
20 Plan Area's infrastructure including new development in the adjacent Upper Market NCD. As  
21 described more fully in the Market and Octavia Plan Final Environmental Impact Report, on  
22 file with the Clerk of the Board in File No. 071157, and the Market and Octavia Community  
23 Improvements Program Document, San Francisco Planning Department, on file with the Clerk  
24 of the Board in File No. 071157, new development will generate substantial new pedestrian,  
25 vehicle, bicycle, and transit trips which will impact the area. The transition to a new type of



1 district is tantamount to the development of new subdivisions, or the transition of a district  
2 type, in terms of the need for new infrastructure.

3 The Market and Octavia Area Plan proposes to mitigate these impacts by providing  
4 extensive pedestrian, transit, traffic-calming and other streetscape improvements that will  
5 encourage residents to make as many daily trips as possible on foot, by bicycle or on transit;  
6 by creating new open space, greening, and recreational facilities that will provide necessary  
7 public spaces; and by establishing a range of other services and programming that will meet  
8 the needs of community members. A comprehensive program of new public infrastructure is  
9 necessary to lessen the impacts of the proposed new development and to provide the basic  
10 community improvements to the area's new community members. The Market and Octavia  
11 Community Improvements Program Document provides a more detailed description of  
12 proposed Community Improvements.

13 In order to enable San Francisco to provide necessary public services to new  
14 residents; to maintain and improve the Market and Octavia Plan Area character and Upper  
15 Market NCD; and to increase neighborhood livability and investment in the district, it is  
16 necessary to upgrade existing streets and streetscaping; acquire and develop neighborhood  
17 parks, recreation facilities and other community facilities to serve the new residents and  
18 workers.

19 While the open space requirements imposed on individual developments address  
20 minimum needs for private open space and access to light and air, such open space does not  
21 provide the necessary public social and recreational opportunities as attractive public facilities  
22 such as sidewalks, parks and other community facilities that are essential urban infrastructure,  
23 nor does it contribute to the overall transformation of the district into a safe and enjoyable  
24 transit-oriented neighborhood.

1 C. Program Scope. The purpose of the proposed Market and Octavia Community  
2 Infrastructure Impact Fees is to provide specific public improvements, including community  
3 open spaces, pedestrian and streetscape improvements and other facilities and services.  
4 These improvements are described in the Market and Octavia Area Plan and Neighborhood  
5 Plan and the accompanying ordinances, and are necessary to meet established City  
6 standards for the provision of such facilities. The Market and Octavia Community  
7 Improvements Fund and Community Infrastructure Impact Fee will create the necessary  
8 financial mechanism to fund these improvements in proportion to the need generated by new  
9 development.

10 National and international transportation studies (such as the Dutch Pedestrian Safety  
11 Research Review. T. Hummel, SWOV Institute for Road Safety Research (Holland), and  
12 University of North Carolina Highway Safety Research Center for the U.S. Department of  
13 Transportation, 1999 on file with the Clerk of the Board have demonstrated that pedestrian,  
14 traffic-calming and streetscape improvements of the type proposed for the Market and Octavia  
15 Plan Area result in safer, more attractive pedestrian conditions. These types of improvements  
16 are essential to making pedestrian activity a viable choice, thereby helping to mitigate traffic  
17 impacts associated with excess automobile trips that could otherwise be generated by new  
18 development.

19 The proposed Market and Octavia Community Infrastructure Impact Fee is necessary  
20 to maintain progress towards relevant state and national service standards, as well as local  
21 standards in the Goals and Objectives of the General Plan for open space and streetscape  
22 improvements as discussed in Section 418.1(F). Additionally the fee contributes to library  
23 resources and childcare facilities standards discussed below:

24 Library Resources: New residents in Plan Area will generate a substantial new need for  
25 library services. The San Francisco Public Library does not anticipate adequate demand for a

1 new branch library in the Market and Octavia Plan Area at this time. However, the increase in  
2 population in Plan Area will create additional demand at other libraries, primarily the Main  
3 Library and the Eureka Valley Branch Library. The Market and Octavia Community  
4 Infrastructure Impact Fee includes funding for library services equal to \$69.00 per new  
5 resident, which is consistent with the service standards used by the San Francisco Public  
6 Library for allocating resources to neighborhood branch libraries. Child Care Facilities: New  
7 households in the Plan Area will generate a need for additional childcare facilities. Childcare  
8 services are integral to the financial and social success of families. Nationwide, research and  
9 policies are strengthening the link between childcare and residential growth, many Bay Area  
10 counties are leading in efforts to finance new childcare through new development. San Mateo  
11 has conducted detailed research linking housing to childcare needs. Santa Clara County has  
12 developed exemplary projects that provide childcare facilities in proximity to transit stations,  
13 and Santa Cruz has levied a fee on residential development to fund childcare. Similarly many  
14 research efforts have illustrated that adequate childcare services are crucial in supporting a  
15 healthy local economy, see research conducted by Louise Stoney, Mildred Warner, PPIC,  
16 County of San Mateo, CA on file with the Clerk of the Board. MOCD's Project Connect Report  
17 identified childcare as an important community service in neighboring communities. Project  
18 connect did not survey the entire Market and Octavia Plan Area, it focused on low income  
19 communities, including Market and Octavia's neighbors in the Mission, Western Addition, and  
20 the Tenderloin. The Department of Children Youth and Their Families projects new residents  
21 of Market and Octavia will generate demand for an additional 435 childcare spaces, of those  
22 287 will be serviced through new child care development centers.

23 D. Programmed Improvements and Costs. Community improvements to mitigate  
24 the impact of new development in the Market and Octavia Plan Area were identified through a  
25 community planning process, based on proposals in the Market and Octavia Area Plan on file

with the Clerk of the Board in File No.071158, and on a standards based analysis, and on community input during the Plan adoption process. The Planning Department developed cost estimates to the extent possible for all proposed improvements. These are summarized by use type in Table 1. Cost projections in Table 1 are realistic estimates made by the Planning Department of the actual costs for improvements needed to support new development. More information on these cost estimates is located in the Market and Octavia Community Improvements Program Document. Cost estimates for some items on Table 1 are to be determined through ongoing analyses conducted in coordination with implementation of the Market and Octavia Plan Community Improvements Program. In many cases these projects require further design work, engineering, and environmental review, which may alter the nature of the improvements; the cost estimates are still reasonable approximates for the eventual cost of providing necessary community improvements to respond to identified community needs. The Board of Supervisors is not committing to the implementation of any particular project at this time. Projects may be substituted for like projects should new information from the Citizens Advisory Committee, the Interagency Plan Implementation Committee, other stakeholders, or the environmental review process illustrate that substitute projects should be prioritized. Cost projections will be updated at a minimum approximately every five years after adoption.

Table 1.

Cost of proposed community improvements in the Market and Octavia Plan Area.

| Market and Octavia<br>Community Improvements |              |
|--|--------------|
| Greening                                     | \$58,310,000 |

|    |                        |               |
|----|------------------------|---------------|
| 1  | Parks                  | \$6,850,000   |
| 2  | Park Improvements      | \$ TBD        |
| 3  | Vehicle                | \$49,260,000  |
| 4  | Pedestrian             | \$23,760,000  |
| 5  | Transportation         | \$81,180,000  |
| 6  | Transit User           | \$ TBD        |
| 7  | Infrastructure         |               |
| 8  | Bicycle                | \$1,580,000   |
| 9  | Childcare              | \$17,170,000  |
| 10 | Library Materials      | \$690,000     |
| 11 | Recreational           | \$15,060,000  |
| 12 | Facilities             |               |
| 13 | Future Studies         | \$460,000     |
| 14 | Program Administration | \$4,730,000   |
| 15 | Total                  | \$258,900,000 |

18 Provision of affordable housing needs are addressed in Sections 413 and 415 of this  
19 Code. Additionally subsidized affordable housing may be granted a waiver from the Market  
20 and Octavia Community Improvement Fee as provided for in Section 406 of this Article. This  
21 waiver may be leveraged as a local funding 'match' to Federal and State affordable housing  
22 subsidies enabling affordable housing developers to capture greater subsidies for projects in  
23 the Plan Area.

24 E. Sharing the Burden. As detailed above, new development in the Plan Area will  
25 clearly generate new infrastructure demands.

1 To fund such community infrastructure and amenities, new development in the district  
2 shall be assessed development impact fees proportionate to the increased demand for such  
3 infrastructure and amenities. The City will use the proceeds of the fee to build new  
4 infrastructure and enhance existing infrastructure, as described in preceding sections. A  
5 Community Infrastructure Impact Fee shall be established for the Van Ness and Market  
6 Downtown Residential Special Use District (VNMDR-SUD), and the Neighborhood  
7 Commercial Transit (NCT) and the Upper Market Neighborhood Commercial District and  
8 Residential Transit Oriented (RTO) Districts as set forth herein.

9 Many counties, cities and towns have one standardized impact fee schedule that  
10 covers the entire municipality. Although this type of impact fee structure works well for some  
11 types of infrastructure, such as affordable housing and basic transportation needs, it cannot  
12 account for the specific improvements needed in a neighborhood to accommodate specific  
13 growth. A localized impact fee gives currency to the community planning process and  
14 encourages a strong nexus between development and infrastructure improvements.

15 Development impact fees are an effective approach to achieve neighborhood  
16 mitigations and associate the costs with new residents, workers, and a new kind of  
17 development. The proposed Market and Octavia Community Infrastructure Impact Fee would  
18 be dedicated to infrastructure improvements in the Plan Area and the Upper Market NCD,  
19 directing benefits of the fund clearly to those who pay into the fund, by providing necessary  
20 infrastructure improvements, needed to serve new development. The net increases in  
21 individual property values in these areas due to the enhanced neighborhood amenities  
22 financed with the proceeds of the fee are expected to exceed the payments of fees by project  
23 sponsors.

24 The fee rate has been calculated by the Planning Department based on accepted  
25 professional methods for the calculation of such fees. The Market and Octavia Community

1 Improvements Program Document contains a full discussion of impact fee calculation. Cost  
2 estimates are based on an assessment of the potential cost to the City of providing the  
3 specific improvements described in the Market and Octavia Plan Area. The Department  
4 assigned a weighted value to new construction based on projected population increases in  
5 relation to the total population.

6 The proposed fee would cover less than 80% of the estimated costs of the community  
7 improvements calculated as necessary to mitigate the impacts of new development. By  
8 charging developers less than the maximum amount of the justified impact fee, the City avoids  
9 any need to refund money to developers if the fees collected exceed costs. The proposed  
10 fees only cover impacts caused by new development and are not intended to remedy existing  
11 deficiencies; those costs will be paid for by public, community, and other private sources.

12 The Market and Octavia community improvements program relies on public, private,  
13 and community capital. Since 2000, when the Market and Octavia planning process was  
14 initiated, the area has seen upwards of \$100 million in public investment, including the  
15 development of Octavia Boulevard, the new Central freeway ramp, Patricia's Green in Hayes  
16 Valley and related projects. Additionally private entities have invested in the area by improving  
17 private property and creating new commercial establishments. Community members have  
18 invested by creating a Community Benefits District in the adjacent Castro neighborhood,  
19 organizing design competitions, and lobbying for community programming such as a rotating  
20 arts program on Patricia's Green in Hayes Valley. Project sponsor contributions to the Market  
21 and Octavia Community Improvements Fund will help leverage additional public and  
22 community investment.

23 As a result of this new development, projected to occur over a 20-year period, property  
24 tax revenue is projected to increase by as much as \$28 million annually when projected  
25 housing production is complete. Sixteen million dollars of this new revenue will be diverted

1 directly to San Francisco (see the Market and Octavia Community Improvements Program  
2 Document for a complete discussion of increased property tax revenue). These revenues will  
3 fund improvements and expansions to general City services, including police, fire, emergency,  
4 and other services needed to partially meet increased demand associated with new  
5 development. New development's local impact on community infrastructure will be greater in  
6 the Market and Octavia Plan Area, relative to those typically funded by City government  
7 through property tax revenues. Increased property taxes will contribute to continued  
8 maintenance and service delivery of new infrastructure and amenities. The City should pursue  
9 State enabling legislation that directs growth related increases in property tax directly to the  
10 neighborhood where growth is happening, similar to the redevelopment agencies' Tax  
11 Increment Financing tool. If such a revenue dedication tool does become available, the  
12 Planning Department should pursue an ordinance to adopt and apply a tax increment district  
13 to the Market and Octavia Plan Area even if the Plan is already adopted by the Board of  
14 Supervisors and in effect. The relative cost of capital improvements, along with the reduced  
15 role of State and Federal funding sources, increases the necessity for development impact  
16 fees to cover these costs. Residential and commercial impact fees are one of the many  
17 revenue sources necessary to mitigate the impacts of new development in the Market and  
18 Octavia Plan Area.

19 SEC. 421.3 APPLICATION OF COMMUNITY IMPROVEMENTS IMPACT FEE.

20 (a) Application. Section 421.1 et seq. shall apply to any development project located  
21 in the Market and Octavia ~~Infrastructure~~ Program Area.

22 (b) Projects subject to the Market and Octavia Community Improvement Impact  
23 Fee. The Market and Octavia Community Improvements Impact Fee is applicable to any  
24 development project in the Market and Octavia Program Area which results in:

25 (1) At least one net new residential unit,



- (2) Additional space in an existing residential unit of more than 800 gross square feet,
- (3) At least one net new group housing facility or residential care facility,
- (4) Additional space in an existing group housing or residential care facility of more than 800 gross square feet,
- (5) New construction of a non-residential use, or
- (6) Additional non-residential space in excess of 800 gross square feet in an existing structure.

(c) Fee Calculation for the Market and Octavia Community Improvement Impact Fee. For development projects for which the Market and Octavia Community Improvements Impact Fee is applicable:

(1) Any net addition of gross square feet shall pay per the Fee Schedule in Table 421.3A, and

(2) Any replacement of gross square feet or change of use shall pay per the Fee Schedule in Table 421.3B.

TABLE 421.3A

FEE SCHEDULE FOR NET ADDITIONS OF GROSS SQUARE FEET IN THE  
MARKET AND OCTAVIA PROGRAM AREA

| Residential | Non-residential |
|-------------|-----------------|
| \$9.00/gsf  | \$3.40/gsf      |

TABLE 421.3B

FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE IN THE  
MARKET AND OCTAVIA PROGRAM AREA

|  |                                   |                       |                            |
|--|-----------------------------------|-----------------------|----------------------------|
| Residential to<br>Residential or<br>Non-residential; or<br>Non-residential to<br>Non-residential | Non-Residential to<br>Residential | PDR to<br>Residential | PDR to Non-<br>Residential |
| \$0  | \$5.60/gsf                        | \$7.30/gsf            | \$1.70/gsf                 |

(d) Option for In-Kind Provision of Community Improvements and Fee Credits.

Project sponsors may propose to directly provide community improvements to the City. In such a case, the City may enter into an In-Kind Improvements Agreement with the sponsor and issue a fee waiver for the Market and Octavia Community Improvements Impact Fee from the Planning Commission, subject to the following rules and requirements:

(1) Approval criteria. The City shall not enter into an In-Kind Agreement unless the proposed in-kind improvements meet an identified community need and where they substitute for improvements that could be provided by the Market and Octavia Community Improvements Fund (as described in Section 421.5). The City may reject in-kind improvements if they are not consistent with the priorities identified in the Market and Octavia Area Plan, by the Interagency Plan Implementation Committee (see Section 36 of the Administrative Code), the Market and Octavia Citizens Advisory Committee, or other prioritization processes related to Market and Octavia community improvements programming. No physical improvement or provision of space otherwise required by the Planning Code or any other City Code shall be eligible for consideration as part of this In-Kind Improvements Agreement.

1           (2) Valuation. The Director of Planning shall determine the appropriate value of the  
2 proposed in-kind improvements. For the purposes of calculating the total value, the project  
3 sponsor shall provide the Planning Department with a cost estimate for the proposed in-kind  
4 improvement(s) from two independent sources or, if relevant, real estate appraisers. If the  
5 City has completed a detailed site-specific cost estimate for a planned improvement this may  
6 serve as one of the cost estimates provided it is indexed to current cost of construction.

7           (3) Content of the In-Kind Improvements Agreement. The In-Kind Improvements  
8 Agreement shall include at least the following items:

- 9           (i) A description of the type and timeline of the proposed in-kind improvements.  
10           (ii) The appropriate value of the proposed in-kind improvement, as determined in  
11 subsection (2) above.  
12           (iii) The legal remedies in the case of failure by the project sponsor to provide the in-  
13 kind improvements according to the specified timeline and terms in the agreement. Such  
14 remedies shall include the method by which the City will calculate accrued interest.

15           (4) Approval Process. The Planning Commission must approve the material terms  
16 of an In-Kind Agreement. Prior to the parties executing the Agreement, the City Attorney must  
17 approve the agreement as to form and to substance. The Director of Planning is authorized to  
18 execute the Agreement on behalf of the City. If the Planning Commission approves the In-  
19 Kind Agreement, it shall waive the amount of the Market and Octavia Community  
20 Improvements Impact Fee by the value of the proposed In-Kind Improvements Agreement as  
21 determined by the Director of Planning. No credit shall be made for land value unless  
22 ownership of the land is transferred to the City or a permanent public easement is granted, the  
23 acceptance of which is at the sole discretion of the City. The maximum value of the In-Kind  
24 Improvements Agreement shall not exceed the required Market and Octavia Community  
25 Improvements Impact Fee.

1 (5) Administrative Costs. Project sponsors that pursue an In-Kind Improvements  
2 Agreement will be billed time and materials for any administrative costs that the Planning  
3 Department or any other City entity incurs in negotiating, drafting, and monitoring compliance  
4 with the In-Kind Improvements Agreement.

5 (e) Option for Financing of Community Improvements or Payment of the Market and  
6 Octavia Community Improvements Impact Fee via a Mello Roos Community Facilities District  
7 ("CFD").

8 Applicants may finance In-Kind Community Improvements (*subject to subsection (e)*  
9 *above*) or payment of the Market and Octavia Community Improvements *Impact Fee* (subject  
10 to subsection (c) above) *through the formation of a CFD*.

11 (f) Timing of Fee Payments. The Market and Octavia Community Improvements  
12 Impact Fee is due and payable to the Development Fee Collection Unit at DBI prior to  
13 issuance of the first construction document, with an option for the project sponsor to defer  
14 payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a  
15 deferral surcharge that would be paid into the appropriate fund in accordance with Section  
16 107A.13.3 of the San Francisco Building Code.

17 (g) Waiver or Reduction.

18 Development projects may be eligible for a waiver or reduction of impact fees, per  
19 Section 406 of this Article. Additionally, applicants that are subject to the downtown parks fee,  
20 Section 139, can reduce their contribution to the Market and Octavia Community  
21 Improvements Fund by one dollar for every dollar that they contribute to the downtown parks  
22 fund, the total fee waiver or reduction granted through this clause shall not exceed 8.2 percent  
23 of calculated contribution for residential development or 13.8 percent for commercial  
24 development.

25 SEC. 421.5. MARKET AND OCTAVIA COMMUNITY IMPROVEMENTS FUND.

(a) There is hereby established a separate fund set aside for a special purpose entitled the Market and Octavia Community Improvements Fund ("Fund"). All monies collected by DBI pursuant to Section 421.3(b) shall be deposited in a special fund maintained by the Controller. The receipts in the Fund to be used solely to fund community improvements subject to the conditions of this Section.

(b) The Fund shall be administered by the Board of Supervisors.

(1) All monies deposited in the Fund shall be used to design, engineer, acquire, and develop and improve neighborhood open spaces, pedestrian and streetscape improvements, community facilities, childcare facilities, and other improvements that result in new publicly-accessible facilities and related resources within the Market and Octavia Plan Area or within 250 feet of the Plan Area and within the Upper Market Street Neighborhood Commercial District which is outside the plan area, in accordance with Table 421.5A.

Table 421.5A. Breakdown of Market and Octavia Community Improvements Fee by Infrastructure Type.

| Components of Proposed Impact<br>Fee | Residential | Commercial |
|--------------------------------------|-------------|------------|
| Greening                             | 34.1%       | 50.2%      |
| Parks                                | 8.2%        | 13.8%      |
| Park<br>Improvements                 | tbd         | tbd        |
| Vehicle                              | 0.4%        | 0.4%       |
| Pedestrian                           | 6.9%        | 6.2%       |
| Transportation                       | 22.2%       | 20.1%      |

|                                |       |      |
|--------------------------------|-------|------|
| Transit User<br>Infrastructure | tbd   | tbd  |
| Bicycle                        | 0.5%  | 0.4% |
| Childcare                      | 8.3%  | 0.0% |
| Library<br>Materials           | 0.9%  | 0.0% |
| Recreational Facilities        | 13.1% | 0.0% |
| Future Studies                 | 0.2%  | .4%  |
| Program Administration         | 5.1%  | 8.6% |

Funds may be used for childcare facilities that are not publicly owned or "publicly-accessible". Funds generated for 'library resources' should be used for materials at the Main Library, the Eureka Valley Library, or other library facilities that directly service Market and Octavia Residents. Funds may be used for additional studies and fund administration as detailed in the Market and Octavia Community Improvements Program Document. These improvements shall be consistent with the Market and Octavia Civic Streets and Open Space System as described in Map 4 of the Market and Octavia Area Plan of the General Plan, and any Market and Octavia Improvements Plan. Monies from the Fund may be used by the Planning Commission to commission economic analyses for the purpose of revising the fee pursuant to Section 421.3(c) above, to complete an updated nexus study to demonstrate the relationship between development and the need for public facilities if this is deemed necessary.

(2) No portion of the Fund may be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any public entity, except for the purposes of administering this fund. Administration of this fund includes time and materials

1 associated with reporting requirements, facilitating the Market and Octavia Citizens Advisory  
2 Committee meetings, and maintenance of the fund. Total expenses associated with  
3 administration of the fund shall not exceed the proportion calculated in Table 2 3 (above). All  
4 interest earned on this account shall be credited to the Market and Octavia Community  
5 Improvements Fund.

6 (c) With full participation by the Planning Department and related implementing  
7 agencies the Controller's Office shall file an annual report with the Board of Supervisors  
8 beginning 180 days after the last day of the fiscal year of the effective date of Section 421.1 et  
9 seq., which shall include the following elements: (1) a description of the type of fee in each  
10 account or fund; (2) Amount of the fee; (3) Beginning and ending balance of the accounts or  
11 funds including any bond funds held by an outside trustee; (4) Amount of fees collected and  
12 interest earned; (5) Identification of each public improvement on which fees or bond funds  
13 were expended and amount of each expenditure; (6) An identification of the approximate date  
14 by which the construction of public improvements will commence; (7) A description of any  
15 inter-fund transfer or loan and the public improvement on which the transferred funds will be  
16 expended; and (8) Amount of refunds made and any allocations of unexpended fees that are  
17 not refunded.

18 (d) A public hearing shall be held by the Recreation and Parks Commissions to elicit  
19 public comment on proposals for the acquisition of property using monies in the Fund in the  
20 Fund or through agreements for financing In-Kind or Community Improvements via a Mello-  
21 Roos Community Facilities District that will ultimately be maintained by the Department of  
22 Recreation and Parks. Notice of public hearings shall be published in an official newspaper at  
23 least 20 days prior to the date of the hearing, which notice shall set forth the time, place, and  
24 purpose of the hearing. The Parks Commissions may vote to recommend to the Board of  
25

Supervisors that it appropriate money from the Fund for acquisition of property for park use and for development of property acquired for park use.

(e) The Planning Commission shall work with other City agencies and commissions, specifically the Department of Recreation and Parks, DPW , and the Metropolitan Transportation Agency, to develop agreements related to the administration of the improvements to existing and development of new public facilities within public rights-of-way or on any acquired property designed for park use, using such monies as have been allocated for that purpose at a hearing of the Board of Supervisors.

(f) The Director of Planning shall have the authority to prescribe rules and regulations governing the Fund, which are consistent with this Section 421.1 et seq. The Director shall make recommendations to the Board regarding allocation of funds.

#### SEC. 721.1 UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL DISTRICT

The Upper Market Street Neighborhood Commercial District, on Market Street from Church to Castro, and on side streets off Market, is situated at the border of the Eureka Valley, Buena Vista, and Duboce Triangle neighborhoods. Upper Market Street is a multi-purpose commercial district that provides limited convenience goods to adjacent neighborhoods, but also serves as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access to downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street District as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets.

*This district is well served by transit and is anchored by the Castro Street Station of the Market Street subway and the F-Market historic streetcar line. The F, K, L, and M streetcar lines traverse the district, and the Castro Station serves as a transfer point between light rail and crosstown and*



neighborhood bus lines. Additionally, Market Street is a primary bicycle corridor. Residential parking is not required and generally limited. Commercial establishments are discouraged or prohibited from building accessory off-street parking in order to preserve the pedestrian-oriented character of the district and prevent attracting auto traffic. There are prohibitions on access (i.e. driveways, garage entries) to off-street parking and loading on Market Street to preserve and enhance the pedestrian-oriented character and transit function.

The Upper Market Street district controls are designed to promote moderate-scale development which contributes to the definition of Market Street's design and character. They are also intended to preserve the existing mix of commercial uses and maintain the livability of the district and its surrounding residential areas. Large-lot and use development is reviewed for consistency with existing development patterns. Rear yards are protected at residential levels. To promote mixed-use buildings, most commercial uses are permitted with some limitations above the second story. In order to maintain continuous retail frontage and preserve a balanced mix of commercial uses, ground-story neighborhood-serving uses are encouraged, and eating and drinking, entertainment, and financial service uses are limited. Continuous frontage is promoted by prohibitions of most automobile and drive-up uses.

Housing development in new buildings is encouraged above the second story. Existing upper-story residential units are protected by limitations on demolitions and upper-story conversions.

## SEC. 721. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL DISTRICT

### ZONING CONTROL TABLE

|                    |                       |                      | Upper Market Street               |
|--------------------|-----------------------|----------------------|-----------------------------------|
| No.                | Zoning Category       | § References         | Controls                          |
| BUILDING STANDARDS |                       |                      |                                   |
| 721.10             | Height and Bulk Limit | §§ 102.12, 105, 106, | <del>40-X, 50-X, 65-B, 80-B</del> |

|                |  |  |  |
|----------------|--|--|--|
|                |  | 250—252, 260, <u>261.1</u> ,<br><u>263.20</u> , 270, 271 | <u>Varies</u><br>See Zoning Map  |
| 721.11         | Lot Size<br>[Per Development]  | §§ 790.56, 121.1   | P up to 9,999 sq. ft.<br>C 10,000 sq. ft. & above<br>§ 121.1   |
| 721.12         | Rear Yard  | §§ 130, 134, 136   | <del>Required at residential<br/>levels only</del><br><del>§ 134(a) (e)</del><br><u>Required from grade level and<br/>above § 134(a) (e)</u> |
| 721.13         | Street Frontage  |  | Required<br>§ 145.1  |
| <u>721.13a</u> | <u>Street Frontage, Above-<br/>Grade Parking Setback<br/>and Active Uses</u> |  | <u>Minimum 25 feet on ground<br/>floor, 15 feet on floors above</u><br><u>§ 145.1(c), (e)</u>  |
| <u>721.13b</u> | <u>Street Frontage,<br/>Required Ground Floor<br/>Commercial</u>             |  | <u>Market Street</u><br><u>§ 145.4</u>   |
| <u>721.13c</u> | <u>Street Frontage, Parking<br/>and Loading access<br/>restrictions</u>      |  | <u>§ 155(r)</u><br><u>NP: Market Street</u>  |
| 721.14         | Awning   | § 790.20   | P<br>§ 136.1(a)  |

|    |   |                        |                       |   |
|----|---|------------------------|-----------------------|---|
| 1  | 721.15  | Canopy                 | § 790.26              | P                                       |
| 2  |   |                        |                       | § 136.1(b)                              |
| 3  | 721.16  | Marquee                | § 790.58              | P                                       |
| 4  |   |                        |                       | § 136.1(c)                              |
| 5  | 721.17  | Street Trees           |                       | Required                                |
| 6  |   |                        |                       | § 143                                   |
| 7  | COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES |                        |                       |   |
| 8  | 721.20  | Floor Area Ratio       | §§ 102.9, 102.11, 123 | 3.0 to 1                                |
| 9  |   |                        |                       | § 124(a) (b)                            |
| 10 | 721.21  | Use Size               | § 790.130             | P up to 2,999 sq. ft.;                  |
| 11 |   | [Non-Residential]      |                       | C 3,000 sq. ft. & above                 |
| 12 |   |                        |                       | § 121.2                                 |
| 13 | 721.22  | Off-Street Parking,    | §§ 150, 153—157, 159— | <i>Generally, none required if</i>      |
| 14 |   | Commercial/Institution | 160, 204.5            | <i>occupied floor area is less than</i> |
| 15 |   | al                     |                       | <i>5,000 sq. ft.</i>                    |
| 16 |   |                        |                       | <i>§§ 151, 161(g)</i>                   |
| 17 |   |                        |                       | <i>None required. For uses in</i>       |
| 18 |   |                        |                       | <i>Table 151 that are described</i>     |
| 19 |   |                        |                       | <i>as a ratio of occupied floor</i>     |
| 20 |   |                        |                       | <i>area, P up to 1 space per 1,500</i>  |
| 21 |   |                        |                       | <i>feet of occupied floor area or</i>   |
| 22 |   |                        |                       | <i>the quantity specified in Table</i>  |
| 23 |   |                        |                       | <i>151, whichever is less, and</i>      |
| 24 |   |                        |                       | <i>subject to the conditions of</i>     |

|        |                            |                        |  |
|--------|----------------------------|------------------------|--|
|        |                            |                        | <u>Section 151.1(f); NP above.</u><br><u>For retail grocery stores</u><br><u>larger than 20,000 square feet,</u><br><u>P up to 1:500, C up to 1:250</u><br><u>for space in excess of 20,000</u><br><u>s.f. subject to conditions of</u><br><u>151.1(f); NP above. For all</u><br><u>other uses, P up to the quantity</u><br><u>specified in Table 151, and</u><br><u>subject to the conditions of</u><br><u>Section 151.1(f); NP above.</u><br><u>§§ 151.1, 166, 145.1</u> |
| 721.23 | Off-Street Freight Loading | §§ 150, 153—155, 204.5 | Generally, none required if<br>gross floor area is less than<br>10,000 sq. ft.<br>§§ 152, 161(b)   |
| 721.24 | Outdoor Activity Area      | § 790.70               | P if located in front;<br>C if located elsewhere<br>§ 145.2(a)   |
| 721.25 | Drive-Up Facility          | § 790.30               |  |
| 721.26 | Walk-Up Facility           | § 790.140              | P if recessed 3 ft.;<br>C if not recessed<br>§ 145.2(b)  |
| 721.27 | Hours of Operation         | § 790.48               | P 6 a.m.—2 a.m.<br>C 2 a.m.—6 a.m.   |

|        |                          |                           |                           |
|--------|--------------------------|---------------------------|---------------------------|
| 721.30 | General Advertising Sign | §§ 262, 602—604, 608, 609 |                           |
| 721.31 | Business Sign            | §§ 262, 602—604, 608, 609 | P #<br>§ 607.1(f)2        |
| 721.32 | Other Signs              | §§ 262, 602—604, 608, 609 | P #<br>§ 607.1(c) (d) (g) |

| No.                       | Zoning Category                                       | § References   | Upper Market Street |          |          |
|---------------------------|---|----------------|---------------------|----------|----------|
|                           |   |                | Controls by Story   |          |          |
|                           |   | § 790.118      | 1st                 | 2nd      | 3rd+     |
| 721.38                    | Residential Conversion                                | § 790.84       | P                   | C        |          |
| 721.39                    | Residential Demolition                                | § 790.86       | P                   | C        | C        |
| <u>721.39a</u>            | <u>Residential Division</u>                           | <u>§ 207.8</u> | <u>P</u>            | <u>P</u> | <u>P</u> |
| Retail Sales and Services |   |                |                     |          |          |
| 721.40                    | Other Retail Sales and Services<br>[Not Listed Below] | § 790.102      | P                   | P        |          |

|    |        |               |           |    |   |   |
|----|--------|---------------|-----------|----|---|---|
| 1  | 721.41 | Bar           | § 790.22  | C  |   |   |
| 2  | 721.42 | Full-Service  | § 790.92  | C  |   |   |
| 3  |        | Restaurant    |           |    |   |   |
| 4  | 721.43 | Large Fast    | § 790.90  |    |   |   |
| 5  |        | Food          |           |    |   |   |
| 6  |        | Restaurant    |           |    |   |   |
| 7  | 721.44 | Small Self-   | § 790.91  | C  |   |   |
| 8  |        | Service       |           |    |   |   |
| 9  |        | Restaurant    |           |    |   |   |
| 10 | 721.45 | Liquor Store  | § 790.55  | C  |   |   |
| 11 | 721.46 | Movie Theater | § 790.64  | P  |   |   |
| 12 | 721.47 | Adult         | § 790.36  |    |   |   |
| 13 |        | Entertainment |           |    |   |   |
| 14 | 721.48 | Other         | § 790.38  | C# |   |   |
| 15 |        | Entertainment |           |    |   |   |
| 16 | 721.49 | Financial     | § 790.110 | C  | C |   |
| 17 |        | Service       |           |    |   |   |
| 18 | 721.50 | Limited       | § 790.112 | P  |   |   |
| 19 |        | Financial     |           |    |   |   |
| 20 |        | Service       |           |    |   |   |
| 21 | 721.51 | Medical       | § 790.114 | P  | P | C |
| 22 |        | Service       |           |    |   |   |
| 23 | 721.52 | Personal      | § 790.116 | P  | P | C |
| 24 |        | Service       |           |    |   |   |
| 25 |        |               |           |    |   |   |

|    |        |                |                    |   |   |   |
|----|--------|----------------|--------------------|---|---|---|
| 1  | 721.53 | Business or    | § 790.108          | P | P | C |
| 2  |        | Professional   |                    |   |   |   |
| 3  |        | Service        |                    |   |   |   |
| 4  | 721.54 | Massage        | § 790.60,          | C | C |   |
| 5  |        | Establishment  | § 1900             |   |   |   |
| 6  |        |                | Health Code        |   |   |   |
| 7  | 721.55 | Tourist Hotel  | § 790.46           | C | C | C |
| 8  | 721.56 | Automobile     | §§ 790.8, 156, 160 | C | C | C |
| 9  |        | Parking        |                    |   |   |   |
| 10 | 721.57 | Automotive     | § 790.14           |   |   |   |
| 11 |        | Gas Station    |                    |   |   |   |
| 12 | 721.58 | Automotive     | § 790.17           |   |   |   |
| 13 |        | Service        |                    |   |   |   |
| 14 |        | Station        |                    |   |   |   |
| 15 | 721.59 | Automotive     | § 790.15           | C |   |   |
| 16 |        | Repair         |                    |   |   |   |
| 17 | 721.60 | Automotive     | § 790.18           |   |   |   |
| 18 |        | Wash           |                    |   |   |   |
| 19 | 721.61 | Automobile     | § 790.12           |   |   |   |
| 20 |        | Sale or Rental |                    |   |   |   |
| 21 | 721.62 | Animal         | § 790.6            | C |   |   |
| 22 |        | Hospital       |                    |   |   |   |
| 23 | 721.63 | Ambulance      | § 790.2            |   |   |   |
| 24 |        | Service        |                    |   |   |   |
| 25 |        |                |                    |   |   |   |

|    |  |               |           |   |   |  |
|----|--|---------------|-----------|---|---|--|
| 1  | 721.64   | Mortuary      | § 790.62  |   |   |  |
| 2  | 721.65   | Trade Shop    | § 790.124 | P | C |  |
| 3  | 721.66   | Storage       | § 790.117 |   |   |  |
| 4  | 721.67   | Video Store   | § 790.135 | C | C |  |
| 5  | 721.68   | Fringe        | § 790.111 |   |   |  |
| 6  |  | Financial     |           |   |   |  |
| 7  |  | Service       |           |   |   |  |
| 8  | 721.69   | Tobacco       | § 790.123 | C |   |  |
| 9  |  | Paraphernalia |           |   |   |  |
| 10 |  | Establishment |           |   |   |  |
| 11 |  | s             |           |   |   |  |
| 12 | 721.69A  | Self-Service  | § 790.93  | C |   |  |
| 13 |  | Specialty     |           |   |   |  |
| 14 |  | Food          |           |   |   |  |
| 15 | 721.69B  | Amusement     | § 790.04  |   |   |  |
| 16 |  | Game Arcade   |           |   |   |  |
| 17 |  | (Mechanical   |           |   |   |  |
| 18 |  | Amusement     |           |   |   |  |
| 19 |  | Devices)      |           |   |   |  |
| 20 | Institutions and Non-Retail Sales and Services |               |           |   |   |  |
| 21 | 721.70   | Administrativ | § 790.106 |   |   |  |
| 22 |  | e Service     |           |   |   |  |
| 23 | 721.80   | Hospital or   | § 790.44  |   |   |  |
| 24 |  | Medical       |           |   |   |  |
| 25 |  |               |           |   |   |  |



|        |                                   |           |   |   |   |
|--------|-----------------------------------|-----------|---|---|---|
|        | Center                            |           |   |   |   |
| 721.81 | Other<br>Institutions,<br>Large   | § 790.50  | P | C | C |
| 721.82 | Other<br>Institutions,<br>Small   | § 790.51  | P | P | P |
| 721.83 | Public Use                        | § 790.80  | C | C | C |
| 721.84 | Medical<br>Cannabis<br>Dispensary | § 790.141 | P |   |   |

#### RESIDENTIAL STANDARDS AND USES

|        |  |                             |  |   |   |
|--------|--|-----------------------------|--|---|---|
| 721.90 | Residential<br>Use                           | § 790.88                    | P, <u>except C</u><br><u>for frontages</u><br><u>listed in 145.4</u> | P | P |
| 721.91 | Residential<br>Density,<br>Dwelling<br>Units | §§ 207, 207.1,<br>790.88(a) | Generally, 1 unit per<br>400 sq. ft. lot area<br>§ 207.4             |   |   |
| 721.92 | Residential<br>Density,<br>Group<br>Housing  | §§ 207.1, 790.88(b)         | Generally, 1 bedroom per<br>140 sq. ft.<br>lot area<br>§ 208         |   |   |
| 721.93 | Usable Open                                  | §§ 135, 136                 | Generally, either  |   |   |

|        |                                       |                                    |  |
|--------|---------------------------------------|------------------------------------|--|
|        | Space<br>[Per<br>Residential<br>Unit] |                                    | 60 sq. ft. if private, or<br>80 sq. ft. if common<br>135(d)  |
| 721.94 | Off-Street<br>Parking,<br>Residential | §§ 150, 153—157,<br>159—160, 204.5 | <i>None required. P up to 0.5; C up to .75.<br/>Not permitted above .75 cars for each<br/>dwelling unit. § 151.1<br/>Generally, 1 space for each dwelling unit<br/><del>§§ 151, 161(a) (g)</del></i> |
| 721.95 | Community<br>Residential<br>Parking   | § 790.10                           | C      C      C  |

SPECIFIC PROVISIONS FOR UPPER MARKET STREET  
NEIGHBORHOOD COMMERCIAL DISTRICT

| Article 7<br>Code Section | Other Code<br>Section | Zoning Controls   |
|---------------------------|-----------------------|---|
| § 721.31<br>§ 721.32      | § 608.10              | UPPER MARKET STREET SPECIAL SIGN<br>DISTRICT<br><br>Boundaries: Applicable only for the portions of<br>the Upper Market Street NCD as mapped on<br>Sectional Map SSD<br><br>Controls: Special restrictions and limitations for<br>signs |
| § 721.48                  |                       | Boundaries: Applicable for the Upper Market   |

|    |  |   |
|----|--|---|
| 1  |  | Street NCD.   |
| 2  |  | Controls: Existing bars in the Upper Market         |
| 3  |  | Street Neighborhood Commercial District will be     |
| 4  |  | allowed to apply for and receive a place of         |
| 5  |  | entertainment permit from the Entertainment         |
| 6  |  | Commission without obtaining conditional use        |
| 7  |  | authorization from the Planning Commission if       |
| 8  |  | they can demonstrate to the satisfaction of the     |
| 9  |  | Entertainment Commission that they have been        |
| 10 |  | in regular operation as an entertainment use        |
| 11 |  | prior to January 1, 2004; provided, however, that   |
| 12 |  | a conditional use is required (1) if an application |
| 13 |  | for a conditional use for the entertainment use     |
| 14 |  | was filed with the Planning Department prior to     |
| 15 |  | the date this ordinance was introduced or (2) if a  |
| 16 |  | conditional use was denied within 12 months         |
| 17 |  | prior to the effective date of this ordinance.      |

|    |          |   |
|----|----------|---|
| 18 |          |   |
| 19 | § 721.48 | Boundaries: Applicable for the Upper Market     |
| 20 |          | Street NCD.                                     |
| 21 |          | Controls: Existing bars in the Upper Market     |
| 22 |          | Street Neighborhood Commercial District will be |
| 23 |          | allowed to apply for and receive a place of     |
| 24 |          | entertainment permit from the Entertainment     |
| 25 |          | Commission without obtaining conditional use    |

|  |  |  |
|--|--|--|
|  |  | <p>authorization from the Planning Commission if they can demonstrate to the satisfaction of the Entertainment Commission that they have been in regular operation as an entertainment use prior to January 1, 2004; provided, however, that a conditional use is required (1) if an application for a conditional use for the entertainment use was filed with the Planning Department prior to the date this ordinance was introduced or (2) if a conditional use was denied within 12 months prior to the effective date of this ordinance.</p> |
|--|--|--|

Section 4. Applicability to Certain Projects of Development Fees. ~~Certain projects in the Upper Market NCD shall not be subject to the development fees in Section 416 or Section 421, as follows:~~

(1) A development project for which no project approval has occurred prior to the effective date of this Ordinance ~~and which meets all of the following criteria~~ is exempt from the development fees in Section 416 or Section 421 of this Code if its meets all of the following criteria cited above:

(a) the sponsor has filed a first Development Application with the Planning Department prior to October 28, 2010;

(b) the subject project ~~has received~~ receives all Planning Department entitlements prior to October 28, 2012; and

(c) the subject project does not require extension or renewal of a Conditional Use permit or other planning entitlement.

1           (2) A development project in the Upper Market NCD is exempt from the  
2 requirements of this Ordinance and from the development fees in Section 416 or Section 421  
3 of this Code if it meets all of the following criteria:

4           (a) The sponsor has filed a first Development Application with the Planning  
5 Department and has received Planning Department approval of the project prior to October  
6 28, 2010, but has not received a building permit, site permit, or other project entitlement prior  
7 to the effective date of this Ordinance;

8           (b) The development project receives all Planning Department entitlements prior to  
9 October 28, 2012; and

10           (c) The development project does not require extension or renewal of a Conditional  
11 Use permit or other planning entitlement.

12           (3) (2) If a development project has received its entitlements prior to the effective date  
13 of this Ordinance and the project sponsor subsequently files an application to modify the  
14 project, the modified project is exempt from the development fees cited above provided that  
15 the application to modify is filed prior to October 28, 2012 and the modification does not  
16 change the exterior building envelope.

17           The Zoning Administrator may extend the above dates in paragraphs (1), (2), and (3)  
18 above if the project is delayed due to actions before the Board of Appeals or other City  
19 agencies, or cases in any court of competent jurisdiction. The dates cannot be extended due  
20 to hardship, economic cycles, or other circumstances.

21           Section 5. In enacting this Ordinance, the Board intends to amend only those words,  
22 phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams  
23 or any other constituent part of the Planning Code that are explicitly shown in this legislation  
24 as additions, deletions, Board amendment additions, and Board amendment deletions in  
25 accordance with the "Note" that appears under the official title of the legislation. This

1 Ordinance shall not be construed to effectuate any unintended amendments. Any additions or  
2 deletions not explicitly shown as described above, omissions, or other technical and non-  
3 substantive differences between this Ordinance and the Planning Code that are contained in  
4 this legislation are purely accidental and shall not effectuate an amendment to the Planning  
5 Code. The Board hereby authorizes the City Attorney, in consultation with the Clerk and other  
6 affected City departments, to make those necessary adjustments to the published Planning  
7 Code, including non-substantive changes such as renumbering or relettering, to ensure that  
8 the published version of the Planning Code is consistent with the laws that this Board enacts.

9 Specifically, the Board of Supervisors recognizes that there are four pending  
10 ordinances that amend some of the same sections of the Planning Code. The Board intends  
11 that, if adopted, the Board amendment additions, and Board amendment deletions shown in  
12 all four Ordinances be given effect so that the substance of each ordinance be given full force  
13 and effect. To this end, the Board directs the City Attorney's office and the publisher to  
14 harmonize the provisions of each ordinance.

15 APPROVED AS TO FORM:  
16 DENNIS J. HERRERA, City Attorney

17 By:

  
18 JUDITH A. BOYAJIAN  
Deputy City Attorney

**REVISED LEGISLATIVE DIGEST**

[Zoning – Amendment of Upper Market Neighborhood Commercial District; Extension of Market and Octavia Impact Fees Area; Exemption of Certain Projects from Payment of Fee]

**Ordinance amending the San Francisco Planning Code by amending Sections 134, 145.4, 151.1, 155, 207.7, 207.8, 263.20, 401, 416, 416.3, 416.5, 421.1, 421.3, 421.5, 721, and 721.1 to amend the Upper Market Street Neighborhood Commercial District and to extend the Market and Octavia impact fees area to include the portion of the Upper Market Street Neighborhood Commercial District lying outside the Market and Octavia Plan area; grandfathering certain pipeline projects from the new controls and payment of the infrastructure fee; and adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.**

**Existing Law**

The area affected by the proposed legislation is the only block in the City that is zoned "Upper Market Neighborhood Commercial" (Upper Market NCD). The current controls include regulation of rear yards (Section 134), off-street parking (Section 151.1), and controls on various uses (Sections 721 and 721.1) that have not been updated except in minor ways since the controls were first established in the mid-1980's during the neighborhood commercial rezoning effort.

**Amendments to Current Law**

The proposed legislation would amend various sections of the Planning Code to bring them into conformity with the controls in the adjacent Market & Octavia Plan Area. The legislation updates the controls on rear yards, ground floor commercial uses, off-street parking, general standards for parking and loading, restrictions on demolition, conversion, merger and splitting of existing dwelling units, and height exceptions, and also updates the Upper Market NCD description and Zoning Control Table. In addition, the impact fees applicable in the Market & Octavia Plan Area are extended to properties in the Upper Market NCD that are outside the boundaries of the Plan Area.

These amendments will (1) ensure that commercial and residential development in the Upper Market NCD is consistent with existing development patterns, (2) provide relief from parking requirements and encourage more transit-oriented development in the Upper Market NCD, and (3) ensure that new development in the Upper Market NCD provides community benefits to offset new impacts to infrastructure due to new development. Certain pipeline projects that comply with specified criteria are exempt from the requirements of the Ordinance and payment of the impact fees.

Background Information

After three community workshops, neighbors in the Upper Market area developed a community vision and design guidelines that were endorsed by the Planning Commission in October 2008. Residents and property owners within the Upper Market area raised the issue of adjusting the zoning controls for the NCD at several Planning Commission meetings in 2010. At the Commission's request, Department staff met with a community coalition representing neighborhood and local advocacy groups, including the Duboce Triangle Neighborhood Association, the Eureka Valley Neighborhoods Association, the Castro Business Improvement District, and Livable City and determined that the requested legislation is consistent with recent planning work. The Commission initiated the legislation on September 30, 2010 and approved it with modifications at its November 4, 2010 hearing.