

1 [Planning Code - Transfer of Development Rights]

2

3 **Ordinance amending the San Francisco Planning Code Sections 128 and 819 to permit**
4 **the transfer of development rights from any eligible building in a Downtown**
5 **Commercial (C-3) District or the South of Market Extended Preservation District to a**
6 **development site in a C-3 District; and adopting environmental findings, Section 302**
7 **findings, and findings of consistency with the General Plan and the Priority Policies of**
8 **Planning Code Section 101.1.**

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

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

13 Section 1. Findings.

14 (a) The Planning Department has determined that the actions contemplated in this
15 ordinance comply with the California Environmental Quality Act (California Public Resources
16 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of
17 Supervisors in File No. 110548 and is incorporated herein by reference.

18 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
19 amendments will serve the public necessity, convenience, and welfare for the reasons set
20 forth in Planning Commission Resolution No. 18553 and the Board incorporates such reasons
21 herein by reference. A copy of Planning Commission Resolution No. 18553 is on file with the
22 Clerk of the Board of Supervisors in File No. 110548.

23 (c) This Board finds that these Planning Code amendments are consistent with the
24 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set
25

1 forth in Planning Commission Resolution No. 18553, and the Board hereby incorporates such
2 reasons herein by reference.

3
4 Section 2. The San Francisco Planning Code is hereby amended by amending
5 Sections 128 and 819, to read as follows:

6 **SEC. 128. TRANSFER OF DEVELOPMENT RIGHTS IN C-3 DISTRICTS.**

7 (a) **Definitions.**

8 (1) "Development Lot." A lot to which TDR may be transferred to increase the
9 allowable gross floor area of development thereon beyond that otherwise permitted by Section
10 124

11 (2) "Owner of Record." The owner or owners of record in fee.

12 (3) "Preservation Lot." A parcel of land on which is either (i) a Significant or
13 Contributory building (as designated pursuant to Article 11); or (ii) a Category V Building that
14 has complied with the eligibility requirement for transfer of TDR as set forth in Section
15 1109(c); or (iii) a structure designated an individual landmark pursuant to Article 10 of this
16 Code. The boundaries of the Preservation Lot shall be the boundaries of the Assessor's lot on
17 which the building is located at the time the ordinance or, as to Section 1109(c), resolution,
18 making the designation is adopted, unless boundaries are otherwise specified in the
19 ordinance.

20 (4) "Transfer Lot." A Preservation Lot located in a C-3 District from which TDR may be
21 transferred. A lot zoned P (public) may in no event be a Transfer Lot unless a building on that
22 lot is (i) owned by the City and County of San Francisco, and (ii) located in a P District
23 adjacent to a C-3 District, and (iii) designated as an individual landmark pursuant to Article 10
24 of this Code, designated as a Category I Significant Building pursuant to Article 11 of this
25 Code, or listed on the National Register of Historic Places, and (iv) the TDR proceeds are

1 used to finance, in whole or in part, a project to rehabilitate and restore the building in
2 accordance with the Secretary of Interior standards. For the purposes of Section 128(b), a lot
3 zoned P which satisfies the criteria of this subsection (4) to qualify as a "Transfer Lot" shall be
4 deemed to have an allowable gross floor area of 7.5:1 under Section 124

5 (5) "Transferable Development Rights (TDR)." § Units of gross floor area which may
6 be transferred, pursuant to the provisions of this Section and Article 11 of this Code, from a
7 Transfer Lot to increase the allowable gross floor area of a development on a Development
8 Lot.

9 (6) "Unit of TDR." One unit of TDR is one square foot of gross floor area.

10 (b) **Amount of TDR Available for Transfer.** The maximum TDR available for transfer
11 from a Transfer Lot consists of the difference between (i) the allowable gross floor area
12 permitted on the Transfer Lot by Section 124 and (ii) the gross floor area of the development
13 located on the Transfer Lot.

14 (c) **Eligibility of Development Lots and Limitation on Use of TDR on**
15 **Development Lots.** TDR may be used to increase the allowable gross floor area of a
16 development on a Development Lot if the following requirements and restrictions are satisfied:

17 (1) Transfer of Development Rights shall be limited to the following:

18 (i) The Transfer Lot and the Development Lot are located in ~~the same~~ a C-3 Zoning
19 District; or

20 ~~(ii) the Transfer Lot is located in a C-3-O, or C-3-R District and the Development Lot is~~
21 ~~located in the C-3-O(SD) Special Development District; or~~

22 ~~(iii)~~ (ii) the Transfer Lot contains a Significant building and is located in the South of
23 Market Extended Preservation District, as set forth in Section 819, ~~or a C-3-G or C-3-S District~~
24 and the Development Lot is located in a the C-3-O(SD) Special District; or

1 ~~(iv)~~ the Transfer Lot is in a C-3-R District or a District designated C-3-O (SD) in the Yerba
2 Buena Center Redevelopment Plan and is located in the Yerba Buena Center Redevelopment Project
3 Area and the Development Lot is located in a C-3-O District; or

4 ~~(v)~~ (iii) the Transfer Lot is in a P District adjacent to a C-3 District and meets the
5 requirements established in subsection (a)(4) above and the Development Lot is located in a
6 C-3 District; or

7 ~~(vi)~~ (iv) the Transfer Lot is located in any C-3 District and contains an individual
8 landmark designated pursuant to Article 10 and the Development Lot is located in any C-3
9 District *but not within a Redevelopment Agency Plan Area.*

10 (2) TDR may not be transferred for use on any lot on which is or has been located a
11 Significant or Contributory building; provided that this restriction shall not apply if the
12 designation of a building is changed to Unrated; nor shall it apply if the ~~City~~ Planning
13 Commission finds that the additional space resulting from the transfer of TDR is essential to
14 make economically feasible the reinforcement of a Significant or Contributory building to meet
15 the standards for seismic loads and forces of the Building Code, in which case TDR may be
16 transferred for that purpose subject to the limitations of this Section and Article 11, including
17 Section 1111.6. Any alteration shall be governed by the requirements of Sections 1111 to
18 1111.6

19 (3) Notwithstanding any other provision of this Section, development on a
20 Development Lot is limited by the provisions of this Code, other than those on floor area ratio,
21 governing the approval of projects, including the requirements relating to height, bulk,
22 setback, sunlight access, and separation between towers, and any limitations imposed
23 pursuant to Section 309 review applicable to the Development Lot. The total allowable gross
24 floor area of a development on a Development Lot may not exceed the limitation imposed by
25 Section 123(c).

1 (d) **Effect of Transfer of TDR.**

2 (1) Transfer of TDR from a Transfer Lot permanently reduces the development
3 potential of the Transfer Lot by the amount of the TDR transferred, except as provided in
4 Section 124(f). In addition, transfer of TDR from a Preservation Lot containing a Contributory
5 building or an individual landmark designated pursuant to Article 10 causes such building to
6 become subject to the same restrictions on demolition and alteration, and the same penalties
7 and enforcement remedies, that are applicable to Significant Buildings Category I, as provided
8 in Article 11.

9 (e) **Procedure for Determining TDR Eligibility.**

10 (1) In order to obtain a determination of whether a lot is a Transfer Lot and, if it is, of
11 the amount of TDR available for transfer, the owner of record of the lot may file an application
12 with the Zoning Administrator for a Statement of Eligibility. The application for a Statement of
13 Eligibility shall contain or be accompanied by plans and drawings and other information which
14 the Zoning Administrator determines is necessary in order to determine whether a Statement
15 of Eligibility can be issued. Any person who applies for a Statement of Eligibility prior to
16 expiration of the time for request of reconsideration of designation authorized in Section 1105
17 shall submit in writing a waiver of the right to seek such reconsideration.

18 (2) The Zoning Administrator shall, upon the filing of an application for a Statement of
19 Eligibility and the submission of all required information, issue either a proposed Statement of
20 Eligibility or a written determination that no TDR are available for transfer and shall mail that
21 document to the applicant and to any other person who has filed with the Zoning Administrator
22 a written request for a copy, and shall post the proposed Statement of Eligibility or written
23 determination on the Planning Department website. Any appeal of the proposed Statement of
24 Eligibility or determination of noneligibility shall be filed with the Board of *Permit* Appeals within
25 20 days of the date of issuance of the document. If not appealed, the proposed Statement of

1 Eligibility or the determination of noneligibility shall become final on the 21st day after the date
2 of issuance. The Statement of Eligibility shall contain at least the following information: (i) the
3 name of the owner of record of the Transfer Lot; (ii) the address, legal description and
4 Assessor's Block and Lot of the Transfer Lot; (iii) the C-3 use district within which the Transfer
5 Lot is located; (iv) whether the Transfer Lot contains a Significant or Contributory building, a
6 Category V building, or an Article 10 individually designated landmark; (v) the amount of TDR
7 available for transfer; and (vi) the date of issuance.

8 (3) Once the proposed Statement of Eligibility becomes final, whether through lack of
9 appeal or after appeal, the Zoning Administrator shall record the Statement of Eligibility in the
10 Office of the County Recorder. The County Recorder shall be instructed to mail the original of
11 the recorded document to the owner of record of the Transfer Lot and a conformed copy to
12 the Zoning Administrator.

13 (f) **Cancellation of Eligibility.**

14 (1) If reasonable grounds should at any time exist for determining that a building on a
15 Preservation Lot may have been altered or demolished in violation of Articles 10 or 11,
16 including Sections 1110 and 1112 thereof, the Zoning Administrator may issue and record
17 with the County Recorder a Notice of Suspension of Eligibility for the affected lot and, in cases
18 of demolition of a Significant or Contributory building, a notice that the restriction on the floor
19 area ratio of a replacement building, pursuant to Section 1114, may be applicable and shall
20 mail a copy of such notice to the owner of record of the lot. The notice shall provide that the
21 property owner shall have 20 days from the date of the notice in which to request a hearing
22 before the Zoning Administrator in order to dispute this initial determination. If no hearing is
23 requested, the initial determination of the Zoning Administrator is deemed final on the twenty-
24 first day after the date of the notice, unless the Zoning Administrator has determined that the
25 initial determination was in error.

1 (2) If a hearing is requested, the Zoning Administrator shall notify the property owner
2 of the time and place of hearing, which shall be scheduled within 21 days of the request, shall
3 conduct the hearing, and shall render a written determination within 15 days after the close of
4 the hearing. If the Zoning Administrator shall determine that the initial determination was in
5 error, that officer shall issue and record a Notice of Revocation of Suspension of Eligibility.
6 Any appeal of the determination of the Zoning Administrator shall be filed with the Board of
7 *Permit* Appeals within 20 days of the date of the written determination following a hearing or, if
8 no hearing has been requested, within 20 days after the initial determination becomes final.

9 (3) If after an appeal to the Board of *Permit* Appeals it is determined that an unlawful
10 alteration or demolition has occurred, or if no appeal is taken of the determination by the
11 Zoning Administrator of such a violation, the Zoning Administrator shall record in the Office of
12 the County Recorder a Notice of Cancellation of Eligibility for the lot, and shall mail to the
13 property owner a conformed copy of the recorded Notice. In the case of demolition of a
14 Significant or Contributory Building, the Zoning Administrator shall record a Notice of Special
15 Restriction noting the restriction on the floor area ratio of the Preservation Lot pursuant to the
16 provisions of Section 1114, and shall mail to the owner of record a certified copy of the Notice.
17 If after an appeal to the Board of *Permit* Appeals it is determined that no unlawful alteration or
18 demolition has occurred, the Zoning Administrator shall issue and record a Notice of
19 Revocation of Suspension of Eligibility and, if applicable, a Notice of Revocation of the Notice
20 of Special Restriction pursuant to Section 1114, and shall mail conformed copies of the
21 recorded notices to the owner of record.

22 (4) No notice recorded under this Section 128(f) shall affect the validity of TDR that
23 have been transferred from the affected Transfer Lot in compliance with the provisions of this
24 Section prior to the date of recordation of such notice, whether or not such TDR have been
25 used.

1 (g) **Procedure for Transfer of TDR.**

2 (1) DR from a single Transfer Lot may be transferred as a group to a single transferee
3 or in separate increments to several transferees. TDR may be transferred either directly from
4 the original owner of the TDR to the owner of a Development Lot or to persons, firms or
5 entities who acquire the TDR from the original owner of the TDR and hold them for
6 subsequent transfer to other persons, firms, entities or to the owners of a Development Lot or
7 Lots.

8 (2) When TDR are transferred, they shall be identified in each Certificate of Transfer
9 by a number. A single unit of TDR transferred from a Transfer Lot shall be identified by the
10 number "1." Multiple units of TDR transferred as a group for the first time from a Transfer Lot
11 shall be numbered consecutively from "1" through the number of units transferred. If a fraction
12 of a unit of TDR is transferred, it shall retain its numerical identification. (For example, if 5,000-
13 1/2 TDR are transferred in the initial transfer from the Transfer Lot, they would be numbered
14 "1 through 5,000 and one-half of 5,001.") TDR subsequently transferred from the Transfer Lot
15 shall be identified by numbers taken in sequence following the last number previously
16 transferred. (For example if the first units of gross floor area transferred from a Transfer Lot
17 are numbered 1 through 10,000, the next unit transferred would be number 10,001.) If
18 multiple units transferred from a Transfer Lot are subsequently transferred separately in
19 portions, the seller shall identify the TDR sold by numbers which correspond to the numbers
20 by which they were identified at the time of their transfer from the Transfer Lot. (For example,
21 TDR numbered 1 through 10,000 when transferred separately from the Transfer Lot in two
22 equal portions would be identified in the two Certificates of Transfer as numbers 1 through
23 5,000 and 5,001 through 10,000.) Once assigned numbers, TDR retain such numbers for the
24 purpose of identification through the process of transferring and using TDR. The phrase
25

1 "numerical identification," as used in this section, shall mean the identification of TDR by
2 numbers as described in this Subsection.

3 (3) Transfer of TDR from the Transfer Lot shall not be valid unless (i) a Statement of
4 Eligibility has been recorded in the Office of the County Recorder prior to the date of
5 recordation of the Certificate of Transfer evidencing such transfer and (ii) a Notice of
6 Suspension of Eligibility or Notice of Cancellation of Eligibility has not been recorded prior to
7 such transfer or, if recorded, has thereafter been withdrawn by an appropriate recorded Notice
8 of Revocation or a new Statement of Eligibility has been thereafter recorded.

9 (4) Transfer of TDR, whether by initial transfer from a Transfer Lot or by a subsequent
10 transfer, shall not be valid unless a Certificate of Transfer evidencing such transfer has been
11 prepared and recorded. The Zoning Administrator shall prepare a form of Certificate of
12 Transfer and all transfers shall be evidenced by documents that are substantially the same as
13 the Certificate of Transfer form prepared by the Zoning Administrator, which form shall contain
14 at least the following:

15 (i) For transfers from the Transfer Lot only:

16 (aa) Execution and acknowledgement by the original owner of TDR as the
17 transferor(s) of the TDR; and

18 (bb) Execution and acknowledgment by the Zoning Administrator; and

19 (cc) A notice, prominently placed and in all capital letters, preceded by the underlined
20 heading "Notice of Restriction," stating that the transfer of TDR from the Transfer Lot
21 permanently reduces the development potential of the Transfer Lot by the amount of TDR
22 transferred, with reference to the provisions of this Section.

23 (ii) For all transfers:

24 (aa) The address, legal description, Assessor's Block and Lot, and C-3 use district of
25 the Transfer Lot from which the TDR originates; and

- 1 (bb) The amount and sale price of TDR transferred; and
2 (cc) Numerical identification of the TDR being transferred; and
3 (dd) The names and mailing addresses of the transferors and transferees of the TDR;
4 and
5 (ee) Execution and acknowledgment by the transferors and transferees of the TDR;
6 and
7 (ff) A reference to the Statement of Eligibility, including its recorded instrument number
8 and date of recordation, and a recital of all previous transfers of the TDR, including the names
9 of the transferors and transferees involved in each transfer and the recorded instrument
10 number and date of recordation of each Certificate of Transfer involving the TDR, including
11 the transfer from the Transfer Lot which generated the TDR.

12 (5) When a Certificate of Transfer for the transfer of TDR from a Transfer Lot is
13 presented to the Zoning Administrator for execution, that officer shall not execute the
14 document if a transfer of the TDR would be prohibited by any provision of this Section or any
15 other provision of this Code. The Zoning Administrator shall, within five business days from
16 the date that the Certificate of Transfer is submitted for execution, either execute the
17 Certificate of Transfer or issue a written determination of the grounds requiring a refusal to
18 execute the Certificate.

19 (6) Each duly executed and acknowledged Certificate of Transfer containing the
20 information required herein shall be presented for recordation in the Office of the County
21 Recorder and shall be recorded by the County Recorder. The County Recorder shall be
22 instructed to mail the original Certificate of Transfer to the person and address designated
23 thereon and shall be given a copy of the Certificate of Transfer and instructed to conform the
24 copy and mail it to the Zoning Administrator.

25 (h) **Certificate of Transfer of TDR for a Project on a Development Lot.**

1 (1) When the use of TDR is necessary for the approval of a building permit for a
2 project on a Development Lot, the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building
3 Inspection shall not approve issuance of the permit unless the Zoning Administrator has
4 issued a written certification that the owner of the Development Lot owns the required number
5 of TDR. When the transfer of TDR is necessary for the approval of a site permit for a project
6 on a Development Lot, the Zoning Administrator shall impose as a condition of approval of the
7 site permit the requirement that the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building
8 Inspection shall not issue the first addendum to the site permit unless the Zoning
9 Administrator has issued a written certification that the owner of the Development Lot owns
10 the required number of TDR.

11 (2) In order to obtain certification as required in Section 128(h)(1), the permit applicant
12 shall present to the Zoning Administrator:

13 (i) Information necessary to enable the Zoning Administrator to prepare the Notice of
14 Use of TDR, which information shall be at least the following:

15 (aa) The address, legal description, Assessor's Block and Lot, and zoning
16 classification of the Development Lot;

17 (bb) The name and address of the owner of record of the Development Lot;

18 (cc) Amount and numerical identification of the TDR being used;

19 (dd) A certified copy of each Certificate of Transfer evidencing transfer to the owner of
20 the Development Lot of the TDR being used; and

21 (ii) A report from a title insurance company showing the holder of record of the TDR to
22 be used, all Certificate of Transfer of the TDR, and all other matters of record affecting such
23 TDR. In addition to showing all such information, the report shall guarantee that the report is
24 accurate and complete and the report shall provide that in the event that its guarantee or any
25 information shown in the report is incorrect, the title company shall be liable to the City for the

1 fair market value of the TDR at the time of the report. The liability amount shall be not less
2 than \$10,000 and no more than \$1,000,000, the appropriate amount to be determined by the
3 Zoning Administrator based on the number of TDR being used.

4 (iii) An agreement whereby the owner of the Development Lot shall indemnify the City
5 against any and all loss, cost, harm or damage, including attorneys' fees, arising out of or
6 related in any way to the assertion of any adverse claim to the TDR, including any loss, cost,
7 harm or damage occasioned by the passive negligence of the City and excepting only that
8 caused by the City's sole and active negligence. The indemnity agreement shall be secured
9 by a financial balance sheet certified by an auditor or a corporate officer showing that the
10 owner has assets equal to or greater than the value of the TDR, or other security satisfactory
11 to Planning Department and the City Attorney.

12 (3) If the Zoning Administrator determines that the project applicant has complied with
13 the provisions of Subsection (h)(2) and all other applicable provisions of this Section, and that
14 the applicant is the owner of the TDR, that officer shall transmit to the ~~Superintendent~~ Director
15 of the ~~Bureau~~ Department of Building Inspection, with a copy to the project applicant, written
16 certification that the owner of the Development Lot owns the TDR. Prior to transmitting such
17 certification, the Zoning Administrator shall prepare a document entitled Notice of Use of TDR
18 stating that the TDR have been used and may not be further transferred, shall obtain the
19 execution and acknowledgment on the Notice of the owner of record of the Development Lot,
20 shall execute and acknowledge the Notice, shall record it in the Office of the County
21 Recorder, and shall mail to the owner of record of the Development Lot a conformed copy of
22 the recorded Notice. If the Zoning Administrator determines that the project applicant is not
23 the owner of the TDR, or has not complied with all applicable provisions of this Section, that
24 determination shall be set forth in writing along with the reasons therefore. The Zoning
25 Administrator shall either transmit certification or provide a written determination that

1 certification is inappropriate within 10 business days after the receipt of all information
2 required pursuant to Subsection (h)(2).

3 (i) **Cancellation of Notice of Use; Transfer from Development Lot.**

4 (1) The owner of a Development Lot for which a Notice of Use of TDR has been
5 recorded may apply for a Cancellation of Notice of Use if (i) the building permit or site permit
6 for which the Notice of Use was issued expires or was revoked or cancelled prior to
7 completion of the work for which such permit was issued and the work may not be carried out;
8 or (ii) any administrative or court decision is issued or any ordinance or initiative or law is
9 adopted which does not allow the applicant to make use of the permit; or (iii) a portion or all of
10 such TDR are not used.

11 (2) If the Zoning Administrator determines that the TDR have not been and will not be
12 used on the Development Lot based on the reasons set forth in subsection (i)(1), the Zoning
13 Administrator shall prepare the Cancellation of Notice of Use of TDR. If only a portion of the
14 TDR which had been acquired are not being used, the applicant may identify which TDR will
15 not be used and the Cancellation of Notice of Use of TDR shall apply only to those TDR. The
16 Zoning Administrator shall obtain on the Cancellation of Notice of Use of TDR the signature
17 and acknowledgment of the owner of record of the Development Lot as to which the Notice of
18 Use of TDR was recorded, shall execute and acknowledge the document, and shall record it
19 in the office of the County Recorder.

20 (3) Once a Cancellation of Notice of Use of TDR has been recorded, the owner of the
21 Development Lot may apply for a ~~Statement of Eligibility~~ Certificate of Transfer in order to
22 transfer the TDR identified in that document. The procedures and requirements set forth in
23 this Section governing the transfer of TDR shall apply to the transfer of TDR from the owner of
24 a Development Lot after a Notice of Use has been filed, except for the provisions of this
25 Section permanently restricting the development potential of a Transfer Lot upon the transfer

1 of TDR; provided, however, that the district or districts to which the TDR may be transferred
2 shall be the same district or districts to which TDR could have been transferred from the
3 Transfer Lot that generated the TDR.

4 (j) **Erroneous Notice of Use; Revocation of Permit.** If the Zoning Administrator
5 determines that a Notice of Use of TDR was issued or recorded in error, that officer may direct
6 the ~~Superintendent~~ Director of the ~~Bureau~~ Department of Building Inspection to suspend any
7 permit issued for a project using such TDR, in which case the ~~Superintendent~~ Director of the
8 Department of Building Inspection shall comply with that directive. The Zoning Administrator
9 shall thereafter conduct a noticed hearing in order to determine whether the Notice of Use of
10 TDR was issued or recorded in error. If it is determined that the Notice of Use of TDR was
11 issued or recorded in error, the Superintendent of the ~~Bureau~~ Department of Building Inspection
12 shall revoke the permit; provided, however, that no permit authorizing such project shall be
13 revoked if the right to proceed thereunder has vested under California law. If it is determined
14 that the Notice of Use of TDR was not issued or recorded in error, the permit shall be
15 reinstated.

16 (k) **Effect of Repeal or Amendment.** TDR shall convey the rights granted herein only
17 so long and to the extent as authorized by the provisions of this Code. Upon repeal of such
18 legislative authorization, TDR shall there after convey no rights or privileges. Upon
19 amendment of such legislative authorization, TDR shall thereafter convey only such rights and
20 privileges as are permitted under the amendment. No Statement of Eligibility shall convey any
21 right to use, transfer or otherwise utilize TDR if the maximum floor area ratio for the Transfer
22 Lot is reduced after the Statement of Eligibility is issued.

23 (l) **Preservation Rehabilitation, and Maintenance Requirements for Preservation**
24 **Lots.**

1 (1) In addition to the material required to be submitted with an application for a
2 Statement of Eligibility set forth in subsection 128(e), the owner of the Preservation Lot shall:

3 (i) Demonstrate that any and all outstanding Notices of Violation have been abated;
4 and

5 (ii) Submit for approval by the Department a Preservation, Rehabilitation, and
6 Maintenance Plan that describes any proposed preservation and rehabilitation work and that
7 guarantees the maintenance and upkeep of the Preservation Lot. This Plan shall include:

8 (aa) a plan for the ongoing maintenance of the Preservation Lot;

9 (bb) information regarding the nature and cost of any rehabilitation, restoration or
10 preservation work to be conducted on the Preservation Lot, including information about any
11 required seismic, life safety, or disability access work;

12 (cc) a construction schedule; and

13 (dd) any other such information as the Department may require to determine
14 compliance of this subsection 128(l).

15 All such work, shall comply with the Secretary of the Interior's Standards for the
16 Treatment of Historic Properties. The requirements of the approved Plan shall be recorded
17 along with the final Statement of Eligibility in the Office of the County Recorder.

18 Notwithstanding the foregoing, the owner of the Preservation Lot may apply to the
19 Department for a hardship exemption from the requirements of subsection (i). Such hardship
20 exemption shall demonstrate to the satisfaction of the Department that sale of TDR is
21 necessary to fund the work required to cure the outstanding Notice(s) of Violation on the
22 Preservation Lot.

23 (2) Approval of the Statement of Eligibility shall be conditioned on execution of the
24 requirements described in subsection (l)(1). Once a Statement of Eligibility has been issued
25 and a Notice of Special Restrictions has been recorded on the property, the owner of the

1 Preservation Lot, at the owner's sole discretion, may withdraw from the TDR program prior to
2 the sale of any TDR. The Department shall rescind the Statement of Eligibility and request
3 removal of such condition(s) on the Preservation Lot. Once any TDR is transferred from the
4 Preservation Lot, the Statement of Eligibility and conditions may not be withdrawn.

5 (3) Within one year of the issuance of the Statement of Eligibility, the owner of the
6 Preservation Lot shall submit a status report to the Department detailing how the
7 requirements of subsection (l)(1) have been completed and describing ongoing maintenance
8 activities. Such report shall include: (i) information detailing the work completed; (ii) copies of
9 all permits obtained for the work, including any Certificates of Appropriateness or Permits to
10 Alter; (iii) any inspection reports or other documentation from the Department of Building
11 Inspection showing completion of the work; (iv) itemized receipts of payment for work
12 performed; and (v) any such other documentation as the Department may require to
13 determine compliance with the requirements of this subsection 128(l). The deadline for
14 completion of the work and submittal of this report may be extended at the discretion of the
15 Department upon application of the owner of the Preservation Lot and only upon a showing
16 that the owner has diligently pursued all required permits and completion of the work.

17 (4) Failure to comply with the requirements of this subsection (l), including all reporting
18 requirements, shall be grounds for enforcement under this Code, including but not limited to
19 under Sections 176 and 176.1. Penalties for failure to comply may include, but shall not be
20 limited to, a lien on the Preservation Lot equal to the sale price of the TDR sold.

21 **SEC. 819. SOUTH OF MARKET EXTENDED PRESERVATION DISTRICT.**

22 The South of Market Extended Preservation District, as shown on Sectional Map #PD01

1 and ~~7~~PD07 of the Zoning Map, incorporates an area, formerly zoned C-3-S, in which
2 provisions of Article 11 and Section 128 continue to be in effect.

3

4 Section 3. Effective Date. This Ordinance shall become effective 30 days from the
5 date of passage.

6

7 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
8 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
9 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
10 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
11 Board amendment deletions in accordance with the "Note" that appears under the official title
12 of the legislation.

13

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

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17 By: _____
18 JUDITH A. BOYAJIAN
19 Deputy City Attorney

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