

**REVISED LEGISLATIVE DIGEST**

(3/19/2013, Substituted)

[Planning Code, Administrative Code - Transfer of Development Rights]

**Ordinance amending the Planning Code, Sections 128 and 819, and Administrative Code, Section 10E.1, to permit the transfer of development rights from any eligible building in a Downtown Commercial (C-3) District or the South of Market Extended Preservation District to a development site in a C-3 District; require annual reporting of buildings designated as historic resources and of transferred development rights, and requiring a Preservation, Rehabilitation, and Maintenance Plan to be submitted with an application for Certificate of Transfer instead of with an application for Statement of Eligibility; and adopting 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

Floor Area Ratio (FAR) is the ratio of a building's square footage to the area of the lot. The Planning Code establishes a floor area ratio limit for the City's various use districts. Section 128 of the Planning Code establishes a procedure for the Transfer of Development Rights (TDR), in the form of gross floor area, in Downtown Commercial (C-3) Districts. The TDR provisions protect historic buildings by allowing the permanent transfer of development rights from an historic building to other development lots, and using the sale of TDRs as a source of funds to restore the historic structure. TDRs allow projects to increase the permitted FAR on a lot, but do not allow projects to exceed height or bulk limits.

Section 128 currently limits the transfer of development rights within the C-3 District to specified circumstances. It requires a Preservation, Rehabilitation, and Maintenance Plan to be submitted with the application for a Statement of Eligibility.

Amendments to Current Law

Planning Code Section 128 is proposed to be amended to permit TDRs to be transferred freely throughout the C-3 District. TDRs would be permitted when (1) the Transfer Lot and the Development Lot are located in a C-3 Zoning District; or (2) the Transfer Lot contains a Significant building and is located in the South of Market Extended Preservation District, as set forth in Section 819 and the Development Lot is located in a C-3 District; or (3) the Transfer Lot is in a P District adjacent to a C-3 District and meets certain requirements and the Development Lot is located in a C-3 District; or (4) the Transfer Lot is located in any C-3 District and contains an individual landmark designated pursuant to Article 10 and the Development Lot is located in any C-3 District. The requirement for submittal of a

Preservation, Rehabilitation, and Maintenance Plan is amended to require it to be submitted with an application for Certificate of Transfer instead with an application for Statement of Eligibility. Administrative Code Section 10E.1 is amended to require Preservation information in the Annual Report to the Board of Supervisors, Planning Commission, and Mayor.

#### Background Information

The proposed change would allow TDRs to be transferred freely across the C-3 District. The Planning Department believes the market for TDRs is currently gridlocked. By allowing increased flexibility, more properties will be able to sell and use the TDR market. Facilitating TDRs will both protect and restore additional historic buildings, and permit desired job and housing growth Downtown.

The original restriction, which only allowed TDRs within the same C-3 District, was done to ensure that development wasn't concentrated in any one C-3 District. Since the program was enacted in the mid-1980s, a large percentage of TDRs have been transferred within the same C-3 Districts. Now that the program has been in place for 25 years and many districts in downtown have been built out, it's necessary to liberalize the controls in order to equalize the supply and demand ratio and keep the program alive.

The requirement to submit a Preservation, Rehabilitation, and Maintenance Plan is more appropriate to be done at the Certificate of Transfer stage.