

1 [Planning Code - Accessory Uses; Conformity of Uses]

2

3 **Ordinance amending the Planning Code to allow exceptions from Code requirements**  
4 **for historic buildings or when converting a nonconforming use in an existing building**  
5 **to a permitted residential use; modify the requirements for surface parking lots; modify**  
6 **conformity, accessory use, streetscape, and public open space requirements in**  
7 **specified use districts; remove references to deleted sections of the Code; and making**  
8 **environmental findings, and findings of consistency with the General Plan, and the**  
9 **eight priority policies of Planning Code, Section 101.1.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
12 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
13 **Board amendment additions** are in double-underlined Arial font.  
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
15 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
16 subsections or parts of tables.

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

18 Section 1. Findings.

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

24 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
25 amendments will serve the public necessity, convenience, and welfare for the reasons set

1 forth in Planning Commission Resolution Nos. 18615, 18616, and 18626, and the Board  
2 incorporates such reasons herein by reference. A copy of Planning Commission Resolution  
3 Nos. 18615, 18616, and 18626 are on file with the Clerk of the Board of Supervisors in File  
4 No. \_\_\_\_\_.

5 (c) This Board finds that these Planning Code amendments are consistent with the  
6 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set  
7 forth in the above-referenced Planning Commission Resolution Nos., and the Board hereby  
8 incorporates such reasons herein by reference.

9  
10 Section 2. The San Francisco Planning Code is hereby amended by revising the  
11 following sections or specific subsections: Sections 135, 138, 138.1, 140, 141, 151, 156, 182,  
12 184, 204.3, 204.5, and 307, to read as follows:

13 **SEC. 135. USABLE OPEN SPACE FOR DWELLING UNITS AND GROUP HOUSING, R,**  
14 **NC, MIXED USE, C, AND M DISTRICTS.**

15 \* \* \* \*

16 (d) **Amount Required.** Usable open space shall be provided for each building in the  
17 amounts specified herein and in Tables 135A and B for the district in which the building is  
18 located; provided, however, that in the Downtown Residential (DTR) Districts, open space shall be  
19 provided in the amounts specified in Section 825 of this Code.

20 In Neighborhood Commercial Districts, the amount of usable open space to be  
21 provided shall be the amount required in the nearest Residential District, but the minimum  
22 amount of open space required shall be in no case greater than the amount set forth in Table  
23 135A for the district in which the building is located. The distance to each Residential District  
24 shall be measured from the midpoint of the front lot line or from a point directly across the  
25 street there from, whichever requires less open space.

1 (1) For dwellings other than those specified in Paragraphs (d)(2) through (d)(5)  
2 below, the minimum amount of usable open space to be provided for use by each dwelling  
3 unit shall be as specified in the second column of Table 135A if such usable open space is all  
4 private. Where common usable open space is used to satisfy all or part of the requirement for  
5 a dwelling unit, such common usable open space shall be provided in an amount equal to  
6 1.33 square feet for each one square foot of private usable open space specified in the  
7 second column of Table 135A. In such cases, the balance of the required usable open space  
8 may be provided as private usable open space, with full credit for each square foot of private  
9 usable open space so provided.

10 (2) For group housing structures and SRO units, the minimum amount of usable  
11 open space provided for use by each bedroom or SRO unit shall be ~~1/3~~ one-third the amount  
12 required for a dwelling unit as specified in Paragraphs (d)(1) above and (d)(4) and (d)(5);  
13 below. For purposes of these calculations, the number of bedrooms on a lot shall in no case  
14 be considered to be less than one bedroom for each two beds. Where the actual number of  
15 beds exceeds an average of two beds for each bedroom, each two beds shall be considered  
16 equivalent to one bedroom.

17 (3) For dwellings specifically designed for and occupied by senior citizens ~~or~~  
18 ~~physically handicapped persons~~, as defined and regulated by Section 102.6.1 ~~209.1(m)~~ of this  
19 Code, the minimum amount of usable open space to be provided for use by each dwelling unit  
20 shall be 1/2 one-half the amount required for each dwelling unit as specified in Paragraph (d)(1)  
21 above.

22 (4) **DTR Districts.** For all residential uses, 75 square feet of open space is  
23 required per dwelling unit. All residential open space must meet the provisions described in  
24 this Section unless otherwise established in this subsection or in Section 825 or a Section  
25 governing an individual DTR District. Open space requirements may be met with the following

1 types of open space: "private usable open space" as defined in Section 135(a) of this Code,  
2 "common usable open space" as defined in Section 135(a) of this Code, and "publicly  
3 accessible open space" as defined in subsection (h) below. At least 40 percent of the  
4 residential open space is required to be common to all residential units. Common usable open  
5 space is not required to be publicly-accessible. Publicly-accessible open space, including off-  
6 site open space permitted by subsection (i) below and by Section 827(a)(9), meeting the  
7 standards of subsection (h) may be considered as common usable open space. For  
8 residential units with direct access from the street, building setback areas that meet the  
9 standards of Section 145.1 and the Ground Floor Residential Design Guidelines may be  
10 counted toward the open space requirement as private non-common open space.

11 (5) **Eastern Neighborhoods Mixed Use Districts.** The minimum amount of  
12 usable open space to be provided for use by each dwelling unit shall be as specified in Table  
13 135B. For group housing structures and SRO units, the minimum amount of usable open  
14 space provided for use by each bedroom shall be ~~1/3~~ one-third the amount required for a  
15 dwelling unit as specified in Table 135B.

16 (6) **Efficiency Dwelling Units With Reduced Square Footage.** Common usable  
17 open space shall be the preferred method of meeting the open space requirement for  
18 Efficiency Dwelling Units with reduced square footage, as defined in Section 318 of this Code.  
19 Private open space shall not be credited toward satisfaction of the open space requirement for  
20 such units unless the Zoning Administrator determines that the provision of common open  
21 space is infeasible or undesirable, in whole or in part, due to

- 22 (A) site constraints,
  - 23 (B) the special needs of anticipated residents, or
- 24  
25

(C) conflicts with other applicable policies and regulations, including but not limited to standards for the treatment of historic properties, the Americans with Disabilities Act, or the Building Code.

<b>TABLE 135A            MINIMUM USABLE OPEN SPACE FOR DWELLING UNITS AND GROUP HOUSING            OUTSIDE THE EASTERN NEIGHBORHOODS MIXED USE DISTRICT</b>		
<b>District</b>	<b>Square Feet Of Usable Open Space Required For Each Dwelling Unit If All Private</b>	<b>Ratio of Common Usable Open Space That May Be Substituted for Private</b>
RH-1(D), RH-1	300	1.33
RH-1(S)	300 for first unit; 100 for minor second unit	1.33
RH-2	125	1.33
RH-3	100	1.33
RM-1, <del>RC-1</del> , RTO, RTO-M	100	1.33
RM-2, <del>RC-2</del> , SPD	80	1.33
RM-3, RC-3, RED	60	1.33
RM-4, RC-4, RSD	36	1.33
C-3, C-M, SLR, SLI, SSO, M-1, M-2	36	1.33
<del>C-1</del> , C-2	Same as for the R District establishing the dwelling unit density ratio for the <del>C-1</del> or C-2 District property	
<del>NC Districts NC-1, NC-2, NCT-1, NCT-2, NC-S,</del>	<del>100</del>	<del>1.33</del>

1 2	<i>Inner Sunset, Sacramento Street, West Portal Avenue, Ocean Avenue, Glen Park</i>	<i>As specified in the Zoning Control Table for the district</i>	
3 4 5	<i>NC 3, Castro Street, Inner Clement Street, Outer Clement Street, Upper Fillmore Street, Haight Street, Union Street, Valencia Street, 24th Street Mission, 24th Street Noe Valley, NCT 3, SoMa, Mission Street, Folsom Street, RCD</i>	80	<del>1.33</del>
6 7	<i>Broadway, Hayes Gough, Upper Market Street, North Beach, Polk Street</i>	60	<del>1.33</del>
8 9	Chinatown Community Business, Chinatown Residential Neighborhood Commercial, Chinatown Visitor Retail	48	1.00
10 11	DTR	This table not applicable. 75 square feet per dwelling. See Sec. 135(d)(4).	
12 13	<b>TABLE 135B MINIMUM USABLE OPEN SPACE FOR DWELLING UNITS AND GROUP HOUSING IN THE EASTERN NEIGHBORHOODS MIXED USE DISTRICTS</b>		
14 15 16	<b>Square feet of usable open space per dwelling unit, if not publicly accessible</b>	<b>Square feet of usable open space per dwelling unit, if publicly accessible</b>	<b>Percent of open space that may be provided off site</b>
17	80 square feet	54 square feet	50%

18 \* \* \* \*

19 (g) **Common Usable Open Space: Additional Standards.**

20 (1) **Minimum Dimensions and Minimum Area.** Any space credited as  
 21 common usable open space shall be at least 15 feet in every horizontal dimension and shall  
 22 have a minimum area of 300 square feet.

23 (2) **Use of Inner Courts.** The area of an inner court, as defined by this Code,  
 24 may be credited as common usable open space, if the enclosed space is not less than 20 feet  
 25

1 in every horizontal dimension and 400 square feet in area; and if (regardless of the permitted  
2 obstructions referred to in Subsection 135(c) above) the height of the walls and projections  
3 above the court on at least three sides (or 75 percent of the perimeter, whichever is greater) is  
4 such that no point on any such wall or projection is higher than one foot for each foot that  
5 such point is horizontally distant from the opposite side of the clear space in the court.

6 Exceptions from these requirements for certain qualifying historic buildings may be permitted, subject  
7 to the requirements and procedures of Section 307(h) of this Code.

8 [NOTE TO EDITOR: Diagram not shown but not to be deleted.]

9 (3) **Use of Solariums.** The area of a totally or partially enclosed solarium may  
10 be credited as common usable open space if the space is not less than 15 feet in every  
11 horizontal dimension and 300 square feet in area; and if such area is exposed to the sun  
12 through openings or clear glazing on not less than 30 percent of its perimeter and 30 percent  
13 of its overhead area.

14 (h) **Publicly-Accessible Usable Open Space Standards:** In DTR Districts and the  
15 Eastern Neighborhoods Mixed Use Districts, any space credited as publicly-accessible usable  
16 open space, where permitted or required by this Code, shall meet the following standards:

17 (1) **Types of Open Space.** Open space shall be of one or more of the following  
18 types:

19 (A) An unenclosed park or garden at street grade or following the natural  
20 topography, including improvements to hillsides or other unimproved public areas;

21 (B) An unenclosed plaza at street grade, with seating areas and  
22 landscaping and no more than 10 percent of the total floor area devoted to facilities for food or  
23 beverage service, exclusive of seating areas as regulated in Subsection (2)(d), below;

24 (C) An unenclosed pedestrian pathway which complies with the  
25 standards of Section 270.2 and which is consistent with applicable design guidelines.

1 (D) Streetscape improvements with landscaping and pedestrian  
2 amenities that result in additional pedestrian space beyond the pre-existing sidewalk width  
3 and conform to the Better Streets Plan and any other applicable neighborhood streetscape  
4 plans per Section 138.1 or other related policies such as those associated with sidewalk  
5 widenings or building setbacks, other than those intended by design for the use of individual  
6 ground floor residential units; and

7 (2) **Standards of Open Space.** Open space shall meet the standards  
8 described in Section 138(d)(1) through (11) of this Code.

9 (3) **Maintenance.** Maintenance requirements for open space in these areas  
10 are subject to Section 138(h) of this Code.

11 (4) **Informational Plaque.** Signage requirements for open space in these  
12 areas are subject to Section 138(i) of this Code.

13 (5) **Open Space Provider.** Requirements regarding how to provide and  
14 maintain open space are subject to Section 138(f) of this Code.

15 (6) **Approval of Open Space Type and Features.** Approval of open space in  
16 these areas is subject to requirements of Section 138(d) of this Code.

17 (7) **Hold Harmless.** Property owners providing open space under this section will  
18 hold harmless the City and County of San Francisco, its officers, agents and employees, from  
19 any damage or injury caused by the design, construction, use, or maintenance of open space.  
20 Property owners are solely liable for any damage or loss occasioned by any act or negligence in  
21 respect to the design, construction, use, or maintenance of the open space.

22 (i) **Off-Site Provision of Required Usable Open Space.**

23 (1) **Eastern Neighborhoods Mixed Use Districts.** In the Eastern  
24 Neighborhoods Mixed Use Districts, the provision of off-site publicly accessible open space  
25 may be credited toward the residential usable open space requirement, subject to Section 329



1 for projects to which that Section applies and Section 307(h) for other projects. Any such  
2 space shall meet the publicly accessible open space standards set forth in Section 135(h) and  
3 be provided within 800 feet of the project. No more than 50 percent of a project's required  
4 usable open space shall be off-site. The publicly accessible off-site usable open space shall  
5 be constructed, completed, and ready for use no later than the project itself, and shall receive  
6 its Certificate of Final Completion from the Department of Building Inspection prior to the  
7 issuance of any Certificate of Final Completion or Temporary Certificate of Occupancy for the  
8 project itself.

9 (2) **DTR Districts.** In DTR Districts the provision of off-site publicly accessible  
10 open space may be counted toward the requirements of residential open space per the  
11 procedures of Section 309.1 provided it is within the individual DTR district of the project or  
12 within 500 feet of any boundary of the individual DTR district of the project, and meets the  
13 standards of subsection (h).

14 (A) **On Site.** At least 36 square feet per residential unit of required open  
15 space must be provided on-site. Pursuant to the procedures of Section 309.1, the Planning  
16 Commission may reduce the minimum on-site provision of required residential open space to  
17 not less than 18 square feet per unit in order to both create additional publicly-accessible  
18 open space serving the district and to foster superior architectural design on constrained sites.

19 (B) **Open Space Provider.** The open space required by this Section may  
20 be provided individually by the project sponsor or jointly by the project sponsor and other  
21 project sponsors, provided that each square foot of jointly developed open space may count  
22 toward only one sponsor's requirement. With the approval of the Planning Commission, a  
23 public or private agency may develop and maintain the open space, provided that (i) the  
24 project sponsor or sponsors pay for the cost of development of the number of square feet the  
25 project sponsor is required to provide, (ii) provision satisfactory to the Commission is made for

1 the continued maintenance of the open space for the actual lifetime of the building giving rise  
2 to the open space requirement, and (iii) the Commission finds that there is reasonable  
3 assurance that the open space to be developed by such agency will be developed and open  
4 for use by the time the building, the open space requirement of which is being met by the  
5 payment, is ready for occupancy.

6 (3) **Ocean Avenue NCT.** In the Ocean Avenue NCT District, the provision of  
7 off-site publicly accessible open space may be credited toward the residential usable open  
8 space requirement subject to the procedures of Section 303. Any such open space shall meet  
9 the publicly accessible open space standards set forth in Section 135(h) and be provided  
10 within 800 feet of the project. No more than 50 percent of a project's usable open space  
11 requirement may be satisfied off-site. The publicly accessible off-site usable open space shall  
12 be constructed, completed, and ready for use no later than the project itself, and shall receive  
13 its certificate of final completion from the Department of Building Inspection prior to the  
14 issuance of any certificate of final completion or temporary certificate of occupancy for the  
15 project itself.

16 (4) **Historic Buildings.** For a landmark building designated per Article 10 of this Code,  
17 a contributing building located within a designated historic district per Article 10, or any building  
18 designated Category I-IV per Article 11 of this Code, the provision of off-site publicly accessible open  
19 space may be credited toward the residential usable open space requirement subject to the procedures  
20 of Section 307(h) of this Code.

21 **SEC. 138. OPEN SPACE REQUIREMENTS IN C-3 DISTRICTS.**

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**(b) Amount Required.** Except in the C-3-O(SD) District, open space shall be provided in the amounts specified below for all uses except (1)(i) residential uses, which shall be governed by Section 135 of this Code; and (2)(ii) institutional uses; ~~and (iii) uses in a predominantly retail building.~~ In the C-3-O(SD) District open space shall be provided in the amounts below for all non-residential uses. ~~For the purposes of this section, a "predominantly retail building" is one in which 2/3 or more of the occupied floor area is in retail use.~~

\* \* \* \*

**(d) Types and Standards of Open Space.** Except as otherwise provided in Subsection (e), the project applicant may satisfy the requirements of this Section by providing one or more of the following types of open space: A plaza, an urban park, an urban garden, a view terrace, a sun terrace, a greenhouse, a small sitting area (a snippet), an atrium, an indoor park, or a public sitting area in a galleria, in an arcade, in a public street or alley, or in a pedestrian mall or walkway, as more particularly defined in the table entitled "Guidelines for Open Space" in the Open Space Section of the Downtown Plan, or any amendments thereto, provided that the open space meets the following minimum standards. The open space shall:

- (1) Be of adequate size;
- (2) Be situated in such locations and provide such ingress and egress as will make the area easily accessible to the general public;
- (3) Be well-designed, and where appropriate, be landscaped;
- (4) Be protected from uncomfortable wind;
- (5) Incorporate various features, including ample seating and, if appropriate, access to food service, which will enhance public use of the area;

1 (6) Have adequate access to sunlight if sunlight access is appropriate to the  
2 type of area;

3 (7) Be well-lighted if the area is of the type requiring artificial illumination;

4 (8) Be open to the public at times when it is reasonable to expect substantial  
5 public use;

6 (9) Be designed to enhance user safety and security;

7 (10) If the open space is on private property, provide toilet facilities open to the  
8 public;

9 (11) Have at least 75 percent of the total open space approved be open to the  
10 public during all daylight hours.

11 (e) **Approval of Open Space Type and Features.** The type, size, location, physical  
12 access, seating and table requirements, landscaping, availability of commercial services,  
13 sunlight and wind conditions and hours of public access shall be reviewed and approved in  
14 accordance with the provisions of Section 309, and shall generally conform to the "Guidelines  
15 for Open Space."

16 The Commission may, by resolution, declare certain types of open space ineligible  
17 throughout C-3 Districts, or in certain defined areas, if it determines that a disproportionate  
18 number of certain types of open space, or that an insufficient number of parks and plazas, is  
19 being provided in order to meet the public need for open space and recreational uses. Such  
20 resolution may exempt from its application projects whose permit applications are on file with  
21 the ~~Department of City~~ Planning Department. Over time, no more than 20 percent of the space  
22 provided under this Section shall be indoor space and at least 80 percent shall be outdoor  
23 space. Once an indoor space has been approved, another such feature may not be approved  
24 until the total square footage of outdoor open space features approved under this Section  
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1 exceeds 80 percent of the total square footage of all open spaces approved under this  
2 Section.

3 (f) **Open Space Provider.** The open space required by this Section may be provided:  
4 ~~(1)(i)~~ individually by the project sponsor; ~~(2)(ii)~~ jointly by the project sponsor and other project  
5 sponsors; provided, that each square foot of jointly developed open space may count toward  
6 only one sponsor's requirement; or ~~(3)(iii)~~ with the approval of the ~~City~~ Planning Commission,  
7 by a public or private agency which will develop and maintain the open space and to which a  
8 payment is made by the sponsor for the cost of development of the number of square feet the  
9 project sponsor is required to provide, and with which provision is made, satisfactory to the  
10 Commission, for the continued maintenance of the open space for the actual lifetime of the  
11 building giving rise to the open space requirement, provided that the Commission finds that  
12 there is reasonable assurance that the open space to be developed by such agency will be  
13 developed and open for use by the time the building, the open space requirement of which is  
14 being met by the payment, is ready for occupancy.

15 \* \* \* \*

16 **SEC. 138.1. STREETScape AND PEDESTRIAN IMPROVEMENTS.**

17 \* \* \* \*

18 (c) **Required streetscape and pedestrian improvements.** Development projects  
19 shall include streetscape and pedestrian improvements on all publicly accessible rights-of-way  
20 directly fronting the property as follows:

21 (1) **Street trees.**

22 ~~(A) (i)~~ **Application.** In any District, street trees shall be required under the  
23 following conditions: construction of a new building; relocation of a building; the addition of  
24 gross floor area equal to 20 percent or more of the gross floor area of an existing building; the  
25

1 addition of a new dwelling unit, a garage, or additional parking; or paving or repaving more  
2 than 200 square feet of the front setback.

3 (B) ~~(ii)~~ **Standards.**

4 (i) ~~(A)~~ **All districts.** In any district, street trees shall:

5 (aa) Comply with Public Works Code Article 16 and any  
6 other applicable ordinances;

7 (bb) Be suitable for the site;

8 (cc) Be a minimum of one tree of 24-inch box size for each  
9 20 feet of frontage of the property along each street or alley, with any remaining fraction of 10  
10 feet or more of frontage requiring an additional tree. Such trees shall be located ~~either within a~~  
11 ~~setback area on the lot or~~ within the public right-of-way along such lot, and shall comply with all  
12 applicable codes and standards.

13 (dd) Provide a below-grade environment with nutrient-rich  
14 soils, free from overly-compacted soils, and generally conducive to tree root development;

15 (ee) Be watered, maintained and replaced if necessary by  
16 the property owner, in accordance with Sec. 174 and Article 16 of the Public Works Code and  
17 compliant with applicable water use requirements of Chapter 63 of the Administrative Code.

18 (ii) ~~(B)~~ **DTR, RC, C, NC and Mixed-Use Districts, and Planned**

19 **Unit Developments.** In DTR, RC, C, NC and Mixed-Use Districts, and Planned Unit  
20 Developments, in addition to the requirements of subsections (aa) — (ee) above, all street  
21 trees shall:

22 (aa) Have a minimum 2 inch caliper, measured at breast  
23 height;

24 (bb) Branch a minimum of 80 inches above sidewalk grade;

1 (cc) Be planted in a sidewalk opening at least 16 square  
2 feet, and have a minimum soil depth of 3 feet 6 inches;

3 (dd) Include street tree basins edged with decorative  
4 treatment, such as pavers or cobbles. Edging features may be counted toward the minimum  
5 sidewalk opening per (cc) if they are permeable surfaces per Section 102.33.

6 (iii) ~~(C)~~ **Continuous soil-filled trench.** Street trees shall be planted in  
7 a continuous soil-filled trench parallel to the curb, such that the basin for each tree is  
8 connected, if ~~all the following conditions are present:~~ (1) ~~the subject lot is in one of the Districts~~  
9 ~~specified in Subsection 138.1(c)(1)(ii)(B);~~ (2) the project is on a lot that (a) is greater than 1/2-  
10 acre in total area, (b) contains 250 feet of total lot frontage on one or more publicly-accessible  
11 rights-of-way, or (c) the frontage encompasses the entire block face between the nearest two  
12 intersections with any other publicly-accessible rights-of-way, and (2) ~~(3)~~ the project includes  
13 (a) new construction; or (b) addition of 20% or more of gross floor area to an ~~existing~~ ~~existing~~  
14 building; ~~or (c) alteration to greater than 50% of the existing square footage of a building.~~

15 ~~(aa)~~ The trench may be covered by allowable permeable  
16 surfaces as defined in Section 102.33, except at required tree basins, where the soil must  
17 remain uncovered.

18 ~~(bb) The Zoning Administrator may modify or waive the~~  
19 ~~continuous trench requirement where a continuous trench is not possible due to the location of existing~~  
20 ~~utilities, driveways, sub-sidewalk basements, or other pre-existing surface or sub-surface features.~~

21 (C) (iii) Approvals, and waivers, and modifications.

22 (i)(A) Trees installed in the public right-of-way shall be subject to  
23 Department of Public Works approval. Procedures and other requirements for the installation,  
24 maintenance and protection of trees in the public right-of-way shall be as set forth in Article 16  
25 of the Public Works Code.

1 (ii) Determination of infeasibility or undesirability. Required street trees  
2 may be found to be infeasible or undesirable under the following circumstances:

3 (aa) Technical infeasibility. The ~~In any case in which the~~  
4 Department of Public Works may determine that one or more ~~cannot grant approval for installation~~  
5 ~~of a tree~~s in the public right-of-way cannot be planted or cannot meet all the requirements of  
6 subsections (B)(i) – (iii), on the basis of inadequate sidewalk width, interference with utilities or  
7 other reasons regarding the public welfare, ~~and where installation of such tree on the lot itself is~~  
8 ~~impractical, the tree planting requirements of this Section 138.1(c)(1) may be modified or waived by~~  
9 ~~the Zoning Administrator as described herein:~~

10 (bb) Incompatibility with existing policy. The Zoning  
11 Administrator may determine that the planting of street trees conflicts with policies in the General Plan  
12 such as the Downtown Plan policy favoring unobstructed pedestrian passage or the Commerce and  
13 Industry Element policies to facilitate industry.

14 (iii) Waiver or modification. In any case in which a street tree is  
15 determined to be infeasible or undesirable under subsections (aa) or (bb), the Zoning Administrator  
16 may waive or modify the street tree requirement as follows:

17 (aa) For each required tree that the Zoning Administrator  
18 waives, the permittee shall pay an "in-lieu" street tree fee pursuant to Section 428.

19 (bb) ~~When a pre-existing site constraint prevents the installation~~  
20 ~~of a street tree, as~~ As an alternative to payment of any portion of the in-lieu fee, the Zoning  
21 Administrator may modify the requirements of this section to allow the installation of alternative  
22 landscaping, including: sidewalk landscaping that is compliant with applicable water use  
23 requirements of Chapter 63 of the Administrative Code, to satisfy the requirements of Section  
24 138.1(c)(1), subject to permit approval from the Department of Public Works in accordance  
25 with Public Works Code Section 810B, planter boxes, tubs, or similar above-ground landscaping,



1 street trees that do not meet all of the requirements of subsections (B)(i) – (iii), or street trees planted  
2 in a required front setback area on the subject property.

3 ~~(cc) In C-3, industrial, and South of Market Mixed Use Districts,~~  
4 ~~the Zoning Administrator may allow the installation of planter boxes or tubs or similar landscaping in~~  
5 ~~place of trees when that is determined to be more desirable in order to make the landscaping~~  
6 ~~compatible with the character of the surrounding area, or may waive the requirement in C-3,~~  
7 ~~industrial, and mixed use districts, districts where landscaping is considered to be inappropriate~~  
8 ~~because it conflicts with policies of the Downtown Plan, a component of the General Plan, such as the~~  
9 ~~Downtown Plan Policy favoring unobstructed pedestrian passage or the Commerce and Industry~~  
10 ~~Element policies to facilitate industry.~~

11 (D) Credit for existing street trees. Where there is an existing, established street  
12 tree fronting the subject property, as determined by the Department of Public Works, the street tree  
13 requirement shall be waived and no in-lieu fee shall be applied for that particular tree.

14 **(2) Other streetscape and pedestrian elements for large projects.**

15 **(A) (i) Application.**

16 (i) (A) In any district, streetscape and pedestrian elements in  
17 conformance with the Better Streets Plan shall be required, if all the following conditions are  
18 present: (1) the project is on a lot that (a) is greater than  $\frac{1}{2}$  ~~one-half~~ acre in total area, (b)  
19 contains 250 feet of total lot frontage on one or more publicly-accessible rights-of-way, or (c)  
20 the frontage encompasses the entire block face between the nearest two intersections with  
21 any other publicly-accessible rights-of-way, and (2) the project includes (a) new construction;  
22 or (b) addition of 20% or more of gross floor area to an ~~existing~~ existing building; ~~or (c) alteration~~  
23 to greater than 50% of the ~~existing~~ existing square footage of a building.

24 (ii) (B) Project sponsors that meet the thresholds of this  
25 Subsection shall submit a streetscape plan to the Planning Department showing the location,

1 design, and dimensions of all existing and proposed streetscape elements in the public right-  
2 of-way directly adjacent to the fronting property, including street trees, sidewalk landscaping,  
3 street lighting, site furnishings, utilities, driveways, and curb lines, and the relation of such  
4 elements to proposed new construction and site work on the subject property.

5 ~~(B)(ii)~~ **Standards.** Notwithstanding the requirements of Section  
6 138.1(c)(2)(A)(i), the Department shall consider, but need not require, the streetscape and  
7 pedestrian elements listed below when analyzing a streetscape plan:

8 ~~(i)(A)~~ **Standard streetscape elements.** All standard streetscape  
9 elements for the appropriate street type per Table 1 and the Better Streets Plan, including  
10 benches, bicycle racks, curb ramps, corner curb extensions, stormwater facilities, lighting,  
11 sidewalk landscaping, special sidewalk paving, and other site furnishings, excepting  
12 crosswalks and pedestrian signals.

13 (aa) Streetscape elements shall be selected from a City-  
14 approved palette of materials and furnishings, where applicable, and shall be subject to  
15 approval by all applicable City agencies.

16 (bb) Streetscape elements shall be consistent with the  
17 overall character and materials of the district, and shall have a logical transition or termination  
18 to the sidewalk and/or roadway adjacent to the fronting property.

19 ~~(ii)(B)~~ **Sidewalk widening.** The Planning Department in  
20 consultation with other agencies shall evaluate whether sufficient roadway space is available  
21 for sidewalk widening for the entirety or a portion of the fronting public right-of-way in order to  
22 meet or exceed the recommended sidewalk widths for the appropriate street type per Table 2  
23 and the Better Streets Plan and/or to provide additional space for pedestrian and streetscape  
24 amenities. If it is found that sidewalk widening is feasible and desirable, the Planning  
25 Department shall require the owner or developer to install such sidewalk widening as a

1 condition of approval, including all associated utility re-location, drainage, and street and  
2 sidewalk paving.

3 ~~(iii)(C)~~ **Minimum sidewalk width.** New publicly-accessible rights-  
4 of-way proposed as part of development projects shall meet or exceed the recommended  
5 sidewalk widths for the appropriate street type per Table 2. Where a consistent front building  
6 setback of 3 feet or greater extending for at least an entire block face is provided, the  
7 recommended sidewalk width may be reduced by up to 2 feet.

8 [NOTE: TABLE 2 NOT SHOWN BUT NOT TO BE DELETED]

9 ~~(C)(iii)~~ **Review and approvals.**

10 ~~(i)(A)~~ The streetscape plan required by this section shall be  
11 submitted to the Planning Department no later than 60 days prior to any Department or  
12 Planning Commission approval action, and shall be considered for approval at the time of  
13 other project approval actions. The Planning Department may require any or all standard  
14 streetscape elements for the appropriate street type per Table 1 and the Better Streets Plan, if  
15 it finds that these improvements are necessary to meet the goals and objectives of the  
16 General Plan of the City and County of San Francisco. In making its determination about  
17 required streetscape and pedestrian elements, the Planning Department shall consult with  
18 other City agencies tasked with the design, permitting, use, and maintenance of the public  
19 right-of-way.

20 ~~(ii)(B)~~ Final approval by the affected agencies and construction of  
21 such streetscape improvements shall be completed prior to the issuance of the first Certificate  
22 of Occupancy or temporary Certificate of Occupancy for the project, unless otherwise  
23 extended by the Zoning Administrator. Should conditions, policies, or determinations by other  
24 City agencies require a change to the streetscape plan after approval of the streetscape plan  
25 but prior to commencement of construction of the streetscape improvements, the Planning

1 Department shall have the authority to require revision to such streetscape plan. In such case,  
2 the Zoning Administrator shall extend the timeframe for completion of such improvements by  
3 an appropriate duration as necessary.

4 ~~(iii)(c)~~ **Waiver.** Any City agency tasked with the design,  
5 permitting, use, and maintenance of the public right-of-way, may waive any or all Department  
6 required improvements of the streetscape plan as described in this Subsection under that  
7 agency's jurisdiction if said agency determines that such improvement or improvements is  
8 inappropriate, interferes with utilities to an extent that makes installation financially infeasible,  
9 or would negatively affect the public welfare. Any such waiver shall be from the Director or  
10 General Manager of the affected agency, shall be in writing to the applicant and the  
11 Department, and shall specify the basis for the waiver. Waivers, if any, shall be obtained prior  
12 to commencement of construction of the streetscape improvements unless extenuating  
13 circumstances arise during the construction of said improvements. If such a waiver is granted,  
14 the Department reserves the right to impose alternative requirements that are the same as or  
15 similar to the elements in the adopted streetscape plan after consultation with the affected  
16 agency. This Subsection shall not apply to the waiver of the street tree requirement set forth in  
17 Section 138.1(c)(1).

18 **(d) Neighborhood Streetscape Plans.** In addition to the requirements listed in  
19 ~~Subs~~section 138.1(c), the Planning Department in coordination with other city agencies, and  
20 after a public hearing, may adopt streetscape plans for particular streets, neighborhoods, and  
21 districts, containing standards and guidelines to supplement the Better Streets Plan.  
22 Development projects in areas listed in this subsection that propose or are required through  
23 this section to make pedestrian and streetscape improvements to the public right-of-way shall  
24 conform with the standards and guidelines in the applicable neighborhood streetscape plan in  
25 addition to those found in the Better Streets Plan.

1                   **(1) Downtown Streetscape Plan.**

2                   ~~(A)(ii)~~ In any C-3 District sidewalk paving as set forth in the Downtown  
3 Streetscape Plan shall be installed by the applicant under the following conditions:

4                   ~~(i)(A)~~ Any new construction; or

5                   ~~(ii)(B)~~ The addition of floor area equal to 20 percent or more of an  
6 existing building; ~~or~~

7                   ~~(C) Alteration to greater than 50% of the existing square footage of a~~  
8 ~~building.~~

9                   ~~(C)(iii)~~ In accordance with the provisions of Section 309 of the Planning  
10 Code governing C-3 Districts, when a permit is granted for any project abutting a public  
11 sidewalk in a C-3 District, the Planning Commission may impose additional requirements that  
12 the applicant install sidewalk improvements such as benches, bicycle racks, lighting, special  
13 paving, seating, landscaping, and sidewalk widening in accordance with the guidelines of the  
14 Downtown Streetscape Plan if it finds that these improvements are necessary to meet the  
15 goals and objectives of the General Plan of the City and County of San Francisco. In making  
16 this determination, the Planning Commission shall consider the level of street as defined in  
17 the Downtown Streetscape Plan.

18                   ~~(D)(iv)~~ If a sidewalk widening or a pedestrian street improvement is used  
19 to meet the open space requirement, it shall conform to the guidelines of Section 138.

20                   ~~(E)(v)~~ The Planning Commission shall determine whether the streetscape  
21 improvements required by this Section may be on the same site as the building for which the  
22 permit is being sought, or within 900 feet, provided that all streetscape improvements are  
23 located entirely within the C-3 District.

24                   **(2) Rincon Hill Streetscape Plan.**

1                    ~~(A)(i)~~ In the Rincon Hill Downtown Residential Mixed Use (RH-DTR) and  
2 Folsom and Main Residential/Commercial Special Use Districts, the boundaries of which are  
3 shown in Section Map No. 1 of the Zoning Map, for all frontages abutting a public sidewalk,  
4 the project sponsor is required to install sidewalk widening, street trees, lighting, decorative  
5 paving, seating and landscaping in accordance with the Streetscape Plan of the Rincon Hill  
6 Area Plan, developed by the Planning Department and approved by the Board of Supervisors  
7 for: ~~(i)(A)~~ any new construction; ~~or (ii)(B)~~ the addition of floor area equal to 20 percent or more  
8 of an existing building; ~~or (C) alteration to greater than 50% of the existing square footage of a~~  
9 ~~building.~~

10                    ~~(B)(ii)~~ Prior to approval by the Board of Supervisors of a Streetscape Plan  
11 for Rincon Hill, the Planning Commission, through the procedures of Section 309.1, shall  
12 require an applicant to install sidewalk widening, street trees, lighting, decorative paving,  
13 seating, and landscaping in keeping with the intent of the Rincon Hill Area Plan of the General  
14 Plan and in accordance with this section of the Planning Code.

15                    \* \* \* \*

16                    **(f) Removal and modification of private encroachments on public rights-of-way.**

17                    **(1) Applicability.** *This section shall apply to developments which:*

18                    (A) construct new buildings;

19                    (B) include building alterations which increase the gross square footage of a  
20 structure by 20 percent or more;

21                    (C) add off-street parking or loading; or

22                    (D) remove off-street parking or loading.

23                    **(2) Requirements.** *As a condition of approval for the applicable developments in*  
24 *subsection (b), the Planning Department may require the project sponsor to:*

1 (A) reduce the number or width of driveway entrances to a lot, to comply with  
2 the streetscape requirements of this Code and the protected street frontages of Section 155(r);

3 (B) remove encroachments onto or over sidewalks and streets that reduce the  
4 pedestrian path of travel, or reduce the sidewalk area available for streetscape amenities such as  
5 landscaping, street trees and outdoor seating;

6 (C) remove or reduce in size basements which extend under public rights-of-way.

7 (3) Standards. In instances where such encroachments are removed, the Planning  
8 Department shall require that the replacement curbs, sidewalks, street trees, and landscaping shall  
9 meet the standards of the Better Streets Plan and of any applicable neighborhood streetscape plans.

10 **SEC. 140. ALL DWELLING UNITS IN ALL USE DISTRICTS TO FACE ON AN OPEN**  
11 **AREA.**

12 (a) **Requirements.** With the exception of dwelling units in single room occupancy  
13 buildings in the South of Market Mixed Use Districts, in each dwelling unit in any use district,  
14 the required windows (as defined by Section 504 of the San Francisco Housing Code) of at  
15 least one room that meets the 120-square-foot minimum superficial floor area requirement of  
16 Section 503 of the Housing Code shall face directly on an open area of one of the following  
17 types:

18 (1) A public street, public alley at least ~~25~~ 20 feet in width, side yard at least 25  
19 feet in width, or rear yard meeting the requirements of this Code; provided, that if such  
20 windows are on an outer court whose width is less than 25 feet, the depth of such court shall  
21 be no greater than its width; or

22 (2) An open area (whether an inner court or a space between separate buildings  
23 on the same lot) which is unobstructed (except for fire escapes not projecting more than  
24 necessary for safety and in no case more than four feet six inches, chimneys, and those  
25 obstructions permitted in Sections 136(c)(14), (15), (16), (19), (20) and (29) of this Code) and

1 is no less than 25 feet in every horizontal dimension for the floor at which the dwelling unit in  
2 question is located and the floor immediately above it, with an increase of five feet in every  
3 horizontal dimension at each subsequent floor, except for single room occupancy buildings in  
4 the Eastern Neighborhoods Mixed Use Districts, which are not required to increase five feet in  
5 every horizontal dimension until the fifth floor of the building.

6 (b) Exceptions. For historic buildings identified in Section 307(h)(1) ~~which are located~~  
7 ~~within the Eastern Neighborhoods Mixed Use Districts, and for the conversion of a nonconforming use~~  
8 ~~in an existing building to a residential use in a district where the residential use is principally~~  
9 ~~permitted,~~ the requirements of this Section 140 may be modified or waived pursuant to the  
10 procedures and criteria set forth in Sections 307(h) and 329. This administrative exception does  
11 not apply to new additions to historic buildings.

12 NOTE: DIAGRAM NOT SHOWN BUT NOT TO BE DELETED.]

13 **SEC. 141. SCREENING OF ROOFTOP FEATURES IN R, NC, C, M, ~~MUG, MUO, WMUO,~~  
14 ~~MUR, WMUR, UMU, RED, RED-MX, DTR, SPD, RSD, SLR, SLI, SALI~~ AND MIXED USE SSO  
15 DISTRICTS.**

16 (a) In R, ~~SPD, RSD,~~ NC, C, M, ~~MUG, MUO, MUR, UMU, SLR, SLI, SALI~~ and Mixed Use  
17 ~~SSO~~ Districts, rooftop mechanical equipment and appurtenances to be used in the operation or  
18 maintenance of a building shall be arranged so as not to be visible from any point at or below  
19 the roof level of the subject building. This requirement shall apply in construction of new  
20 buildings, and in any alteration of mechanical systems of existing buildings that results in  
21 significant changes in such rooftop equipment and appurtenances. The features so regulated  
22 shall in all cases be either enclosed by outer building walls or parapets, or grouped and  
23 screened in a suitable manner, or designed in themselves so that they are balanced and  
24 integrated with respect to the design of the building. Minor features not exceeding one foot in  
25 height shall be exempted from this regulation.



1 \* \* \* \*

2 (c) In ~~Downtown Residential Districts, the Eastern Neighborhoods Mixed Use Districts, and~~  
3 ~~South of Market~~ Mixed Use Districts, mechanical equipment and appurtenances shall be  
4 enclosed in such a manner that:

5 (1) the enclosure is designed as a logical extension of the building form and an  
6 integral part of the overall building design;

7 (2) its cladding and detailing is comparable in quality to that of the rest of the  
8 building;

9 (3) if screened by additional volume, as authorized by Section 260(b), the  
10 rooftop form is appropriate to the nature and proportions of the building, and is designed to  
11 obscure the rooftop equipment and appurtenances and to provide a more balanced and  
12 graceful silhouette for the top of the building or structure; and

13 (4) the additional building volume is not distributed in a manner which simply  
14 extends vertically the walls of the building.

15 \* \* \* \*

16 **SEC. 151. SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES.**

17 \* \* \* \*

18 (c) Maximum parking permitted as accessory. Except as specified in subsection (b) above,  
19 accessory ~~Accessory~~ parking principally permitted under this Section shall include only those facilities  
20 which do not exceed the following amounts for a structure, lot, or development:

21 (1) Three spaces where one space is required by this Section.

22 (2) Four spaces where two spaces are required by this Section.

23 (3) 150 percent of the required number of spaces where three or more spaces are  
24 required by this Section.

1                    (4) In all districts other than NC, 15 spaces or seven percent of the total gross floor area  
2 of the structure or development, whichever is greater.

3                    (5) In NC districts, three spaces where no off-street parking spaces are required by this  
4 Section.

5 **SEC. 156. PARKING LOTS.**

6                    (a) **Definition.** A "parking lot" is hereby defined as an off-street open area or portion  
7 thereof solely for the parking of passenger automobiles. Such an area or portion shall be  
8 considered a parking lot whether or not on the same lot as another use, whether or not  
9 required by this Code for any structure or use, and whether classified as an accessory,  
10 principal or conditional use.

11                    (b) **Conditional Use.**

12                    (1) Where parking lots are specified in Articles 2 ~~or~~ 7, or 8 of this Code as a use  
13 for which conditional use approval is required in a certain district, such conditional use  
14 approval shall be required only for such parking lots in such district as are not qualified as  
15 accessory uses under Section 204.5 of this Code. The provisions of this Section 156 shall,  
16 however, apply to all parking lots whether classified as accessory, principal or conditional  
17 uses.

18                    (2) ~~(e)~~ In considering any application for a conditional use for a parking lot for a  
19 specific use or uses, where the amount of parking provided exceeds the amount classified as  
20 accessory parking in Section 204.5 of this Code, the Planning Commission shall consider the  
21 criteria set forth in Section 157.

22                    (c) ~~(d)~~ **Screening.**

23                    (1) Any vehicle use area that is less than 25 linear feet adjacent to a public right-  
24 of-way or parking lot for the parking of two or more automobiles which adjoins a lot in any R  
25 District, or which faces a lot in any R District across a street or alley, shall be screened from

1 view therefrom, except at driveways necessary for ingress and egress, by a solid fence, a  
2 solid wall, or a compact evergreen hedge, not less than four feet in height.

3 (2) ~~(e)~~ Any vehicle use area that has more than 25 linear feet adjacent to a  
4 public right-of-way or is a parking lot for the parking of 10 or more automobiles shall be  
5 screened in accordance with the standards described in Section 142, Screening and Greening  
6 of Parking and Vehicle Use Areas

7 (d) ~~(f)~~ **Artificial Lighting.** All artificial lighting used to illuminate a parking lot for any  
8 number of automobiles in any District shall be so arranged that all direct rays from such  
9 lighting fall entirely within such parking lot.

10 (e) ~~(g)~~ No parking lot for any number of automobiles ~~auto-mobiles~~ shall have conducted  
11 upon it any dead storage or dismantling of vehicles, or any repair or servicing of vehicles other  
12 than of an emergency nature.

13 (f) ~~(h)~~ No permanent parking lot shall be permitted in C-3-O, ~~C-3-O(SD), C-3-R, C-3-G~~  
14 and NCT Districts; temporary parking lots may be approved as conditional uses, except in the  
15 C-3-O(SD) ~~d~~District, pursuant to the provisions of Section 303 for a period not to exceed five  
16 ~~two~~ years from the date of approval; ~~permanent parking lots in C-3-S Districts shall be permitted~~  
17 ~~only as a conditional use.~~ No new parking lots may be approved in the C-3-O(SD) ~~d~~District,  
18 however conditional use approval for a two-year extension of existing parking lots in the C-3-  
19 O(SD) ~~d~~District may be approved pursuant ~~pursuant~~ to this Ssubsubsection provided that they meet  
20 the requirements of subsection (i)~~(t)~~.

21 (g) ~~(i)~~ Any parking lot approved pursuant to zoning categories .25, .27 and .29 of  
22 Sections 813 through 818 of this Code shall be screened in accordance with the standards  
23 described in Section 142, Screening and Greening of Parking and Vehicle Use Areas except  
24 where this requirement would prevent otherwise feasible use of the subject lot as an open  
25 space or play area for nearby residents.

1            ~~(h)~~ ~~(j)~~ **Interior Landscaping and Street Trees.**

2            (1) All permanent parking lots are required to provide 1 tree per 5 parking  
3 spaces in a manner that is compliant with the applicable water use requirements of  
4 Administrative Code Chapter 63 and a minimum of 20% permeable surface, as defined by  
5 Section 102.33 Permeable Surfaces. The trees planted in compliance with this Section shall  
6 result in canopy coverage of 50% of the parking lots' hardscape within 15 years of the  
7 installations of these trees. Permeable surfaces and grading shall be coordinated so that  
8 stormwater can infiltrate the surface in areas with less than 5% slope.

9            ~~(2)(k)~~ **Street Tree Requirement.** All parking lots shall meet the street tree  
10 requirements specified in Section 143.

11            ~~(i)~~ (i) The conditions of approval for the extension of an existing parking lot in the C-3-  
12 O(SD) ~~D~~ District shall include the following:

13            ~~(A)~~ (1) a minimum of one parking space for car sharing vehicles meeting all of  
14 the requirements in Section 166 for every 20 spaces in said lot;

15            ~~(B)~~ (2) a minimum of two Class 2 bicycle parking spaces for every 50 linear feet  
16 of frontage in a highly visible area on the property adjacent to a public sidewalk or shall attain  
17 approval from the appropriate City agencies to install such bicycle parking on a public  
18 sidewalk on the same block;

19            ~~(C)~~ (3) interior landscaping compliant with the requirements in subsection ~~(j)~~ (h)  
20 above, provided that if a site permit has been approved by the Planning Department for  
21 construction of a building on the subject lot that would replace the parking lot in less than ~~2~~  
22 two years, the trees may be planted in movable planters and the lot need not provide  
23 permeable surfaces described in subsection ~~(j)~~ (h).

24            **SEC. 182. NONCONFORMING USES: CHANGES OF USE.**

1 The following provisions shall apply to nonconforming uses with respect to changes of  
2 use:

3 \* \* \* \*

4 (b) Except as limited in this Subsection, a nonconforming use may be reduced in size,  
5 extent or intensity, or changed to a use that is more widely permitted by the use districts of the  
6 City than the existing use, subject to the other applicable provisions of this Code. Except as  
7 otherwise provided herein, the new use shall still be classified as a nonconforming use.

8 (1) ~~A Nonconforming commercial and industrial use in a Residential or  
9 Residential Enclave District shall be subject to the requirements of Section 186 (other than a  
10 Residential-Commercial Combined District or an RED District), which use is located more than 1/4 mile  
11 from the nearest Individual Area Neighborhood Commercial District or Restricted Use Subdistrict  
12 described in Article 7 of this Code, may change to another use which is permitted as a principal use at  
13 the first story and below in an NC-1 District, or it may change to another use which is permitted as a  
14 conditional use at the first story and below in an NC-1 District only upon approval of a conditional use  
15 application pursuant to the provisions of Article 3 of this Code. If the nonconforming use is seeking to  
16 change in use to a retail sales activity or retail sales establishment which is also a formula retail use,  
17 as defined in Section 703.3 of this Code, it shall comply with the provisions of Section 703.3 of this  
18 Code. The nonconforming use shall comply with other building standards and use limitations of NC-1  
19 Districts, as set forth in Sections 710.10 through 710.95 of this Code.~~

20 ~~If the nonconforming use is located within 1/4 mile from any Individual Area Neighborhood~~  
21 ~~Commercial District or Restricted Use Subdistrict described in Article 7 of this Code, the~~  
22 ~~nonconforming use may change to another use which is permitted as a principal use at the first story~~  
23 ~~and below in an NC-1 District and in the Individual Area Neighborhood Commercial District or~~  
24 ~~Restricted Use Subdistrict or Districts within 1/4 mile of the use, or it may change to another use which~~  
25 ~~is permitted as a conditional use at the first story and below in an NC-1 District and in the Individual~~

1 ~~Area Neighborhood Commercial District or Districts within ¼ mile of the use only upon approval of a~~  
2 ~~conditional use application pursuant to the provisions of Article 3 of this Code. If the nonconforming~~  
3 ~~use is seeking to change in use to a retail sales activity or retail sales establishment which is also a~~  
4 ~~formula retail use, as defined in Section 703.3 of this Code, it shall comply with the provisions of~~  
5 ~~Section 703.3 of this Code. The nonconforming use shall comply with other building standards and use~~  
6 ~~limitations of NC-1 Districts and any Individual Area NC District or Districts located within ¼ mile of~~  
7 ~~the use, as set forth in Article 7 of this Code.~~

8 (2) ~~A nonconforming use in a Residential-Commercial Combined District may be~~  
9 ~~changed to another use listed in Articles 2 or 7 of this Code as a principal use for the district in which~~  
10 ~~the existing use would first be permitted as a principal or conditional use.~~

11 (3)(2) A nonconforming use in a Neighborhood Commercial District may be  
12 changed to another use as provided in Subsections (c) and (d) below or as provided in  
13 Section 186.1 of this Code.

14 (4) ~~A nonconforming use in any district other than a Residential, Downtown Residential,~~  
15 ~~or Neighborhood Commercial District may be changed to another use listed in Articles 2 or 7 of this~~  
16 ~~Code as a principal use for the district in which the existing use would first be permitted as a principal~~  
17 ~~use.~~

18 (5)(3) A nonconforming use in any South of Market Mixed Use District may not  
19 be changed to an office, retail, bar, restaurant, nighttime entertainment, adult entertainment,  
20 hotel, motel, inn, hostel, or movie theater use in any district where such use is otherwise not  
21 permitted or conditional, except as provided in Subsection (g) below.

22 (c) A nonconforming use may be changed to a use listed ~~in Articles 2 or 7 of this Code~~ as  
23 a conditional use for the district in which the property is located, only upon approval of a  
24 conditional use application pursuant to the provisions of Article 3 of this Code, ~~subject to the other~~  
25 ~~applicable provisions of this Code, without the necessity of specific authorization by the City Planning~~

1 ~~Commission except where major work on a structure is involved,~~ and the new use may thereafter  
2 be continued as a permitted conditional use, subject to the limitation of Section 178(b) of this  
3 Code.

4 (d) A nonconforming use may be changed to a use listed ~~in Articles 2, 7 or 8 of this Code~~  
5 as a principal use for the district in which the property is located, subject to the other  
6 applicable provisions of this Code, and the new use may thereafter be continued as a  
7 permitted principal use.

8 (e) A nonconforming use ~~in an R District subject to termination under the provisions of~~  
9 ~~Section 185 of this Code~~ may be converted to a dwelling unit, or to two or more dwelling units with  
10 conditional use authorization, in a district where a dwellings are principally permitted without regard  
11 to the requirements of this Code with respect to residential dwelling unit density ~~under Article 2,~~  
12 ~~dimensions, areas and open space under Article 1.2,~~ or required off-street parking ~~under Article 1.5,~~  
13 and the Zoning Administrator may provide relief from certain other standards specified in Section  
14 307(h) through the procedures of that Section, provided the nonconforming use is eliminated by  
15 such conversion, provided further that the structure is not enlarged, extended or moved to  
16 another location, and provided further that the requirements of the Building Code, the Housing  
17 Code and other applicable portions of the Municipal Code are met.

18 \* \* \* \*

19 **SEC. 184. SHORT-TERM CONTINUANCE OF CERTAIN NONCONFORMING USES.**

20 The period of time during which the following nonconforming uses may continue or  
21 remain shall be limited to five years from the effective date of this Code (May 2, 1960), or of  
22 the amendment thereto which caused the use to be nonconforming. Every such  
23 nonconforming use shall be completely eliminated within 90 days after the expiration of such  
24 period.

1 (a) Any nonconforming commercial or industrial use of land where no enclosed building  
2 is involved in such use, except for permanent off-street parking lots in the C-3-O, C-3-R and  
3 C-3-G Districts existing on the effective date of Ordinance No. 414-85, provided that such lots  
4 are screened in the manner required by Section 156(e); such permanent uses shall be eliminated  
5 no later than five years and 90 days from the effective date of an amendment to this Code which makes  
6 such permanent uses nonconforming.

7 (b) Any use of a type first permitted as a principal or conditional use in an NC, C or M  
8 District or in a Residential-Commercial ~~Combined~~ District, when occupying a building in an R  
9 District other than a Residential-Commercial ~~Combined~~ District that has an assessed valuation  
10 not in excess of \$500 on the effective date of this Code or such later date as the use becomes  
11 nonconforming, with the following exceptions:

12 (1) Any lawful use in this category in a building having an assessed valuation of  
13 \$250 or more on the effective date of this Code, or such later date as the use becomes  
14 nonconforming, shall have a period of permitted continuance of 10 years from the date at  
15 which the property was placed in a residential zoning classification, if such a period of  
16 continuance produces an expiration date which is later than the expiration date stated above;  
17 or

18 (2) Any lawful use in this category which is of a type first permitted in an NC-1  
19 District; or of a type first permitted in any other district and supplying commodities at retail, or  
20 offering personal services, primarily to residents of the immediate vicinity; shall have a period  
21 of permitted continuance of 10 years from the effective date of this Code, or of the  
22 amendment thereto which caused the use to be nonconforming. After five years of such  
23 period have elapsed, any use as described in this Paragraph (b)(2) shall, upon application, be  
24 qualified for consideration by the ~~City~~ Planning Commission as a conditional use as regulated  
25 in Section 303 of this Code.



1 **SEC. 204.3. ACCESSORY USES IN C, RC, M, AND PDR DISTRICTS.**

2 (a) Commercial and Residential-Commercial Districts. No use shall be permitted as an  
3 accessory use to a lawful principal or conditional use in any Commercial or Residential-  
4 Commercial C-1 or C-2 District which involves or requires any of the following:

5 ~~(1) The total employment for such accessory use of more than five persons in a C-1~~  
6 ~~District, or more than 10 persons in a C-2 District;~~

7 ~~(2) The use of any single machine of more than one horsepower in a C-1 District, or~~  
8 ~~more than 2½ horsepower in a C-2 District;~~

9 ~~(3) The use of machines in any one establishment in an aggregate of more than five~~  
10 ~~horsepower in a C-1 District, or more than 10 horsepower in a C-2 District;~~

11 ~~(4) (1) The use of more than ¼ one-third of the total floor area occupied by such~~  
12 ~~use and the principal or conditional use to which it is accessory, except in the case of~~  
13 ~~accessory off-street parking or loading; or~~

14 ~~(2) Any noise, vibration, or unhealthful emissions extending beyond the premises of the~~  
15 ~~use.~~

16 ~~(5) The production of goods not intended primarily for retail sale or use on the~~  
17 ~~premises.~~

18 ~~(b) No use shall be permitted as an accessory use to a lawful principal or conditional use in any~~  
19 ~~C-3 District which involves or requires the use of any single machine of more than five horsepower; or~~  
20 ~~the use of more than ¼ one-third of the total floor area occupied by such use and the principal or~~  
21 ~~conditional use to which it is accessory, except in the case of accessory off-street parking and loading.~~  
22 ~~These limitations shall not apply to equipment or machines pertaining integrally to the lawful principal~~  
23 ~~use itself.~~

24 ~~(c) Notwithstanding the provisions of Sections 227(h) and (i) and 260(b)(2)(l) and (M) of this~~  
25 ~~Code, an accessory use to a lawful principal or conditional use in any C or M District which involves~~

1 ~~or requires the installation of a tower or antenna solely for the reception of radio and television~~  
2 ~~broadcasts for the exclusive benefit of the residents or occupants in the building on which the antenna~~  
3 ~~is placed shall be permitted without regard to the height of such tower or antenna and without regard~~  
4 ~~to the proximity of such tower or antenna to any R District.~~

5 ~~(d)(b) PDR and M Districts. No use shall be permitted as an accessory use to a lawful~~  
6 ~~principal or conditional use in any PDR or M District which involves or requires the use of~~  
7 ~~more than one-third (1/3) of the total floor area occupied by such use and the principal or~~  
8 ~~conditional use to which it is accessory, except in the case of accessory off-street parking and~~  
9 ~~loading.~~

#### 10 **SEC. 204.5. PARKING AND LOADING AS ACCESSORY USES.**

11 In order to be classified as an accessory use, off-street parking and loading shall meet  
12 all of the following conditions:

13 \* \* \* \*

14 (c) Accessory parking facilities shall include only those facilities which do not exceed  
15 the ~~following amounts permitted by Section 151(c) for a structure, lot or development: three spaces~~  
16 ~~where one space is required by this Code; four spaces where two spaces are required by this Code; 150~~  
17 ~~percent of the required number of spaces where three or more spaces are required by this Code; and,~~  
18 ~~in all districts other than NC, 15 spaces or seven percent of the total gross floor area of the structure or~~  
19 ~~development, whichever is greater, or in NC Districts, three spaces, where no off-street parking spaces~~  
20 ~~are required by this Code. For purposes of calculation under the last provision just stated, gross floor~~  
21 ~~area shall be as defined by this Code, and the area considered to be devoted to parking shall be only~~  
22 ~~the parking spaces and aisles, excluding entrance and exit driveways and ramps.~~ Off-street parking  
23 facilities which exceed the amounts stated in ~~this Subsection~~ Section 151(c) shall be classified as  
24 either a principal or a conditional use, depending upon the use provisions applicable to the  
25 district in which such facilities are located. This subsection (c) does not apply to districts

1 subject to Section 151.1, which establishes maximum amounts of accessory parking for all  
2 uses in those districts.

3 **SEC. 307. OTHER POWERS AND DUTIES OF THE ZONING ADMINISTRATOR.**

4 In addition to those specified in Sections 302 through 306, and Sections 316 through  
5 316.8 of this Code, the Zoning Administrator shall have the following powers and duties in  
6 administration and enforcement of this Code. The duties described in this Section shall be  
7 performed under the general supervision of the Director of Planning, who shall be kept  
8 informed of the actions of the Zoning Administrator.

9 \* \* \* \*

10 (h) **Exceptions from Certain Specific Code Standards through Administrative**  
11 **Review ~~in the Eastern Neighborhoods Mixed Use Districts.~~ *In the Eastern Neighborhoods Mixed***  
12 ***Use Districts, the* The Zoning Administrator may allow complete or partial relief from certain**  
13 standards specifically identified below and elsewhere in this Code when modification of the  
14 standard would result in a project fulfilling the criteria set forth below and in the applicable  
15 section.

16 (1) **Applicability.**

17 (A) **Parking.** *Relief from minimum parking requirements may be provided as*  
18 *specified in Section 161 of this Code.*

19 (B) **Eastern Neighborhoods Mixed Use Districts.** For projects not subject to  
20 Section 329, relief may be provided for the following requirements: rear yard; non-residential  
21 open space; off-street loading requirements; and off-street parking limits up to the maximum  
22 quantities described in Section 151.1.

23 (C) **Dwelling Unit Exposure for Historic Buildings.** Relief may also be  
24 provided for dwelling unit exposure requirements for buildings which are designated landmark  
25 buildings or contributory buildings within designated historic districts per Article 10 of this

1 Code, any building designated Category I-IV per Article 11 of this Code, and/or buildings recorded  
2 with the State Historic Preservation Office as eligible for the California Register, when the  
3 following criteria are met: (i) literal enforcement of Section 140 would result in the material  
4 impairment of the historic resource; and (ii) the project complies with the Secretary of the  
5 Interior's Standards, (36 C.F.R. § 67.7 (2001)) and/or Section 1006 and any related Article 10  
6 appendices of this Code. This administrative exception does not apply to new additions to historic  
7 buildings.

8 **(D) Residential Open Space for Historic Buildings.** For a landmark building  
9 designated per Article 10 of this Code, a contributing building located within a designated historic  
10 district per Article 10, or any building designated Category I-IV per Article 11 of this Code, the  
11 provision of off-site publicly accessible open space, meeting the requirements of Section 135(h), may be  
12 credited toward the residential usable open space requirement.

13 **(E) Conversion of Non-conforming Uses to Residential Uses.** The Zoning  
14 Administrator may modify or waive dwelling unit exposure requirements, rear yard requirements, open  
15 space requirements for inner courts, and the substitution of off-site publicly accessible open space for  
16 required residential open space, provided:

17 (i) That the residential use, whether dwelling units group housing, or  
18 SRO units, are principally permitted in the district or districts in which the project is located;

19 (ii) That the nonconforming use is eliminated by such conversion,  
20 provided further that the structure is not enlarged, extended or moved to another location; and

21 (iii) That the requirements of the Building Code, the Housing Code and  
22 other applicable portions of the Municipal Code are met.

23 (2) **Procedures.** The review of a modification requested under this Section shall  
24 be conducted as part of, and incorporated into, a related building permit application or other  
25 required project authorizations; no additional fee shall be required. Under no circumstances

1 shall such modification provide relief from any fee, including those related to usable open  
2 space pursuant to Sections 135(j) and 135.3(d). The provisions of this Subsection (h) shall not  
3 preclude such additional conditions as may be deemed necessary by the Zoning  
4 Administrator to further the purposes of this Section or other Sections of this Code.

5  
6 Section 3. Effective Date. This ordinance shall become effective 30 days after  
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
9 of Supervisors overrides the Mayor’s veto of the ordinance.

10  
11 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
15 additions, and Board amendment deletions in accordance with the “Note” that appears under  
16 the official title of the ordinance.

17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By: \_\_\_\_\_  
21 JUDITH A. BOYAJIAN  
22 Deputy City Attorney

23 n:\legana\as2014\1100234\00935166.doc