

1 [Planning Code - Downtown Support Special Use District; Fees in Lieu of On-Site Open  
2 Space]

3 **Ordinance amending the Downtown Support Special Use District to authorize a**  
4 **monetary contribution (in lieu fee) to satisfy required on-site open space requirements,**  
5 **exclude certain features from floor area ratio and gross floor area calculations, and**  
6 **dedicate the monetary contribution for lighting and safety improvements at Victoria**  
7 **Manolo Draves Park; affirming the Planning Department’s determination under the**  
8 **California Environmental Quality Act; and making findings of consistency with the**  
9 **General Plan, and the 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 ~~italics Times New Roman font~~.  
13 **Board amendment additions** are in double-underlined Arial font.  
14 **Board amendment deletions** are in ~~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 are not defined as a project under the California Environmental Quality Act  
21 (California Public Resources Code Sections 21000 et seq.) Guidelines Section 15378 and  
22 15080(c)(2) because it does not result in a physical change in the environment as described  
23 in the determination contained in the Planning Department files. The Board of Supervisors  
24 hereby affirms this determination.

25 (b) On November 17, 2016, the Planning Commission, in Resolution No. 19779,  
adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
3 the Board of Supervisors in File No. 140877, and is incorporated herein by reference.

4  
5 Section 2. The Planning Code is hereby amended by revising Section 247, to read as  
6 follows:

7 **SEC. 247. DOWNTOWN SUPPORT OPEN SPACE DEMONSTRATION SPECIAL USE**  
8 **DISTRICT.**

9 (a) **Purpose.** In order to provide that a certain area within the C-3-S District be able  
10 to be developed for hotel use with an increased basic floor area ratio of 7.5 to 1, there shall be  
11 a "Downtown Support Special Use District" (also referred to as the "C-3-S (SU) District") as  
12 designated on Sectional Map SU01 of the Zoning Map. ~~Development at densities above the basic~~  
13 ~~floor area ratio of 7.5:1 in this special use district will not be permitted.~~

14 (b) **Requirements.**

15 (1) **Floor Area Ratio.** The basic and maximum floor area ratio of the C-3-S  
16 (SU) District, after purchase of all market-rate, available TDR within the C-3-S District, shall  
17 be 7.5:1. ~~Development at densities above the basic floor area ratio of 7.5:1 in this special use district~~  
18 ~~will not be permitted. Roof eaves, cornices, or belt courses that project no more than two feet from the~~  
19 ~~face of the building wall shall be excluded from the FAR calculation.~~

20 Where there are fewer square feet of TDR within the C-3-S District available than the  
21 Planning Commission determines is required for a project, the Planning Commission may, as  
22 part of a Section 309 review, authorize a project sponsor to make a monetary contribution  
23 towards the preservation of a Landmark building within the C-3 area in an amount to be  
24 determined by the Commission. For purposes of this Section 247, the C-3 area shall include

1 any C-3 District and any P District adjacent thereto. All other provisions of this Code  
2 applicable to the C-3-S District shall apply in the C-3-S (SU) District.

3 (2) Gross Floor Area Calculation. Notwithstanding the definition of Gross Floor  
4 Area in Section 102 of this Code, balconies, porches, roof decks, terraces, courts, and similar features  
5 shall be excluded from the calculation of Gross Floor Area if they are fully open to the sky, even if  
6 covered by retractable canopies and associated support structures. However, the square footage of  
7 these excluded features shall be used to calculate any development impact fees that typically would be  
8 due in relation to an increased FAR.

9 (3) Privately-Owned Public Open Space Requirements; Payment of In-lieu Fee.  
10 The Board of Supervisors hereby authorizes the payment of a fee of \$2,500,000 in lieu of the project  
11 sponsor's provision of the 4th and 6th floor terraces at 888 Howard Street as required on-site open  
12 space for the project constructed pursuant to this Section 247. The amount of the in-lieu fee represents  
13 a construction cost of \$290.70 per square foot of Gross Floor Area multiplied by the 8,600 square foot  
14 of open space required by Section 138 of this Code.

15 While the Board holds that maintaining the public nature of POPOS spaces are the  
16 responsibility of the property owner, in authorizing the payment of an in-lieu fee in this case the Board  
17 finds and determines that:

18 (A) the Planning Commission's original approval of the project noted the  
19 poor quality of the open space;

20 (B) alternative, suitable open space sites cannot be acquired within the  
21 neighborhood of the project;

22 (C) improvements to the quality of the existing open space are neither  
23 feasible nor appropriate; and

1                                    (D) while the City should always strive to maintain requirements associated  
2 with development approvals, in this case the alternative in-lieu payment provides greater public benefit  
3 than the original open space requirement.

4                                    (c) **Authorized Use of the In-Lieu Fee.** The in-lieu fee shall be dedicated to the Recreation  
5 and Parks Department and used to improve the lighting and safety features of Victoria Manolo Draves  
6 Park, including any increased funding required to staff evening hours. The improved lighting shall be  
7 provided within two years of the Recreation and Parks Department receiving payment of the funds.

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

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

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

23 By: \_\_\_\_\_  
24 JUDITH A. BOYAJIAN  
25 Deputy City Attorney  
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