

BOARD of SUPERVISORS



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February 6, 2018

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On January 23, 2018, Supervisor Kim introduced the following legislation:

File No. 180086

Ordinance amending the Planning Code to allow the owner of premises leased to the City and County of San Francisco for a public safety-related use to resume a pre-existing legal nonconforming self-storage use after the City vacates the property; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board


By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

- c: John Rahaim, Director of Planning
- Aaron Starr, Acting Manager of Legislative Affairs
- Scott Sanchez, Zoning Administrator
- Lisa Gibson, Environmental Review Officer
- AnMarie Rodgers, Senior Policy Advisor
- Laura Lynch, Environmental Planning
- Joy Navarrete, Environmental Planning

1 [Planning Code - Re-establishment of Nonconforming Self-Storage Use]

2
3 **Ordinance amending the Planning Code to allow the owner of premises leased to the**
4 **City and County of San Francisco for a public safety-related use to resume a pre-**
5 **existing legal nonconforming self-storage use after the City vacates the property;**
6 **affirming the Planning Department's determination under the California Environmental**
7 **Quality Act; making findings of consistency with the General Plan, and the eight**
8 **priority policies of Planning Code, Section 101.1; and adopting findings of public**
9 **necessity, convenience, and general welfare under Planning Code, Section 302.**

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 Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. _____ and is incorporated herein by reference. The Board
23 affirms this determination.

24 (b) On _____, the Planning Commission, in Resolution No. _____,
25 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
4 ordinance will serve the public necessity, convenience, and general welfare for the reasons
5 stated in Planning Commission Resolution No. _____ and the Board adopts said reasons
6 herein by reference.

7
8 Section 2. The Planning Code is hereby amended by revising Section 183, to read as
9 follows:

10 **SEC. 183. NONCONFORMING USES: DISCONTINUANCE AND ABANDONMENT.**

11 (a) **Discontinuance and Abandonment of a Nonconforming Use, Generally.**

12 Whenever a nonconforming use has been changed to a conforming use, or discontinued for a
13 continuous period of three years, or whenever there is otherwise evident a clear intent on the
14 part of the owner to abandon a nonconforming use, such use shall not after being so
15 changed, discontinued or abandoned be reestablished, and the use of the property thereafter
16 shall be in conformity with the use limitations of this Code for the district in which the property
17 is located. Where no enclosed building is involved, discontinuance of a nonconforming use for
18 a period of six months shall constitute abandonment. Where a Massage Establishment is
19 nonconforming for the reason that it is within 1,000 feet of another such establishment or
20 because it is no longer permitted within the district, discontinuance for a continuous period of
21 three months or change to a conforming use shall constitute abandonment.

22 * * * *

23 (c) *Discontinuance or Abandonment of a Nonconforming Self-Storage Use Due to City and*
24 *County Occupancy. A lawfully existing nonconforming Self-Storage use that is changed to a*
25 *conforming use due solely to occupancy by the City and County of San Francisco, acting through any*

1 of its departments, shall not be considered discontinued or abandoned for purposes of subsection (a)
2 above or any other provision of this Code and the property owner may continue use of the premises as
3 Self-Storage use after the City vacates the property, provided that: (1) the City's occupancy is for a
4 public safety-related purpose classified as a Public Use under Section 890.80 of the Planning Code and
5 (2) the property owner resumes the nonconforming use within two years from the date the City vacates
6 the property. The property owner shall apply for any permits required to resume the Self-Storage use
7 within one year from the date the City vacates the property.

8 (1) **Notice and Discretionary Review of the Building Permit.** If a building permit is
9 required to resume the pre-existing nonconforming use and the permit application is limited to its re-
10 establishment, the permit shall not be subject to the notification requirements of Section 312 or other
11 notification requirements of this Code, and no requests for discretionary review of the building permit
12 shall be accepted by the Planning Department or heard by the Planning Commission.

13 (2) **Extensions of Time.**

14 (A) If a permit to resume the nonconforming use is issued but delayed due to
15 actions before the Board of Appeals or other City agencies, or cases in any court of competent
16 jurisdiction, the time to resume the nonconforming use shall be extended by the amount of time final
17 action on the permit was delayed.

18 (B) The Zoning Administrator may grant one or more extensions of the time
19 within which the nonconforming use must be resumed if the owner or owners of the property have made
20 a good-faith effort to comply but are unable to do so for reasons that are not within their control.

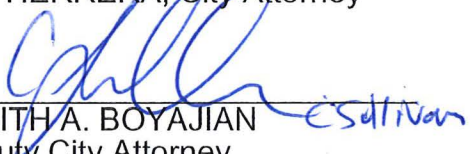
21 (3) **Notice.** The Planning Department shall provide written notice to the owner of
22 record of any property that is within the scope of Section 183(c) of any proposed legislation to amend
23 Section 183(c) prior to a hearing thereon by the Planning Commission, provided that the property
24 owner has sent a written request for said notice to the Zoning Administrator.

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

6 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the "Note" that appears under
11 the official title of the ordinance.
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13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By:


16 JUDITH A. BOYAJIAN
17 Deputy City Attorney

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