

1 [Planning Code - Legitimization and Reestablishment of Certain Self-Storage Uses]

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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 Self-Storage use after the City vacates the property without regard to whether**  
6 **that Self-Storage use was established with benefit of permit; affirming the Planning**  
7 **Department's determination under the California Environmental Quality Act; making**  
8 **findings of consistency with the General Plan and the eight priority policies of Planning**  
9 **Code, Section 101.1; and adopting findings of public necessity, convenience, and**  
10 **general welfare under Planning Code, Section 302.**

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

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

19 Section 1. Environmental and Land Use Findings.

20 (a) The Planning Department has determined that the actions contemplated in this  
21 ordinance comply with the California Environmental Quality Act (California Public Resources  
22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
23 Supervisors in File No. 180086 and is incorporated herein by reference. The Board affirms  
24 this determination.

25 (b) On April 19, 2018, the Planning Commission, in Resolution No. 20155, adopted  
findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board  
2 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
3 Board of Supervisors in File No. 180086, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
5 ordinance will serve the public necessity, convenience, and general welfare for the reasons  
6 stated in Planning Commission Resolution No. 180086 and the Board adopts said reasons  
7 herein by reference.

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

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

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

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

23 \* \* \* \*

1            (c)        **Discontinuance or Abandonment of Self-Storage Use Due to City and County**

2        **Occupancy.** Adoption of the Western South of Market Area Plan resulted in certain land uses,  
3        including Self-Storage, that were previously permitted no longer being permitted. The purpose  
4        of this subsection 183(c) is to establish a process by which the owner of property with a Self-  
5        Storage use that was established and is operating without the benefit of a required change of  
6        use permit may seek and obtain the required permit, lease the property to the City and County  
7        of San Francisco for a public safety-related purpose, and re-establish a legal nonconforming  
8        Self-Storage use after the City vacates the property.

9            ~~An existing nonconforming Self-Storage use or a Self-Storage use that is legitimized~~  
10        ~~pursuant to subsection (c)(4) below, that in either case is changed to a public safety-related~~  
11        ~~use due solely to occupancy by the City and County of San Francisco acting through any of its~~  
12        ~~departments, shall not be considered discontinued or abandoned for purposes of subsection~~  
13        ~~(a) above or any other provision of this Code and the property owner may resume use of the~~  
14        ~~premises as a Self-Storage use after the City vacates the property, provided that: (i) the City's~~  
15        ~~occupancy was for a public safety-related purpose classified as a Public Use under Section~~  
16        ~~890.80 of the Planning Code and (ii) the property owner resumes the Self-Storage use within~~  
17        ~~two years from the later of (I) the date the City vacated the property or (II) the date the City's~~  
18        ~~lease for the property was terminated. The property owner shall apply for and obtain any~~  
19        ~~permits required to resume the Self-Storage use within one year from the date the City~~  
20        ~~vacates the property.~~

21            (1)        **Legitimization of Existing Self-Storage Use; Notice and Discretionary**

22        **Review of the Building Permit.** In the case of a Self-Storage use that was established and has  
23        been operating without the benefit of a required change of use permit, the property owner may  
24        seek and be granted such permit notwithstanding the limitation of No. 846.48 in Table 846 of  
25        this Code. If a building permit is required to resume the pre-existing Self-Storage use and the

1 permit application is limited to its reestablishment, the permit application shall not be subject to  
2 the notification requirements of Section 312 or other notification requirements of this Code, and no  
3 requests for discretionary review of the building permit shall be accepted by the Planning Department  
4 or heard by the Planning Commission provided that:

5 (A) the permit application is filed for a property located within (i) the  
6 Service/Arts/Light Industrial Zoning District and (ii) 1,000 feet of the South Of Market Special  
7 Hall Of Justice Legal Services District; and

8 (B) the Zoning Administrator has determined that the existing Self-  
9 Storage use (i) has been regularly operating or functioning prior to the effective date of this  
10 subsection 183(c) and (ii) is not accessory to any other use; and

11 (C) prior to issuance of the building permit to legitimize the existing  
12 Self-Storage use, the property owner pays the Transit Impact Development Fee required by  
13 Planning Code Section 411 et seq. in the amount that was in effect and would have been due  
14 at the time of the original establishment of the existing Self-Storage use; and

15 (D) the building permit to legitimize the existing Self-Storage use is  
16 issued prior to the earlier of (i) commencement of occupancy by the City for a public-safety  
17 related purpose or (ii) issuance of a building permit to establish the public safety-related use.

18 If the property owner has not applied for a building permit to legitimize an existing Self-  
19 Storage use and the permit is not issued as set forth in this subsection (c)(1), the Self-Storage  
20 use shall be deemed irrevocably abandoned and may not be re-established.

21 (2) **Change of Use from a Self-Storage Use to Public Use; Notice and**  
22 **Discretionary Review of the Building Permit.** Any building permit that is required for the  
23 City's occupancy of the property for a public-safety related purpose classified as a Public Use  
24 under Section 890.80 of this Code shall not be subject to the notification requirements of  
25 Section 312 or other notification requirements of this Code, and no requests for discretionary

1 review of the building permit shall be accepted by the Planning Department or heard by the  
2 Planning Commission.

3 (3) Re-establishment of Self-Storage Use; Notice and Discretionary

4 Review of the Building Permit. An existing nonconforming Self-Storage use or a Self-  
5 Storage use that is legitimized pursuant to subsection (c)(1), that in either case is changed to  
6 a public safety-related use due solely to occupancy by the City and County of San Francisco  
7 acting through any of its departments, shall not be considered discontinued or abandoned for  
8 purposes of subsection (a) above or any other provision of this Code and the property owner  
9 may resume use of the premises as a Self-Storage use after the City vacates the property,  
10 provided that:

11 (A) the City's occupancy was for a public safety-related purpose  
12 classified as a Public Use under Section 890.80 of the Planning Code;

13 (B) if the pre-existing Self-Storage use had been established and was  
14 operating without the required change of use permit, the property owner applied for and was  
15 granted a building permit to legitimize the pre-existing Self-Storage Use pursuant to  
16 subsection (c)(1); and

17 (C) the property owner resumes the pre-existing Self-Storage use  
18 within two years from the later of (i) the date the City vacated the property or (ii) the date the  
19 City's lease for the property was terminated.

20 The property owner shall apply for and obtain any permits required to resume the pre-  
21 existing Self-Storage use within one year from the date the City vacates the property. If the  
22 application for a permit is limited to re-establishment of the pre-existing Self-Storage use, the  
23 application shall not be subject to the notification requirements of Section 312 or other  
24 notification requirements of this Code, and no requests for discretionary review of the building  
25 permit shall be accepted by the Planning Department or heard by the Planning Commission.

1                    (4 2) ***Extensions of Time.***

2                    (A)     *If a permit to resume the pre-existing Self-Storage use is issued but*  
3 *delayed due to an action before the Board of Appeals or other City agency, or a case in any court of*  
4 *competent jurisdiction, the time to resume such pre-existing use shall be extended by the amount of time*  
5 *final action on the permit was delayed.*

6                    (B)     *The Zoning Administrator may grant one or more extensions of the time*  
7 *within which the pre-existing Self-Storage use must be resumed if the owner or owners of the property*  
8 *have made a good-faith effort to comply but are unable to do so for reasons that are not within their*  
9 *control.*

10                   (5 3) ***Notice to Property Owner.*** *The Planning Department shall provide written*  
11 *notice to the owner of record of any property that is within the scope of Section 183(c) of any proposed*  
12 *ordinance to substantively amend this Section 183(c) prior to a hearing thereon by the Planning*  
13 *Commission, provided that the property owner has sent a written request for said notice to the Zoning*  
14 *Administrator.*

15                   ~~(4) — **Legitimization of Existing Use.** In the case of a Self-Storage use that~~  
16 ~~was established and has been operating without the benefit of a required permit, the owner of~~  
17 ~~such Self-Storage use may seek and be granted such permit notwithstanding the limitations of~~  
18 ~~Section 846.48 of this Code and pursuant to the provisions set forth above in subsection (c)(1)~~  
19 ~~of this Section 183, so long as such permit:~~

20                   ~~(A) — is filed for a property located within (i) the Service/Arts/Light~~  
21 ~~Industrial Zoning District and (ii) 1,000 feet of the South Of Market Special Hall Of Justice~~  
22 ~~Legal Services District; and~~

23                   ~~(B) — relates to a Self-Storage use which the Zoning Administrator~~  
24 ~~determines (i) existed as of the date of the application for the required permit, (ii) would have~~  
25 ~~been principally permitted or permitted with Conditional Use authorization under the~~

1 provisions of the Planning Code that were effective at the date of the establishment of the  
2 Self-Storage use, (iii) has been regularly operating or functioning on a continuous basis for no  
3 less than five years prior to the effective date of this subsection (c)(4); and (iv) is not  
4 accessory to any other use; and

5 (C) — is issued subsequent to the owner’s payment of any and all fees  
6 that would have been due at the time of the original establishment of the existing Self-Storage  
7 use, including but not limited to the Transit Impact Development Fee required by Planning  
8 Code Section 411 et seq.; and

9 (D) — is issued prior to the earlier of both (i) commencement of  
10 occupancy by the City for a public-safety related purpose or (ii) issuance of any required  
11 building permit to establish the public-safety related use. In the case that the permit required  
12 to “legitimize” the Self-Storage use is not issued as set forth in this subsection (c)(4), the  
13 existing Self-Storage use shall be deemed irrevocably abandoned.

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

19  
20 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
21 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
22 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
23 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
24  
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1 additions, and Board amendment deletions in accordance with the "Note" that appears under  
2 the official title of the ordinance.

3

4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: \_\_\_\_\_  
7 JUDITH A. BOYAJIAN  
8 Deputy City Attorney  
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