

**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee, 01/07/2019)

[Planning, Administrative Codes - Zoning Controls and Fees in the C-3-R (Downtown Retail District)]

**Ordinance amending the Planning Code to change zoning controls for Non-Retail Sales and Service Uses in the C-3-R (Downtown Retail) Zoning District; amending the Planning and Administrative Codes to create the Union Square Park, Recreation, and Open Space Fund and Fee; affirming Planning Department’s determination under the California Environmental Quality Act; ~~and~~ making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302**

Existing Law

Planning Code Section 210.2 defines the C-3-R Downtown Retail Zoning District (C-3-R District) as “a regional center for comparison shopper retailing and direct consumer services. It covers a compact area with a distinctive urban character, consists of uses with cumulative customer attraction and compatibility, and is easily traversed by foot. Like the adjacent Downtown Office District, this District is well-served by City and regional transit, with automobile parking best located at its periphery. Within the District, continuity of retail and consumer service uses is emphasized, with encouragement of pedestrian interest and amenities and minimization of conflicts between shoppers and motor vehicles. A further merging of this District with adjacent, related Districts is anticipated, partially through development of buildings which combine retailing with other functions.”

In this district, Non-Retail Sales are Service uses are principally permitted if they are located on the ground floor and offer on-site services to the general public. Non-Retail Sales are Service uses are not permitted on the ground floor if they do not provide onsite services to the general public. If the use is larger than 5,000 gross square feet in size or located above the ground floor, then a conditional use permit is required. In addition to the criteria set forth in Section 303, a conditional use permit for a Non-Retail Sales and Service use shall be approved upon a determination that the use will not detract from the District's primary function as an area for comparison shopper retailing and direct consumer services.

Downtown C-3-R

In Resolution No. 153-18, the Board of Supervisors passed interim controls for the C-3-R District. Resolution No. 153-18 became effective on June 1, 2018, and will expire 18 months from that date, or until the Board of Supervisors adopts permanent legislation regulating conversions from Retail to Non-Retail Sales and Service Use in the C-3-R District, whichever comes first.

The Downtown Parks fee was passed in 1985 and set at \$2 per square foot. The fee applies to any office development.

#### Amendments to Current Law

This ordinance would amend the zoning controls for Non-Retail Sales and Service Uses in the C-3-R District, as stated in Planning Code section 210.2. The amendment would change the default zoning restriction for Non-Retail Sales and Services to Not Permitted. The zoning control would be Principally Permitted if the Non-Retail Sales and Service Use is either located on floors one through three and open to the general public, located on floors four through six and the size of the use is 5,000 gross square feet or smaller, or located on floor seven and above. If the Non-Retail Sales and Service Use is located on floors four through six and the size of the use is greater than 5,000 gross square feet, a conditional use authorization would be required.

This ordinance would also create a new fund and fee applicable to office development in the C-3-R District. The fee would apply to any project to that proposes to add or create new office space. The funds would be administered by the Controller.

#### Background Information

These permanent controls follow study and hearings held by the Planning Commission over several years. City policymakers have been concerned with developing reasonable controls to address the proposed conversion from retail to office space, and addressing the impacts created by new office space on the existing retail core and public facilities use by new office workers.

On October 16, 2018, the sponsor introduced a substitute ordinance clarifying the control for Non-Retail Sales and Service Uses located in the C-3-R District located on floors four through six and where the size of the use is 5,000 gross square feet or smaller. For those conditions, the Non-Retail Sales and Service Uses is considered Principally Permitted. The substitute ordinance also changed the approval process for use of the funds and modified the reporting obligation to once every two years from once every year.

On January 7, 2019, the Land Use Committee duplicated the file and made two sets of amendments. The first amendment raised the fee to \$6 per square foot. The second amendment keeps the fee at \$4 per square foot, but allows Non-Retail Sales and Service Uses on the third floor in the C-3-R upon the issuance of a Conditional Use Authorization. In addition to the findings in section 303 of the Planning Code, the amendment creates a set of mandatory findings for the Planning Commission to issue a Conditional Use Authorization. The amendment also list several additional criteria for the Planning Commission to consider.