FILE NO. 081058

ORDINANCE NO 282-08

[Planning – Conditional Use Requirement for Steam or Fossil Fuel Power Plants in M-1 and M-2 Zoning Districts.]

Ordinance amending Planning Code Section 226 to require that steam or fossil fuel power plants in M-1 and M-2 zoning districts obtain conditional use authorization, adding Section 226.1 requiring additional findings; amending the Administrative Code to add Chapter 29A to require the Board of Supervisors consider the criteria of Planning Code Section 226.1(c) prior to taking City fossil fuel power plant approval actions; making environmental findings, and making findings of consistency with the General Plan and priority policies of Planning Code Section 101.1.

Note:

Additions are <u>single-underline italics Times New Roman;</u> deletions are strikethrough italics Times New Roman. Board amendment additions are <u>double underlined</u>. Board amendment deletions are strikethrough normal.

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

Section 1. General Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and declares as follows:

1. Fossil-fuel power generation is associated with pollutants that damage public health, heated water discharges into the San Francisco Bay that damage the Bay's ecology, and emissions of greenhouse gases that contribute towards global warming.

2. The City has maintained a policy of seeking to close existing power plants as soon as possible and has been working to develop a plan to replace the need for existing power plants and to ensure reliable electric service to San Francisco.

3. Ordinance 124-01 directed City departments to develop plans to implement all practical transmission, conservation, efficiency, and renewable alternatives to fossil fuel generation in the City and County of San Francisco.

Supervisor Maxwell, Peskin BOARD OF SUPERVISORS

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4. In December 2002, the Board of Supervisors unanimously adopted Resolution 827-02, endorsing the Electricity Resource Plan which identifies eight goals that were developed through public comment and used to guide the plan: maximize energy efficiency, develop renewable power, assure reliable power, support affordable electric bills, improve air quality and prevent other environmental impacts, support environmental justice, promote opportunities for economic development, and increase local control over energy resources.

5. The City has repeatedly stated its preference for energy efficiency, renewable energy, and transmission over fossil-fueled resources and, consistent with the State's energy policies, has stated that any fossil-fueled resources that are required should be clean, efficient, and flexible in order to promote environmental justice, reduce emissions, and complement increasing reliance on renewable resources.

6. Additional zoning controls will promote the pursuit and exploration of non fossilfueled energy resources by requiring certain findings regarding the availability of renewable alternatives prior to authorizing steam or fossil-fuel power plants.

7. Additional zoning controls will encourage cessation of nonconforming uses and prevent expansion, intensification, and extension of such uses.

8. If the Planning Commission lacks jurisdiction over a new power plant that is Cityfunded or otherwise subject to Board of Supervisors approval, the goals of this legislation shall be achieved through Board of Supervisors consideration of the zoning control criteria as part of the Board of Supervisors approval process.

Section 2. Environmental Findings, General Plan Findings, and Other Required Findings.

(a) The Planning Department has determined that the actions contemplated in this Ordinance are in compliance with the California Environmental Quality Act (California Public

Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. ______ and is incorporated herein by reference.

(b) On ______, 2008, the Planning Commission, in Resolution No. approved and recommended for adoption by the Board this legislation and adopted findings that it is consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1 The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.

_____, and is incorporated by reference herein.

(c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this legislation will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. ______, and incorporates such reasons by reference herein.

Section 3. The San Francisco Planning Code is hereby amended by amending Section 226 to read as follows:

SEC. 226 MANUFACTURING AND PROCESSING

C-	M-1	M-2							
1	2	3-	3-	3-	3-	Μ			
		0	R	G	s				
						2000 C 1000 C			SEC. 226. MANUFACTURING AND PROCESSING.
						Ρ	NA		(a) Light manufacturing uses, involving only the assembly, packaging, repairing or processing of previously prepared materials, which are conducted within a building but do not occupy the ground story of any building; provided:

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1 2 3								(1) That no part of a building so occupied shall have any opening, other than fixed windows and exits required by law, within 50 feet of any R District;
4 5 6 7 8								(2) That the mechanical equipment required for such uses, together with related floor space used primarily by the operators of such equipment, shall not in the aggregate occupy more than 1/4 of the gross floor area of the building in which the uses are located; and
9 10								(3) That no machine shall be used that has more than five horsepower capacity.
11 12 13 14 15 16 17				P	P	NA	NA	(b) Light manufacturing which occupies not more than 1/2 the ground story of the building and involves or requires no machine that has more than five horsepower capacity, if conducted entirely within an enclosed building; provided, that no part of a building so occupied shall have any opening, other than fixed windows and exits required by law, within 20 feet of any R District.
18 19 20 21 22	n de se de la constante de la c	Na mala Na Andre Alanya a sa a a a a a a a a a a a a a a a a			P.	NA		(c) Light food-processing for delicatessen, catering or restaurant supply, if conducted entirely within an enclosed building; provided, that no part of a building so occupied shall have any opening, other than fixed windows or exits required by law, within 20 feet of any R District.
23 24						P		(d) Light manufacturing, not including any use first specifically listed below.
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1 2			Ρ	Ρ	Ρ	P	Ρ	Ρ	P	(e) Industrial or chemical research or testing laboratory, not involving any danger of explosions.
3						С	c	P	P	
4	passent to								F	(f) Experimental laboratory.
5			and the first of cash and the first of the			A NUMBER OF A N	P	P	P	(g) Battery manufacture, if conducted on premises not less than 200 feet from any R District.
6				No.						
7			727 AND 886 AND A PAR		A CONTRACTOR OF A CONTRACT	a storma human V in von dru		P	P	(h) Any of the following uses, when conducted within a
8	feet 6 verboare and					NAMES OF BRIDE STORY		A MANDAR ADVANCE OF THE OWNER	nendigi (18) Maria (nende	completely enclosed building; provided, that no part of a
9	1000 1000 1000 1000 1000 1000 1000 100					A 494 State State			A CARLON AND A CARL	building so occupied shall have any opening, other than
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14		**************************************		and a state of the	and a second	sin A V A Ind You have been a V A A LEW	19100-1911-1910-1910-1910-1910-1910-191	A CONTRACT OF A	ten en pro-en a provins en exe	manufacturing or processing or malt products plant;
15				An Anna Anna Anna Anna Anna Anna Anna A		ALC: NAME OF COLUMN				(3) loo manufacturing plant:
16										(3) Ice manufacturing plant;
17	204500000000000000000000000000000000000				SHANNER CONTRACTOR		1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.1.		IIIA Davarda I Minaanaa Aanaa	(4) Concrete mixing, concrete products manufacture;
18 19	2 1/ 5 = 2 / 7 / 2 / 7 / 7 / 7 / 7 / 7 / 7 / 7 /				And a second sec		1775# 3307(41) / 19910		No Contraction of the second s	(5) Electric foundry or foundry for nonferrous metals;
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20				494-49 CR 484	1565 LA STREET AGE	L Septrolyt 1079 egits	A A LEASE A A REVEALA A A LEASE	100 14 100 2 447 1 100	an a	(6) Metal working or blacksmith shop; excluding presses of
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22									1945-10 4000-00	drophammers.
23	John Constraints					14101111111	H LUMER PERMUTU		See Hanapart & Springer	(7) Enameling, lacquering, wholesale paint mixing from
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1 2							(8) Woodworking mill, manufacture of wood-fibre, sawdust or excelsior products not involving chemical processing.
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4		A second s		A SALABARAN DI AMMANYA ALI		Ρ	(i) Manufacture of cereals, distilled liquors, felt or shoddy,
5		Control of the second second	and companying of			ng yan sololoo da barrat 9.00 ya	hair or hair products, pickles, sauerkraut, vinegar, yeast, soda or soda compounds, structural clay products, meat
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7				And and an other states of the second states of the		Notice Provide State State	below.
8						P	(j) Flour mill.
9 10						Ρ	(k) Sugar refinery.
11						Р	(I) Wool pulling or scouring.
12						С	(m) Blast furnace, rolling mill, smelter.
13						С	(a) Manufastura of companya sold or alkali, compat
14		A CONTRACTOR OF A CONTRACTOR A	y market skip sjobber og skip	and a second second		v	(n) Manufacture of corrosive acid or alkali, cement, gypsum, lime, plaster of paris, explosive, fertilizer, glue or
15 16		producer with a state				24668 († 2343 A)	gelatine from fish or animal refuse.
17						С	(o) Production or refining of petroleum products.
18							(o) Froduction of remaining of perfored in products.
.o 19			Sanna y Array (1) (1) a sugar	A 1944 Contractor	₽ <u>C*</u>	₽ <u>C*</u>	(p) Steam, or <u>fossil-fuel</u> , or any other type of power plant, if
20		976-74-72 No.54 L.V.O.64	NANA MARANA I PA	ALL OF CONTRACTOR OF CONTRACTO		- A LANG TAN AN AND A LANG A	permitted consistent with Planning Code Section 226.1. A "power plant" shall mean an individual power generation unit
21		-	o Africano a dia mandri andia	And the statement of th		No Brigging Very 6 Miles	capable of independent operation or a collection of power generation units operating as a single facility, but shall not
22		NUMBER OF THE OWNER	and and a second se	A CONTRACTOR OF A CONTRACTOR O		Tan 2 (Alta) (2 M) (and the King of the	<i>include on-site power generation units or facilities less than</i> five ten_megawatts in size.
23						P	(a) Shioyard
24							(q) Shipyard.
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Supervisor Maxwell BOARD OF SUPERVISORS

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ink, refuse mash or refuse grain, rubber (including balata or 1 gutta percha or crude or scrap rubber), shellac, shoe or 2 stove polish, soap, starch, tar, turpentine, varnish; 3 4 (2) Curing, smoking or drying fish, manufacture of fish oil; 5 (3) Tanning or curing of raw hides or skins; 6 (4) Foundry, structural iron or pipe works, boilermaking 7 where riveting is involved, locomotive works, roundhouse 8 or railroad shop. 9 10 11 Section 4. The San Francisco Planning Code is hereby amended by adding Section 226.1 to 12 read as follows: 13 SEC. 226.1. CONDITIONAL USE CRITERIA FOR STEAM OR FOSSIL-FUEL POWER PLANTS. 14 (a)Applicability. These controls shall apply to all steam or fossil-fuel-power plants in M-15 1 and M-2 Zones. 16 Prior Nonconforming Uses. Consistent with Article 1.7 of the Planning Code, *(b)* 17 nonconforming steam or fossil-fuel-power plant uses shall require conditional use authorization in 18 order to enlarge, intensify, or extend the use if such changes would expand a steam or fossil-fuel 19 power plant use, make it more permanent, or substantially change the use. An intensification of use 20 shall include the following changes, without limitation and in addition to the criteria set forth in Article 21 1.7 of the Planning Code: 22 An increase in output capability by more than 10% (either an increase in capacity or (1)23 increase in planned or permitted output per year); 24 (2) A change in type of fuel; 25

A greater than five percent substantial-increase in the volume of monthly discharge (3)of waste water into the sewer or into the San Francisco Bay, or an increase in the temperature of existing waste water discharges into the San Francisco Bay; (4) Any increase greater than five percent in the emission rate or the total annual tons of emission for particulate precursors, ozone precursors or greenhouse gases; A greater than five percent substantial increase in the volume of regulated (5)substances used on-site on a monthly basis, or in the volume of regulated substances stored on-site or in the volume of regulated substances transported to the site on a monthly basis; or Improvements to any power generation unit costing more than 25 percent of the (6) assessed value of the same unit prior to improvement. Criteria. In acting on any application for conditional use authorization for a steam or (c)fossil-fuel power plant under Section 226(p), the Commission shall consider the conditional use authorization requirements set forth in Article 3 of the Planning Code and, in addition, shall only approve an application for a conditional use authorization if facts are presented to establish that, on the basis of the record before the Commission: The additional benefits to the City's energy system resulting from the power (1)energy generated by the proposed steam or fossil-fuel power plant cannot be obtained in a reasonable time from a technically and economically feasible power plant and/or energy conservation project that would have materially fewer potential environmental impacts considering, but not limited to, the following: (a) through less environmentally detrimental means considering emissions of criteria air pollutants and greenhouse gas emissions; (b) stormwater and wastewater discharges, remediation and migration of contaminated soils, and the potential for renewable energy generation alternatives in the foreseeable future; and (c) noise and vibration impacts.

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(2) <u>A newly proposed power plant use would not directly and adversely impact existing</u> or reasonably foreseeable adjoining land uses, or, as applied to a prior nonconforming use, the extension of the power plant use or the increase in intensity of the use would not result in increased direct and adverse impacts on existing or reasonably foreseeable adjoining land <u>uses; and</u> As applied to a prior nonconforming use, an extension of the power plant use or an increase in intensity of the use would not result in increased environmental or land use impacts, including but not limited to consideration of impacts resulting from the changes in use listed in Section 226.1, subsection (b); and

(3) <u>Granting conditional use authorization would not reasonably be expected to leave known</u> contamination in place in such a way that would prolong or increase public health risks associated with such contamination at levels inconsistent with a risk-based remediation <u>consistent with the proposed power plant use</u>interfere with timely and full remediation of contaminated properties by, for example, (a) enabling a remedial action plan based on future site use that permits lesser remedial action for a site than might be expected for other foreseeable uses of the property (b) resulting in a deed restrictions limiting future commercial uses for the site; or (c) delaying remedial action and leaving potentially hazardous contamination in place longer than if the conditional use authorization were denied.; and

(4) Granting conditional use authorization would not reasonably be expected to preclude future redevelopment and reuse of the property for non-power plant uses.

(d) Written Findings. The Planning Commission shall make detailed written findings explaining the basis for its decision under this Section.

(e) Severability. In the event that a court or agency of competent jurisdiction holds that federal or state law, rule or regulation invalidates any clause, sentence, paragraph of this Section or

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1	the application thereof to any person or circumstances, it is intended that the court or agency sever
2	such clause, sentence, paragraph or section so that the remainder of this Section shall remain in effect.
3	(f) The Planning Commission, with the approval by ordinance of the Board of
4	Supervisors, may modify the requirements of this ordinance if the Commission and the Board
5	find that such modification is in the public interest.
6	Section 5. The San Francisco Administrative Code is hereby amended by adding Chapter 29A
7	to read as follows:
8	<u>SEC. 29A.1</u>
9	The Board of Supervisors shall not approve any fossil-fuel power plant (as defined in Planning
10	Code Section 226), including approval of project funding and contract approvals, unless it finds that
11	the power plant is consistent with the criteria set forth in Planning Code Section 226.1(c).
12	
13	APPROVED AS TO FORM:
14	DENNIS J. HERRERA, City Attorney
15	
16	By: Mou/W. (Jow) Andrew W. Garth
17	Deputy City Attorney
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	Supervisor Maxwell Page 11 BOARD OF SUPERVISORS 11/12/2008



City and County of San Francisco

City Hall 1 Dr. Cariton B. Goodlett Place San Francisco, CA 94102-4689

Tails

Ordinance

File Number: 081058

Date Passed:

Ordinance amending Planning Code Section 226 to require that power plants in M-1 and M-2 zoning districts obtain conditional use authorization, adding Section 226.1 requiring additional findings; amending the Administrative Code to add Chapter 29A to require the Board of Supervisors consider the criteria of Planning Code Section 226.1(c) prior to taking City power plant approval actions; making environmental findings, and making findings of consistency with the General Plan and priority policies of Planning Code Section 101.1.

November 4, 2008 Board of Supervisors — RE-REFERRED: Land Use and Economic Development Committee

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

November 18, 2008 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

November 25, 2008 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 081058

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I hereby certify that the foregoing Ordinance was FINALLY PASSED on November 25, 2008 by the Board of Supervisors of the City and County of San Francisco.

20 Angela Calvillo Clerk of the Board Mayor Gavin Nev

Date Approved

File No. 081058