Amendment of the Whole

FILE NO. 07431
ORDINANCE NO. 242-08

Ordinance amending the San Francisco Planning Code by amending Sections 188, 603, and 604 and by adding Sections 602.25 and 602.26 in order to allow for the reconstruction, preservation, rehabilitation, or restoration, or reconstruction of noncomplying Historic Movie Theater Projecting Signs and Marquees, as defined; and making findings, including environmental findings and findings of consistency with the priority policies of Planning Code Section 101.1 and the General Plan.

Note: Additions are single-underline italics Times New Roman; deletions are strikethrough italics Times New Roman. Board amendment additions are double underlined. 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 determines that:

(a) San Francisco has a tradition of thriving neighborhoods and commercial districts that reflect the diverse character of the City. As key parts of these districts, movie theaters have historically served as important anchors and neighborhood focal points, in some cases despite the abandonment of the actual movie theater use.

(b) Theaters contribute to the unique character of our neighborhoods because of their recreational amenity as well as their distinctive architectural designs, which often include elaborate signage, marquees, ornamentation, and other projecting architectural elements.

(c) Ordinance 270-04, adopted by the Board of Supervisors in November of 2004, established a requirement for Conditional Use Authorization from the Planning Commission in

Supervisor Mirkarimi
BOARD OF SUPERVISORS
order to allow the demolition or change of use of a movie theater. In placing a greater level of scrutiny on such proposals, this Ordinance acknowledged the importance of theaters to individual neighborhoods and the City as a whole.

(d) The 'built legacy' of movie theaters, characterized in part by marquees and projecting signs, are significant as evidence of the history of theater buildings and of the place of those buildings in our neighborhoods.

(e) Current zoning controls which regulate the size, projection, and height of signage and marquees, among other projecting elements, generally do not accommodate historic movie theater marquees and projection signs as were originally designed as integral elements of movie theater buildings in the City.

(f) Despite being permitted at the time of their original construction, many existing marquees and projecting signs are considered noncomplying structures under the Planning Code. Noncomplying structures can be maintained and repaired but may not be replaced or reconstructed. Similarly, noncomplying marquees or projecting signs that were removed at some point in the past may not be restored or replaced.

(g) Many of these existing signs and marquees now require extensive rehabilitation. Most have reached or are nearing the end of their expected lifetimes and may become a health or safety hazard to the public.

(h) Some signs and marquees were removed at some point in the past and consequently the buildings to which they were attached no longer possess the distinctive architectural qualities and character defining features that contributed to the broader district.

(i) Allowing the restoration, rehabilitation, and replacement of existing or previously removed movie theater marquees or projecting signs in a manner consistent with their historical precedent would help to restore the architectural character of movie theater
buildings, allow for increased structural safety of these projecting elements, and be in 
conformity with established City policies, including encouraging the retention of movie theater 
uses and the preservation of significant buildings while also ensuring consistency with 
established neighborhood character.

(j) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this 
ordinance will serve the public necessity, convenience and welfare for the reasons specified in 
this legislation and in Planning Commission Resolution No. ____________ , which is 
incorporated herein by reference as though fully set forth. A copy of said Resolution is on file 
with the Clerk of the Board in File No. ____________ .

(k) Pursuant to Planning Code Section 101.1, the Board of Supervisors finds that 
this ordinance is consistent with the Priority Policies of Section 101.1 (b) of the Planning Code 
and the General Plan for the reasons set forth in said Planning Commission Resolution No. ____________ .

Section 2. Environmental Findings. 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.

Section 3. The San Francisco Planning Code is hereby amended by amending Section 
188 to add subsection (e), to read as follows:

SEC. 188. NONCOMPLYING STRUCTURES: ENLARGEMENTS, ALTERATIONS 
AND RECONSTRUCTION.
(e) Notwithstanding Subsection (a) of this Section, and in order that certain character-defining architectural elements of buildings which are currently used or were previously used as movie theaters Qualified Movie Theaters be preserved and enhanced, a noncomplying Historic Movie Theater pProjecting eSign, as defined in Section 602.25, and/or a noncomplying Historic Movie Theater mMarquee, as defined in Section 602.26, may be reconstructed, preserved, rehabilitated, or restored with a new such sign and/or marquee. A noncomplying Historic Movie Theater pProjecting eSign or a noncomplying Historic Movie Theater mMarquee that was removed from a Qualified Movie Theater prior to or in absence of an application for replacement may also be reconstructed or restored.

(1) For the purposes of this Section, "Qualified Movie Theater" shall mean a building that: (A) is currently or has been used as a movie theater; and (B) is listed on or eligible for listing on the National Register of Historic Places or the California Register of Historical Resources, designated a City Landmark or a contributor to a City Landmark District under Article 10, or designated as a Significant or Contributory Building under Article 11.

(2) Any reconstruction, preservation, rehabilitation, or restoration, or reconstruction permitted under this Section should shall be in general strict conformity with the overall design, scale, and character of the existing or previously existing Historic Movie Theater eSign or Historic Movie Theater mMarquee and must:

(A) For a Qualified Movie Theater that retains its Historic Movie Theater Projecting Sign and/or Historic Movie Theater Marquee, the signage features shall be limited to the following:

(i) On a Historic Movie Theater Projecting Sign, the historic name associated with a previous theater occupant;
(ii) On a Historic Movie Theater Marquee, the historic name associated with a previous theater occupant and, where applicable, on the signboard, other information that is an Identifying Sign, as defined in Section 602.10, provided such information shall be contained within the signboard, shall not consist of any logos, and shall be in the character of lettering historically found on movie theater signboards in terms of size, font, and detail.

(B) For a Qualified Movie Theater where the Historic Movie Theater Projecting Sign and/or Historic Movie Theater Marquee has been removed and is proposed to be reconstructed, the overall design and signage features shall be limited to the following:

(i) On a Historic Movie Theater Projecting Sign, the historic name associated with a previous theater occupant:

(ii) On a Historic Movie Theater Marquee, the historic name associated with a previous theater occupant and, where applicable, on the signboard, other information that is an Identifying Sign, as defined in Section 602.10, provided such information shall be contained within the signboard, shall not consist of any logos, and shall be in the character of lettering historically found on movie theater signboards in terms of size, font, and detail.

(C) Any application to reconstruct shall include evidence of the dimensions, scale, materials, placement, and features of the previously exiting Historic Movie Theater Projecting Sign and/or Historic Movie Theater Marquee, as well as any other information required by the Zoning Administrator.

(D) General advertising signs shall not be permitted on either a Historic Movie Theater Projecting Sign or a Historic Movie Theater Marquee.

(1) not exceed the dimensions, height, or projection, of the previous sign or marquee;

(2) not contain or be associated with any general advertising sign;
(3) display signage features, if any, only associated with either (1) a business or identifying sign as defined in Section 602 for the uses housed in the building, or (2) a historic name associated with a previous theater occupant; and

(4) be proposed as part of an application that includes documentary or physical evidence of the dimensions, materials, placement, and details of the previous sign or marquee along with any other information deemed relevant by the Zoning Administrator.

Section 4. The San Francisco Planning Code is hereby amended by adding Sections 602.25 and 602.26, to read as follows:

SEC 602.25. HISTORIC MOVIE THEATER PROJECTING SIGN.

A projecting business sign attached to a building used or previously used as a movie theater, as defined in Section 188(e)(1), when such sign was originally constructed in association with a Qualified Movie Theater or similar historic use. These signs are typically characterized by features such as (i) perpendicularity to the primary facade of the building, (ii) fixed display of the name of the establishment, often in large lettering descending vertically throughout the length of the sign; (iii) a narrow width which extends for a majority of the vertical distance of a building’s facade, typically terminating at or slightly above the roofline, and (iv) an overall scale and nature such that the sign comprises a significant and character defining architectural feature of the building to which it is attached. Elimination or change of any lettering or other inscription from a movie theater projecting sign, such as that which may occur along with a change of ownership, change of use, or closure of a movie theater, does not preclude classification of the sign under this Section.

SEC 602.26. HISTORIC MOVIE THEATER MARQUEE.
A marquee, as defined in Section 790.58, attached to a building used or previously used as a movie theater Qualified Movie Theater, as defined in Section 188(e)(1), when such marquee was originally constructed in association with a movie theater or similar historic use. Elimination or change of any lettering or other inscription from a movie theater marquee, such as that which may occur along with a change of ownership, change of use or closure of a movie theater, does not preclude classification of the marquee under this Section.

Section 5. The San Francisco Planning Code is hereby amended by amending Section 603 to read as follows:

SEC. 603. EXEMPTED SIGNS.

Nothing in this Article 6 shall apply to any of the following signs:

(a) Official public notices, and notices posted by public officers in performance of their duties;

(b) Governmental signs for control of traffic and other regulatory purposes, street signs, danger signs, railroad crossing signs, and signs of public service companies indicating danger and aids to service or safety;

(c) Temporary display posters, without independent structural support, in connection with political campaigns and with civic noncommercial health, safety and welfare campaigns, provided that in R districts such posters shall be removed within 60 days following the conclusion of the campaign;

(d) Flags, emblems, insignia and posters of any nation or political subdivision, and temporary displays of a patriotic, religious, charitable or other civic character;

(e) House numbers, whether illuminated or not, "no trespassing," "no parking," and other warning signs;
(f) Commemorative plaques placed by recognized historical agencies;

(g) Signs within a stadium, open-air theater or arena which are designed primarily to be viewed by patrons within such stadium, open-air theater or arena;

(h) Religious symbols attached to buildings if not projecting beyond any street property line or building setback line;

(i) Flags indicating weather conditions, and single flags which are emblems of business firms, enterprises and other organizations;

(j) Two general advertising signs each not exceeding 24 square feet in area on either a transit shelter or associated advertising kiosk furnished by contract with the Municipal Transportation Agency or predecessor agency for the Municipal Railway in RM-2, RM-3, RM-4, RC, NC, C, M and South of Market Districts, and in those P Districts where such signs would not adversely affect the character, harmony or visual integrity of the district as determined by the City Planning Commission; eight general advertising signs each not exceeding 24 square feet in area on transit shelters located on publicly owned property on a high level Municipal Railway boarding platform in an RH-1D District adjacent to a C-2 District, provided that such advertising signs solely face the C-2 District; up to three double-sided general advertising signs each not exceeding 24 square feet in area on or adjacent to transit shelters on publicly owned high level Municipal Railway boarding platforms along The Embarcadero south of the Ferry Building, up to six double-sided panels at 2nd and King Streets, and up to four double-sided panels at 4th and King Streets; up to two double-sided panels not exceeding 24 square feet in area on each low-level boarding platform at the following E-Line stops: Folsom Street and The Embarcadero, Brannan Street and The Embarcadero, 2nd and King Streets, and 4th and King Streets; and a total of 71 double-sided general advertising signs each not exceeding 24 square feet in area on or adjacent to transit
shelters on 28 publicly owned high level Municipal Railway boarding platforms serving the
Third Street Light Rail Line. Each advertising sign on a low-level or high level boarding
platform shall be designed and sited in such a manner as to minimize obstruction of public
views from pedestrian walkways and/or public open space.

Notwithstanding the above, no sign shall be placed on any transit shelter or associated
advertising kiosk located on any sidewalk which shares a common boundary with any
property under the jurisdiction of the Recreation and Park Commission, with the exception of
Justin Herman Plaza; on any sidewalk on Zoo Road; on Skyline Boulevard between Sloat
Boulevard and John Muir Drive; on John Muir Drive between Skyline Boulevard and Lake
Merced Boulevard; or on Lake Merced Boulevard on the side of Harding Park Municipal Golf
Course, or on any sidewalk on Sunset Boulevard between Lincoln Way and Lake Merced
Boulevard; on any sidewalk on Legion of Honor Drive; or in the Civic Center Special Sign
Districts as established in Section 608.3 of this Code;

The provisions of this subsection shall be subject to the authority of the San Francisco
Port Commission under Sections 4.114 and B3.581 of the City Charter and under State law.

(k) Information plaques or signs which identify to the public open space resources,
architectural features, creators of artwork, or otherwise provide information required by this
Code or by other City agencies, or an identifying sign which directs the general public and/or
patrons of a particular establishment to open space or parking resources, provided that such
sign shall not project more than three inches from the wall and that its dimensions shall be no
greater than one by two feet;

(l) Nonilluminated art murals within the South of Market Base District, if they project
no more than 18 inches from the pre-existing surface of a structure;
(m) Two general advertising signs each not exceeding 52 square feet in area on a public service kiosk furnished by contract with the Department of Public Works which contract also provides for the installation and maintenance of automatic public toilets. Each such public service kiosk shall be divided into three sections, one of which shall provide a public service, such as a newsstand, newsrack, map, public telephone, vending machine, display of public service information, or interactive video terminal;

(n) Advertising placed on fixed pedestal newsrack units in accordance with Section 184.12 of the Public Works Code.

(o) Any Historic Movie Theater Marquee when preserved, rehabilitated, restored, or reconstructed, or rehabilitated pursuant to Section 188(e).

Section 6. The San Francisco Planning Code is hereby amended by amending Section 604(a), to read as follows:

(a) An application for a permit for a sign that conforms to the provisions of this Code shall be approved by the Department of Planning without modification or disapproval by the Department of Planning or the Planning Commission, pursuant to the authority vested in them by Section 26, Part III, of the San Francisco Municipal Code or any other provision of said Municipal Code; provided, however, that applications pertaining to (a) signs subject to the regulations set forth in Article 10 of the Planning Code, Preservation of Historical, Architectural and Aesthetic Landmarks, Article 11, Preservation of Buildings and Districts of Architectural, Historical and Aesthetic Importance in the C-3 Districts and Section 608.14 may be disapproved pursuant to the relevant provisions thereof, and (b) preservation, restoration, reconstruction, or rehabilitation, or reconstruction of Historic Movie Theater Projecting Signs.
and or Historic Movie Theater Marquees as set forth in Section 188(e) may be modified or disapproved subject to applicable sections of the General Plan, this Code, relevant design guidelines, or Department or Commission Policy, or the Secretary of the Interior Standards for the Treatment of Historic Properties. No sign, other than those signs exempted by Section 603 of this Code, shall be erected, placed, replaced, reconstructed or relocated on any property, intensified in illumination or other aspect, or expanded in area or in any dimension except in conformity with Article 6 of this Code. No such erection, placement, replacement, reconstruction, relocation, intensification, or expansion shall be undertaken without a permit having been duly issued therefor, except as specifically provided otherwise in this Section 604.

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

By: MARLENA G. BYRNE
Deputy City Attorney
File Number: 071431  Date Passed:

Ordinance amending the San Francisco Planning Code by amending Sections 188, 603, and 604 and by adding Sections 602.25 and 602.26 in order to allow for the preservation, rehabilitation, restoration or reconstruction of noncomplying Historic Movie Theater Projecting Signs and Marquees, as defined; and making findings, including environmental findings and findings of consistency with the priority policies of Planning Code Section 101.1 and the General Plan.

October 7, 2008 Board of Supervisors — PASSED ON FIRST READING
Ayes: 10 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, Mirkarimi, Peskin, Sandoval
Excused: 1 - McGoldrick

October 21, 2008 Board of Supervisors — FINALLY PASSED
Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on October 21, 2008 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

10/30/2008
Date Approved

Mayor Gavin Newsom