

1 [Initiative Ordinance - Planning Code - Conditional Use Requiring Replacement of Production,  
2 Distribution, Repair, Institutional Community, and Arts Activities Uses]

3 **Motion ordering submitted to the voters, at an election to be held November 8, 2016,**  
4 **“Ordinance amending the Planning Code to require replacement space and Conditional**  
5 **Use authorization for conversion of Production, Distribution, and Repair Use,**  
6 **Institutional Community Use, and Arts Activities Use”;** and affirming the Planning  
7 **Department’s determination under the California Environmental Quality Act.**

8  
9       MOVED, That the Planning Department has determined that the actions contemplated  
10 in this ordinance comply with the California Environmental Quality Act (California Public  
11 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the  
12 Board of Supervisors in File No. 16098 and is incorporated herein by reference. The Board  
13 affirms this determination; and be it

14       MOVED, That the Board of Supervisors hereby submits the following ordinance to the  
15 voters of the City and County of San Francisco, at an election to be held on November 8,  
16 2016.

17  
18 **Ordinance amending the Planning Code to require replacement space and Conditional**  
19 **Use authorization for conversion of Production, Distribution, and Repair Use,**  
20 **Institutional Community Use, and Arts Activities Use.**

21       NOTE: **Unchanged Code text and uncodified text** are in plain font.  
22       **Additions to Codes** are in *single-underline italics Times New Roman font*.  
23       **Deletions to Codes** are in ~~italics Times New Roman font~~.  
24       **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or  
25 parts of tables.

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

2 Section 1. Findings.

3 (a) San Francisco is a unique city and its character is made up of the diversity of its  
4 people and its businesses.

5 (b) As outlined in San Francisco's General Plan, its density creates a rich variety of  
6 experiences and encounters on every street. The City is cosmopolitan and affable, easily  
7 traversed by foot or by bus, and offers an intriguing balance of urban architecture. San  
8 Francisco is the center and the soul of the region and cooperative efforts to maintain the  
9 area's quality of life are imperative. The City has long been a magnet for business, culture,  
10 retailing, tourism and education. Its rich 150 year history reflects the cultures of the world and  
11 gives energetic diversity to its neighborhoods. The residents strive to maintain this tradition,  
12 welcoming people from around the world to participate in the promise of a healthy city.

13 (c) In recent years, this diversity has become threatened because of the high cost of  
14 commercial real estate.

15 (d) Steady increases in commercial real estate rental rates have pushed office prices  
16 to 122% above where they were five years ago to about \$70 per square foot.

17 (e) The Bay Area commercial real estate markets are now the toughest in the nation.

18 (f) This threatens organizations and businesses that are important to the City but find  
19 themselves unable to compete for limited commercial space in this real estate market.  
20 Nonprofit organizations, arts organizations, and spaces for people to work in jobs that do not  
21 require high educational attainment find themselves pushed out of this market.

22 (g) In a recent report commissioned by the Northern California Grantmakers  
23 Association, "Status of Nonprofit Space and Facilities", in March 2016, two out of every three  
24 nonprofits surveyed say they will have to make a decision about moving within the next five  
25 years.

1 (h) Many nonprofits fear they will have to abandon part of their mission because of the  
2 economic pressure created by high real estate costs or move to new locations.

3 (i) The report identifies that some of this pressure can be addressed at the local  
4 government level by using zoning to create space suitable for arts and other community  
5 organizations, turning to publicly owned property for space, and including nonprofit space in  
6 affordable housing development.

7 (j) These pressures, although City-wide, are felt acutely in San Francisco's South of  
8 Market and Mission neighborhoods. Because of this, the Eastern Neighborhoods community  
9 planning process began in 2001 with the goal of developing new zoning controls for the  
10 industrial portions of these neighborhoods.

11 (k) At one time, land zoned for industrial uses covered almost the entire eastern  
12 bayfront of San Francisco, from the southern county line to well north of Market Street. As the  
13 city's economy has transformed over time, away from traditional manufacturing and "smoke-  
14 stack" industry toward tourism, service, and "knowledge-based" functions, the city's industrial  
15 lands have shrunk steadily.

16 (l) By the 1990s, land zoned for industrial uses stood at about 12% of the city's total  
17 usable land (i.e., not including parks and streets). This period was one of strong economic  
18 growth in which the city gained thousands of new jobs and residents. As a result, capital,  
19 business, and building activity surged into the industrial and residential Eastern  
20 Neighborhoods, south of Downtown. While this wealth brought needed resources, it also  
21 created conflicts around the use of land. San Francisco's industrial zoning has historically  
22 been permissive – allowing residences, offices, and other uses, in addition to industrial  
23 businesses.

24 (m) As part of the Eastern Neighborhoods planning process, the Planning Department  
25 conducted a series of workshops where stakeholders articulated goals for their neighborhood,

1 considered how new land use regulations (zoning) might promote these goals, and created  
2 several rezoning options representing variations on the amount of industrial land to retain for  
3 employment and business activity.

4 (n) Starting in 2005, the community planning process expanded to address other  
5 issues critical to these communities including affordable housing, transportation, parks and  
6 open space, urban design, and community facilities. The Planning Department began working  
7 with the neighborhood stakeholders to create Area Plans for each neighborhood to articulate  
8 a vision for the future.

9 (o) Based on several years of community input and technical analysis, the Eastern  
10 Neighborhoods Program calls for transitioning about half of the existing industrial areas in  
11 these four neighborhoods to mixed use zones that encourage new housing. The other  
12 remaining half would be reserved for Production, Distribution and Repair zoning districts,  
13 where a wide variety of functions such as Muni vehicle yards, caterers, and performance  
14 spaces can continue to thrive.

15 (p) The initial Eastern Neighborhoods Area Plans were adopted in 2008.

16 (q) At their core, the Eastern Neighborhoods Plans try to accomplish two key policy  
17 goals: 1) to ensure a stable future for Production, Distribution and Repair (PDR) uses in the  
18 city, mainly by reserving a certain amount of land for this purpose; and 2) to provide a  
19 significant amount of new housing affordable to low, moderate, and middle income families  
20 and individuals, along with “complete neighborhoods” that provide appropriate amenities for  
21 these new residents.

22 (r) Because San Francisco has very limited land available, it is important to evaluate  
23 the current state of land available for PDR use and to protect PDR uses because of  
24 competing pressure from residential and office uses, which can afford to pay far more to buy  
25 and develop land.

1 (s) Office tenants are willing to pay well over twice what PDR commands — creative  
2 tech space goes for \$70 a square foot in SoMa or the Inner Mission. This leads to the loss of  
3 space critical for PDR activities and therefore the loss of jobs that result from these activities.

4 (t) The Planning Department prepared a report in April 2005, on the demand for and  
5 supply of PDR in the City. This report is known as the EPS PDR Study. To alleviate the  
6 impact of loss of PDR uses and to revitalize PDR uses and to attract technology and biotech  
7 businesses to the City, it is necessary for the City to aggressively pursue retention of PDR  
8 and its associated job sectors. Development that removes PDR use should have the option of  
9 replacing the lost space at a one-to-one ratio. To accomplish this, a PDR replacement  
10 program should be established.

11  
12 Section 2. The Planning Code is hereby amended by adding a new Section 202.8, to  
13 read as follows:

14 **SEC. 202.8. LIMITATION ON CONVERSION OF PRODUCTION, DISTRIBUTION, AND**  
15 **REPAIR USE, INSTITUTIONAL COMMUNITY USE, AND ARTS ACTIVITIES USE.**

16 The following controls shall apply in the following Eastern Neighborhoods Plans Areas:  
17 Mission; Eastern SoMa; Western SoMa; and, if adopted, Central SoMa. Notwithstanding any other  
18 provision of this Code, conversion of building space where the prior use in such space was a  
19 Production, Distribution, and Repair (PDR) use of at least 5,000 square feet, an Institutional  
20 Community use of at least 2,500 square feet, or an Arts Activities use, all as defined in Section 102,  
21 through change in use or any other removal, including but not limited to demolition of a building that is  
22 not unsound, shall be subject to the following requirements:

23 (a) To preserve the existing stock of building space suitable for PDR, Institutional Community,  
24 and Arts Activities uses, such conversion shall, if located within the following zoning districts, require  
25

1 conditional use authorization under Section 303 and the space proposed for conversion shall be  
2 replaced in compliance with the following criteria:

3 (1) In the areas that, as of July 1, 2016, are zoned SALI, the replacement space shall  
4 include one square foot of PDR, Institutional Community, or Arts Activities use for each square foot of  
5 the use proposed for conversion.

6 (2) In the areas that, as of July 1, 2016, are zoned UMU, MUO, or SLI, the replacement  
7 space shall include 0.75 square foot of PDR, Institutional Community, or Arts Activities use for each  
8 square foot of the use proposed for conversion.

9 (3) In the areas that, as of July 1, 2016, are zoned MUG or MUR, the replacement  
10 space shall include 0.50 square foot of PDR, Institutional Community, or Arts Activities use for each  
11 square foot of the use proposed for conversion.

12 (4) For any project located in the areas that, as of July 1, 2016, are zoned SALI, UMU,  
13 MUO, SLI, MUG, or MUR, that would convert at least 15,000 square feet of PDR, Institutional  
14 Community, or Arts Activities use, and for which an Environmental Evaluation application was  
15 submitted to the Planning Department by June 14, 2016, the replacement space shall include 0.4  
16 square foot of PDR, Institutional Community, or Arts Activities use for each square foot of the use  
17 proposed for conversion. Notwithstanding the foregoing sentence, should the Board of Supervisors  
18 overturn any such project's environmental review on appeal, such project shall provide replacement  
19 space as required by subsections (a)(1), (2), or (3) above, as applicable.

20 (5) The replacement requirements of subsections (a)(1), (2), (3), and (4) may be  
21 reduced by 0.25 for any project subject to any contract or agreement meeting the requirements of  
22 California Civil Code Section 1954.28(d), including but not limited to a development agreement  
23 approved by the City under California Government Code Section 65864 et seq. if, as part of the terms  
24 of such agreement, the required replacement space is rented, leased, or sold at 50% below market rate  
25 for such commercial space for a period of not less than 55 years and is subject to a deed restriction.

1                   (6) Replacement space for PDR and Arts Activities use may be used for either PDR or  
2 Arts Activities use, regardless of which of those uses is proposed for conversion. Replacement space for  
3 Institutional Community use shall be used for Institutional Community use.

4                   (b) Definitions. For the purposes of this Section 202.8, the following definitions shall apply:  
5                   “Prior use” shall mean the prior permanent and permitted use and shall not include any  
6 approved temporary uses such as “pop-up” eating establishments, craft fairs, or other seasonal uses.

7                   “Replacement space” shall mean newly developed building space and shall not include  
8 building space that was previously used for PDR, Institutional Community, or Arts Activities.

9                   “Unsound” shall mean a building for which rehabilitation to comply with City Codes for  
10 continued use as PDR, Institutional Community, or Arts Activities use, as applicable, would cost 50%  
11 or more of the cost to construct a comparable building.

12                   (c) The amount of replacement space required under subsection (a)(1) may be reduced by the  
13 amount that is necessary to provide building entrances and exits; maintenance, mechanical, and  
14 utilities facilities; and on-site open space and bicycle facilities required under this Code; provided that  
15 no reduction shall be permitted for non-car-share vehicle parking spaces.

16                   (d) Undeveloped property. The requirements of this Section 202.8 shall only apply to those  
17 portions of a site that are developed with building space where the prior use in such space was PDR  
18 use of at least 5,000 square feet, an Institutional Community use of at least 2,500 square feet, or an  
19 Arts Activities use.

20                   (e) In determining whether to grant Conditional Use authorization, in addition to making the  
21 required findings under Section 303, the Planning Commission shall consider the suitability of the  
22 replacement space for the use proposed for conversion.

23                   (f) Exemptions. The following shall be exempt from the requirements of this Section 202.8:  
24  
25

1                   (1) Any property under the jurisdiction of the Port of San Francisco or the Recreation  
2 and Park Commission; all Redevelopment Plan Areas in effect as of July 1, 2016; and any parcel zoned  
3 P (Public) on or after July 1, 2016.

4                   (2) Any project where the PDR use, Institutional Community use, or Arts Activities use  
5 subject to conversion commenced after June 14, 2016.

6                   (3) Any project that has been approved by the Planning Department or Planning  
7 Commission by June 14, 2016, provided that, if subsequently appealed, such approval is upheld.

8                   (4) Any project that would convert less than 15,000 square feet of PDR, Institutional  
9 Community, or Arts Activities use and for which an Environmental Evaluation application was  
10 submitted to the Planning Department by June 14, 2016,

11                   (5) Any public transportation project.

12                   (6) Any project that receives affordable housing credits associated with retention of  
13 affordable units at the South Beach Marina Apartments, pursuant to Board of Supervisors Resolution  
14 No. 197-16.

15                   (7) Any project where all of the residential units with the exception of the manager's  
16 unit are affordable housing units, as that term is defined in Section 406(b)(1). If feasible, such projects  
17 shall make efforts to replace any converted PDR, Institutional Community, and Arts Activities uses.

18                   (8) Any property in the Western SoMa Plan Area if the actual use functioning on the  
19 property as of September 8, 2014, as determined by the Zoning Administrator, was principally  
20 permitted, and not a PDR, Institutional Community, or Arts Activities use, such that a legal conversion  
21 could have been approved prior to October 9, 2014. This exemption applies only to conversions of uses  
22 smaller than 25,000 square feet.

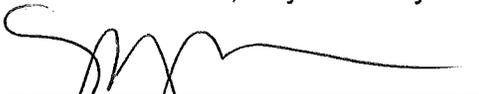
23                   (g) This Section 202.8 shall not authorize a change in use if the new use or uses are otherwise  
24 prohibited.

1           (h) In Lieu Fee and Off-Site Replacement. The Board of Supervisors may enact an ordinance  
2 adopting an in lieu fee and/or an off-site replacement option to meet the replacement requirements set  
3 forth in subsection (a). The proceeds from any such in lieu fee shall be used for the preservation and  
4 rehabilitation of existing PDR, Institutional Community, and Arts Activities spaces in the area plan  
5 area where the project paying the fee is located.

6           (i) The Board of Supervisors by ordinance and by at least a two-thirds vote of all its members  
7 may amend this Section 202.8 at any time after its effective date.

8  
9 APPROVED AS TO FORM:

10 DENNIS J. HERRERA, City Attorney

11  
12 By:   
13       MARLENA BYRNE  
          Deputy City Attorney

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**City and County of San Francisco**  
**Tails**  
**Motion: M16-105**

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

**File Number:** 160698

**Date Passed:** August 02, 2016

Motion ordering submitted to the voters an Ordinance amending the Planning Code to require Conditional Use authorization for conversion of Production, Distribution, and Repair Use, Institutional Community Use, and Arts Activities Use and replacement space; and affirming the Planning Department's determination under the California Environmental Quality Act, at an election to be held November 8, 2016.

July 14, 2016 Rules Committee - AMENDED

July 14, 2016 Rules Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 14, 2016 Rules Committee - CONTINUED AS AMENDED

July 18, 2016 Rules Committee - NOT AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 18, 2016 Rules Committee - CONTINUED AS AMENDED

July 21, 2016 Rules Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 21, 2016 Rules Committee - CONTINUED AS AMENDED

July 25, 2016 Rules Committee - REFERRED WITHOUT RECOMMENDATION AS COMMITTEE REPORT

July 26, 2016 Board of Supervisors - DIVIDED

July 26, 2016 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 9 - Avalos, Breed, Campos, Cohen, Kim, Peskin, Tang, Wiener and Yee

Absent: 2 - Farrell and Mar

July 26, 2016 Board of Supervisors - AMENDED

Ayes: 5 - Avalos, Campos, Kim, Peskin and Yee

Noes: 4 - Breed, Cohen, Tang and Wiener

Excused: 1 - Farrell

Absent: 1 - Mar

July 26, 2016 Board of Supervisors - CONTINUED AS AMENDED

Ayes: 9 - Avalos, Breed, Campos, Cohen, Kim, Peskin, Tang, Wiener and Yee

Excused: 1 - Farrell

Absent: 1 - Mar

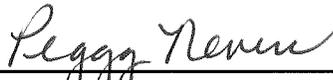
August 02, 2016 Board of Supervisors - APPROVED

Ayes: 7 - Avalos, Breed, Campos, Kim, Mar, Peskin and Yee

Noes: 4 - Cohen, Farrell, Tang and Wiener

File No. 160698

**I hereby certify that the foregoing Motion  
was APPROVED on 8/2/2016 by the Board  
of Supervisors of the City and County of  
San Francisco.**

  
\_\_\_\_\_  
*for* Angela Calvillo  
Clerk of the Board