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

Section 1. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply 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. 1610141 and is incorporated herein by reference. The Board affirms this determination.

(b) On January 19, 2017, the Planning Commission, in Resolution No. 19837, adopted findings that the actions contemplated in this ordinance are 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. 1610141, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that the Planning Code and Zoning Map amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 19837, and the Board incorporates such reasons herein by reference.

Section 2. The Planning Code is hereby amended by revising Section 202.8, to read as follows:

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

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

(a) To preserve the existing stock of building space suitable for PDR, Institutional Community, and Arts Activities uses, such conversion shall, if located within the following zoning districts, require conditional use authorization under Section 303 and the space proposed for conversion shall be replaced in compliance with the following criteria:
(1) In the areas that, as of July 1, 2016, are zoned SALI, the replacement space shall include one square foot of PDR, Institutional Community, or Arts Activities use for each square foot of the use proposed for conversion.

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

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

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

(5) The replacement requirements of subsections (a)(1), (2), (3), and (4) may be reduced by 0.25 square feet (e.g. a 1:1 replacement requirement becomes a 1:0.75 replacement requirement) for any project subject to any contract or agreement meeting the requirements of California Civil Code Section 1954.28(d), including but not limited to a development agreement approved by the City under California Government Code Section 65864 et seq. if, as part of the terms of such agreement, the required replacement space is rented, leased, or
sold at 50% below market rate for such commercial space for a period of not less than 55
years and is subject to a deed restriction.

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

Replacement space for Institutional Community use shall be used for Institutional Community
use.

(b) **Definitions.** For the purposes of this Section 202.8, the following definitions shall
apply:

“Prior use” shall mean the prior permanent and permitted use and shall not include any
approved temporary uses such as “pop-up” eating establishments, craft fairs, or other
seasonal uses.

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

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

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

(d) **Undeveloped property.** The requirements of this Section 202.8 shall only apply to
those portions of a site that are developed with building space where the prior use in such
space was PDR use of at least 5,000 square feet, an Institutional Community use of at least
2,500 square feet, or an Arts Activities use.
(e) In determining whether to grant Conditional Use authorization, in addition to making the required findings under Section 303, the Planning Commission shall consider the suitability of the replacement space for the use proposed for conversion.

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

1. Any property under the jurisdiction of the Port of San Francisco or the Recreation and Park Commission; all Redevelopment Plan Areas in effect as of July 1, 2016; and any parcel zoned P (Public) on or after July 1, 2016.
2. Any project where the PDR use, Institutional Community use, or Arts Activities use subject to conversion commenced after June 14, 2016.
3. Any project that has been approved by the Planning Department or Planning Commission by June 14, 2016, provided that, if subsequently appealed, such approval is upheld.
4. Any project that would convert less than 15,000 square feet of PDR, Institutional Community, or Arts Activities use and for which an Environmental Evaluation application was submitted to the Planning Department by June 14, 2016,
5. Any public transportation project.
6. Any project that receives affordable housing credits associated with retention of affordable units at the South Beach Marina Apartments, pursuant to Board of Supervisors Resolution No. 197-16.
7. Any project where all of the residential units with the exception of the manager’s unit are affordable housing units, as that term is defined in Section 406(b)(1). If feasible, such projects shall make efforts to replace any converted PDR, Institutional Community, and Arts Activities uses.
(8) Any property in the Western SoMa Plan Area if the actual use functioning on the property as of September 8, 2014, as determined by the Zoning Administrator, was principally permitted, and not a PDR, Institutional Community, or Arts Activities use, such that a legal conversion could have been approved prior to October 9, 2014. This exemption applies only to conversions of uses smaller than 25,000 square feet.

(9) Any project that proposes to convert no more than 50% of the property’s PDR, Institutional Community, or Arts Activities space, provided that such space is located within a landmark designated under Article 10 of the Planning Code or individually listed on the National Register of Historic Places as of July 1, 2016 and that no more than 49,999 square feet is converted to office use. Additionally, any such project that is also subject to a contract or agreement meeting the requirements of California Civil Code Section 1954.28(d), which, as part of the terms of such contract or agreement, rents, leases, or sells at 50% below market rate the property’s remaining PDR, Institutional Community, or Arts Activities space, may convert an additional 25% of the property’s PDR, Institutional Community, or Arts Activities space exempt from the requirements of this Section 202.8, for a total of 75% exempted conversion. The City department negotiating the contract or agreement shall determine the market rate using accepted best practices for this purpose. Such below market rate rental, lease, or sale shall be for a period of not less than 55 years and subject to a deed restriction. The exemptions set forth in this subsection 202.8(f)(9) may be approved through multiple project applications so long as no more than a total of 50% (or 75% if restricting the commercial rent of the property as set forth herein) of the property’s PDR, Institutional Community, or Arts Activities space is converted under this exemption.

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

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

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

Section 3. Background and Two-Thirds Vote Approval Requirement.

(a) On August 2, 2016, the Board of Supervisors approved Motion No. M16-105, ordering an initiative ordinance entitled “Initiative Ordinance - Planning Code - Requiring Conditional Use Authorization for Replacement of Production, Distribution, Repair, Institutional Community, and Arts Activities Uses,” be submitted to the voters at the November 8, 2016 general election. Motion No. M16-105, including the initiative ordinance, is found in Board File No. 160698. The initiative ordinance was designated Proposition X on the November 8, 2016 ballot.

(b) Proposition X added Section 202.8 to the Planning Code. Subsection 202.8(i) provides that the Board of Supervisors “by ordinance and by at least a two-thirds vote of all its members” may amend Section 202.8 “at any time after its effective date.” This ordinance amends Section 202.8.

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.
Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

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

By:
MARLENA BYRNE
Deputy City Attorney

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Ordinance amending Planning Code, Section 202.8 to exempt certain designated historic landmarks from obtaining conditional use authorization to remove certain Production, Distribution, and Repair, Institutional Community, and Arts Activities Uses, and providing replacement space for such uses; affirming the 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.

May 01, 2017 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

May 01, 2017 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

May 09, 2017 Board of Supervisors - PASSED ON FIRST READING
Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

May 16, 2017 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

File No. 161014

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 5/16/2017 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

5/16/17 Date Approved