[Planning Code - Including Financial Services Within Definition of Formula Retail]

Ordinance amending the San Francisco Planning Code by: 1) amending Section 703.3(c) to include financial services within the uses subject to formula retail controls in Neighborhood Commercial Districts; 2) amending Section 806.3(c) including financial services within the uses subject to formula retail controls in Mixed Use Districts; 3) amending Section 303.3(i) making conforming amendments; and 4) making findings, including environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and with the Priority Policies of Planning Code Section 101.1.

NOTE: Additions are single-underline italics Times New Roman; deletions are strike-through 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. 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 Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 120047 and is incorporated herein by reference.

(b) Pursuant to Planning Code Section 302, this Board finds that the actions contemplated in this ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 18580 and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. 18580 is on file with the Clerk of the Board of Supervisors in File No. 120047.

Supervisors Mar, Olague, Campos, Avalos
BOARD OF SUPERVISORS
(c) This Board finds that the actions contemplated in this ordinance are consistent with
the General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons
set forth in Planning Commission Resolution No. 18580 and the Board hereby incorporates
such reasons herein by reference.

Section 2. The San Francisco Planning Code is hereby amended by amending Section
703.3(c), to read as follows:

SEC. 703.3. FORMULA RETAIL USES.
(c) "Retail sales activity or retail sales establishment" shall include the following
uses, as defined in Article 7 of this Code: "bar," "drive-up facility," "eating and drinking use,"
"liquor store," "restaurant, large fast-food," "restaurant, small self-service," "restaurant, full-
service," "sales and service, other retail," "sales and service, retail," "service, financial,"
"movie theatre," "video store," "amusement and game arcade," "take-out food," and "specialty
food, self-service."

Section 3. The San Francisco Planning Code is hereby amended by amending Section
803.6(c), to read as follows:

SEC. 803.6. FORMULA RETAIL USES IN THE CHINATOWN MIXED USE
DISTRICTS AND IN THE WESTERN SOMA PLANNING AREA SPECIAL USE
DISTRICT.
(c) Formula Retail Use Defined. Formula retail use is hereby defined as a type of
retail sales activity or retail sales establishment which, along with eleven or more other retail
sales establishments located in the United States, maintains two or more of the following
features: a standardized array of merchandise, a standardized façade, a standardized décor
and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.
1  (1) Standardized array of merchandise shall be defined as 50% or more of in-stock
2  merchandise from a single distributor bearing uniform markings.
3
4  (2) Trademark shall be defined as a word, phrase, symbol or design, or a
5  combination of words, phrases, symbols or designs that identifies and distinguishes the
6  source of the goods from one party from those of others.
7
8  (3) Service mark shall be defined as word, phrase, symbol or design, or a
9  combination of words, phrases, symbols or designs that identifies and distinguishes the
10  source of a service from one party from those of others.
11
12  (4) Decor shall be defined as the style of interior finishings, which may include but is
13  not limited to, style of furniture, wallcoverings or permanent fixtures.
14
15  (5) Color Scheme shall be defined as selection of colors used throughout, such as
16  on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.
17
18  (6) Facade shall be defined as the face or front of a building, including awnings,
19  looking onto a street or an open space.
20
21  (7) Uniform Apparel shall be defined as standardized items of clothing including but
22  not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than
23  name tags) as well as standardized colors of clothing.
24
25  (8) Signage shall be defined as business sign pursuant to Section 602.3 of the
Planning Code.
26
27  (9) "Retail Sales Activity or Retail Sales Establishment" shall include the following
uses, as defined in Article 8 of this Code: "bar," "drive-up facility," "eating and drinking use,"
28  "restaurant, large fast-food," "restaurant, small fast-food," "restaurant, full-service," "sales and
29  services, other retail," "sales and services, nonretail," "service, financial," "movie theater,"
30  "amusement game arcade," and "take-out food."
Section 4. The San Francisco Planning Code is hereby amended by amending Section 303(i), to read as follows:

SEC. 303. CONDITIONAL USES.

(i) Formula Retail Uses.

(1) Formula Retail Use. A formula retail use is hereby defined as a type of retail sales activity or retail sales establishment which has eleven or more other retail sales establishments located in the United States. In addition to the eleven establishments, the business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

(A) Standardized array of merchandise shall be defined as 50% or more of in-stock merchandise from a single distributor bearing uniform markings.

(B) Trademark shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

(C) Servicemark shall be defined as word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

(D) Decor shall be defined as the style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.

(E) Color Scheme shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

(F) Facade shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.
(G) Uniform Apparel shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

(H) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning Code.

(2) “Retail sales activity or Retail sales establishment.” For the purposes of subsection (i), a retail sales activity or retail sales establishment shall include the following uses, as defined in Article 7 and Article 8 of this Code: “bar,” “drive-up facility,” “eating and drinking use,” “liquor store,” “restaurant, large fast-food,” “restaurant, small self-service,” “restaurant, full-service,” “sales and service, other retail,” “sales and service, retail,” “service, financial,” “movie theatre,” “video store,” “amusement and game arcade,” “take-out food,” and “specialty food, self-service.”

(3) Conditional Use Criteria. With regard to a conditional use authorization application for a formula retail use, the Planning Commission shall consider, in addition to the criteria set forth in Subsection (c) above:

(A) The existing concentrations of formula retail uses within the district.

(B) The availability of other similar retail uses within the district.

(C) The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.

(D) The existing retail vacancy rates within the district.

(E) The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.

(4) Conditional Use Authorization Required. A Conditional Use Authorization shall be required for a formula retail use in the following zoning districts unless explicitly exempted:

(A) All Neighborhood Commercial Districts in Article 7;
(B) All Mixed Use-General Districts in Article 8;

(C) All Urban Mixed Use Districts in Article 8;

(D) RC-3 and RC-4 zoned parcels along Van Ness Avenue;

(E) Japantown Special Use District as defined in Section 249.31;

(F) Chinatown Community Business District as defined in Section 810;

(G) Chinatown Residential/Neighborhood Commercial District as defined in 812;

(H) Western SoMa Planning Area Special Use District as defined in 802.5.

(5) **Formula Retail Uses Not Permitted.** Formula Retail Uses are not permitted in the following zoning districts:

(A) Hayes-Gough Neighborhood Commercial Transit District;

(B) North Beach Neighborhood Commercial District;

(C) Chinatown Visitor Retail District.

(6) **Neighborhood Commercial Notification and Design Review.** Any building permit application for a "formula retail use" as defined in this section and located within a Neighborhood Commercial District in Article 7 shall be subject to the Neighborhood Commercial Notification and Design Review Procedures of Section 312 of this Code.

(7) **Change in Use.** A change from one formula retail use to another requires a new Conditional Use Authorization, whether or not a Conditional Use Authorization would otherwise be required by the particular change in use in question. This Conditional Use Authorization requirement also applies in changes from one Formula Retail operator to another within the same use category. A new Conditional Use Authorization shall not apply to a change in a formula use retailer that meets the following criteria:

(A) the formula use operation remains the same in terms of its size, function and general merchandise offering as determined by the Zoning Administrator, and
(B) the change in the formula retail use operator is the result of the business being purchased by another formula retail operator who will retain all components of the existing retailer and make minor alterations to the establishment(s) such as signage and branding.

The new operator shall comply with all conditions of approval previously imposed on the existing operator, including but not limited to signage programs and hours of operation; and shall conduct the operation generally in the same manner and offer essentially the same services and/or type of merchandise; or seek and be granted a new Conditional Use Authorization.

(8) Determination of Formula Retail Use. In those areas in which “formula retail uses” are prohibited, any building permit application determined by the City to be for a “formula retail use” that does not identify the use as a “formula retail use” is incomplete and cannot be processed until the omission is corrected. Any building permit approved that is determined by the City to have been, at the time of application, for a “formula retail use” that did not identify the use as a “formula retail use” is subject to revocation at any time. If the City determines that a building permit application or building permit subject to this Section of the Code is for a “formula retail use,” the building permit application or holder bears the burden of proving to the City that the proposed or existing use is not a “formula retail use.”

Section 5. This section is uncodified. The provisions of this Ordinance related to financial services shall not apply to projects that had filed an application with the Planning Department by the date of introduction of this Ordinance, on January 24, 2012.

Section 6. Effective Date. This ordinance shall become effective 30 days from the date of passage.
Section 67. This section is uncodified. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By:
ANDREA RUIZ-ESQUEIDE
Deputy City Attorney
Ordinance amending the San Francisco Planning Code by: 1) amending Section 703.3(c) to include financial services within the uses subject to formula retail controls in Neighborhood Commercial Districts; 2) amending Section 806.3(c) including financial services within the uses subject to formula retail controls in Mixed Use Districts; 3) amending Section 303.3(i) making conforming amendments; and 4) making findings, including environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and with the Priority Policies of Planning Code Section 101.1.

May 21, 2012 Land Use and Economic Development Committee - NOT AMENDED

May 21, 2012 Land Use and Economic Development Committee - AMENDED

May 21, 2012 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

June 05, 2012 Board of Supervisors - PASSED ON FIRST READING
Ayes: 8 - Avalos, Campos, Chiu, Cohen, Kim, Mar, Olague and Wiener
Noes: 3 - Chu, Elsbernd and Farrell

June 12, 2012 Board of Supervisors - FINALLY PASSED
Ayes: 8 - Avalos, Campos, Chiu, Cohen, Kim, Mar, Olague and Wiener
Noes: 3 - Chu, Elsbernd and Farrell
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/12/2012 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

UnSigned
Mayor

Date Approved
6/22/12

Date: June 22, 2012

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

Angela Calvillo
Clerk of the Board

File No.
120047