Ordinance amending the San Francisco Planning Code Section 186 to allow for reactivation of limited commercial uses in RH, RM, RTO, and RED districts under a conditional use authorization and amending Section 231 to allow for greater size and depth from the corner for limited corner commercial uses in RM-3 and RM-4 districts; and making findings, including environmental findings and findings of consistency with the General Plan and 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 Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) General Plan and Planning Code Findings.

(1) On March 1, 2012, at a duly noticed public hearing, the Planning Commission in Resolution No. 18553 found that the proposed Planning Code amendments to section 186 contained in this ordinance were consistent with the City’s General Plan and with Planning Code Section 101.1(b). On May 3, 2012, at a duly noticed public hearing, the Planning Commission in Resolution No. 18615 found that the proposed Planning Code amendments to section 231 contained in this ordinance were consistent with the City’s General Plan and with Planning Code Section 101.1(b). In addition, the Planning Commission recommended that the Board of Supervisors adopt the proposed Planning Code amendments. Copies of said Resolutions are on file with the Clerk of the Board of Supervisors in File No.
and are incorporated herein by reference. The Board finds that the proposed Planning Code amendments contained in this ordinance are on balance consistent with the City's General Plan and with Planning Code Section 101.1(b) for the reasons set forth in said Resolutions.

(2) Pursuant to Planning Code Section 302, the Board finds that the proposed ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution Nos. 18553 and 18615, which reasons are incorporated herein by reference as though fully set forth.

(b) Environmental Findings. 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. and is incorporated herein by reference.

Section 2. The San Francisco Planning Code is hereby amended by amending section 186, to read as follows:

SEC. 186. EXEMPTION OF LIMITED COMMERCIAL AND INDUSTRIAL NONCONFORMING USES IN RH, RM, RTO, AND RED DISTRICTS.

The purpose of this Section is to provide for the further continuance in RH, RM, RTO, and RED Districts of nonconforming uses of a limited commercial and industrial character, as herein described, which are beneficial to, or can be accommodated within, the residential areas in which they are located. It is hereby found and declared that, despite the general incompatibility of nonconforming uses with the purposes of this Code, and with other nearby uses, these limited commercial uses may be tolerated in residential areas, and tend to provide convenience goods and services on a retail basis to meet the frequent and recurring needs of the residents of the areas in which they are located.
needs of neighborhood residents within a short distance of their homes or, within the South of Market RED Districts, tend to provide jobs and continuation of small scale service and light industrial activities. These uses tend to be small in scale, to serve primarily a walk-in trade, and cause a minimum of interference with nearby streets and properties. Accordingly, this Section recognizes the public advantages of these uses and establishes conditions for their continued operation.

(a) *Exemption from Termination Provisions.* The following nonconforming uses in R Districts shall be exempt from the termination provisions of Section 185, provided such uses comply with all the conditions specified in Subsection (b) below:

(1) Any nonconforming use at any story in an RH or RM District which is located more than ¼ mile from the nearest Individual Area Neighborhood Commercial District or Restricted Use Subdistrict described in Article 7 of this Code, and which complies with the use limitations specified for the first story and below of an NC-1 District, as set forth in Sections 710.10 through 710.95 of this Code.

(2) Any nonconforming use in an RH or RM District which is located within ¼ mile from any Individual Area Neighborhood Commercial District or restricted use subdistrict and which complies with the most restrictive use limitations specified for the first story and below of:

(A) NC-1 District, as set forth in Sections 710.10 through 710.95 of this Code; and

(B) Any Individual Area Neighborhood Commercial District within ¼ mile of the use, as set forth in Sections 714.10 through 729.95 of this Code;

(C) Any Restricted Use Subdistrict within ¼ mile of the use, as set forth in Sections 781 through 781.7 of this Code.

(3) In the RED Districts, any nonconforming use which is a personal service use falling within zoning category 816.31; home and business service use falling within zoning
categories 816.42 through 816.47; live/work unit falling within zoning category 816.55; wholesale sales, storage or light manufacturing uses falling within zoning categories 816.64 through 816.67.

(b) **Conditions on Limited Nonconforming Uses.** The limited nonconforming uses described above shall meet the following conditions:

1. The building shall be maintained in a sound and attractive condition, consistent with the general appearance of the neighborhood;
2. Any signs on the property shall be made to comply with the requirements of Article 6 of this Code applying to nonconforming uses;
3. The hours during which the use is open to the public shall be limited to the period between 6:00 a.m. and 10:00 p.m.;
4. Public sidewalk space may be occupied in connection with the use provided that it is only occupied with tables and chairs as permitted by this Municipal Code;
5. Truck loading shall be limited in such a way as to avoid undue interference with sidewalks, or with crosswalks, bus stops, hydrants and other public features;
6. Noise, odors and other nuisance factors shall be adequately controlled; and
7. All other applicable provisions of this Code shall be complied with.

(c) **Formula Retail Uses.** All uses meeting the definition of "formula retail" use per Section 703.3(b) shall not be permitted except by **Conditional Use conditional use authorization under through** the procedures of Section 303 of this Code.

(d) **Street Frontage.** In addition to the requirements of Section 144 of this Code, the requirements of Section 145.1(c)(6) and (7) shall apply.

(e) **Awnings.** Awnings are permitted, subject to the standards for an NC-1 District in Section 136.1(a) of this Code. Canopies and marquees are not permitted.
(f) **Termination.** Any use affected by this Section which does not comply with all of the conditions herein specified shall be subject to termination in accordance with Section 185 at the expiration of the period specified in that Section, but shall be qualified for consideration as a conditional use under Section 185(e). Any such use which is in compliance with such conditions at the expiration of such period but fails to comply therewith at any later date shall be subject to termination when it ceases to comply with any of such conditions.

(g) ** Reactivation.** Limited commercial uses in RH, RM, RTO, and RED Districts that have been discontinued or abandoned, as defined in Section 183, may be reactivated with conditional use authorization under Section 303. In approving such a use and in addition to the findings required by Section 303, the Planning Commission shall find that:

1. the subject space is located on or below the ground floor and was in commercial or industrial use prior to January 1, 1960; and

2. the proposed commercial use meets all the requirements of this section and other applicable sections of this Code.

(h) **Other Applicable Provisions.** The provisions for nonconforming uses contained in Sections 180 through 183 shall continue to apply to all uses affected by this Section 186, except that the cost limit for structural alterations contained in Section 181(b)(4) shall not be applicable thereto.

Section 3. The San Francisco Planning Code is hereby amended by amending section 231, to read as follows:

**SEC. 231. LIMITED CORNER COMMERCIAL USES IN RTO AND RM DISTRICTS.**

(a) **Purpose.** Corner stores enhance and support the character and traditional pattern of RTO and RM Districts. These small neighborhood-oriented establishments
provide convenience goods and services on a retail basis to meet the frequent and recurring
needs of neighborhood residents within a short walking distance of their homes. These uses
tend to be small in scale, to serve primarily walk-in trade, and cause minimum interference
with nearby streets and properties. These uses are permitted only on the ground floor of
corner buildings, and their intensity and operating hours are limited to ensure compatibility
with the predominantly residential character of the district. Accessory off-street parking is
prohibited for these uses to maintain the local neighborhood walk-in character of the uses.

(b) Location. Uses permitted under this section must be located:

(1) completely within an RTO, RTO-M, RM-3, or RM-4 District;
(2) on or below the ground floor; and
(3) in RTO and RTO-M Districts, on a corner lot as defined by Section 102.15, with no part of the use extending more than 50 feet in depth from said corner, as illustrated in Figure 231.

[This parenthetical is not codified: Figure 231 to be relocated here.]

(4) in RM-3 and RM-4 Districts, on a corner lot as defined in Section 102.15, with no part of the use extending more than 100 feet in depth from said corner.

(c) Permitted Uses. Any use is permitted which complies with the most restrictive use limitations for the first story and below of an NC-1 District, as set forth in Sections 710.10 through 710.95 of this Code.

(d) Use Size. No more than 1,200 occupied square feet of commercial area in a RTO or RTO-M District and no more than 2,500 occupied square feet of commercial area in a RM-3 or RM-4 District shall be allowed per corner lot, except those lots which occupy more than one corner on a given block and which may provide an additional 1,200 occupied square
feet of commercial area per additional corner, so long as the commercial space is distributed equitably throughout appropriate parts of the parcel or project.

(e) Formula Retail Uses. All uses meeting the definition of "formula retail" use per Section 703.3(b) shall not be permitted except by Conditional Use through the procedures of Section 303.

(f) Parking. No accessory parking shall be permitted for uses permitted under this Section.

(g) Operating Hours. The hours during which the use is open to the public shall be limited to the period between 6:00 a.m. and 10:00 p.m.

(h) Conditions. Any uses described above shall meet all of the following conditions:

(1) The building shall be maintained in a sound and attractive condition, consistent with the general appearance of the neighborhood.

(2) Any signs on the property shall comply with the requirements of Article 6Section 606 of this Code pertaining to NC-I Districts.

(3) Truck loading shall be limited in such a way as to avoid undue interference with sidewalks, or with crosswalks, bus stops, hydrants and other public features.

(4) Noise, odors and other nuisance factors shall be adequately controlled; and

(5) The use shall comply with all other applicable provisions of this Code.

(i) Street Frontage. In addition to the street frontage requirements of Section 144, the following provisions of Section 145.1 shall apply to the street frontage dedicated to limited commercial uses permitted by this section: active uses per Section 145.1(c)(3);
transparency and fenestration per Section 145.1(c)(6); and grates, railing, and grillework per
Section 145.1(c)(7).

(j) Awnings. Awnings are permitted, subject to the standards for an NC-I District in
Section 136.1(a) of this Code. Canopies and marquees are not permitted.

Section 4. Effective Date. This section is uncodified. This ordinance shall become
effective 30 days from the date of passage.

Section 5. 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: MARLENA G. BYRNE
Deputy City Attorney
Ordinance amending the San Francisco Planning Code: 1) Section 186 to allow for reactivation of limited commercial uses in RH, RM, RTO, and RED districts under a conditional use authorization; 2) Section 231 to allow for greater size and depth from the corner for limited corner commercial uses in RM-3 and RM-4 districts; and 3) making findings, including environmental findings and findings of consistency with the General Plan and Planning Code Section 101.1.

July 23, 2012 Land Use and Economic Development Committee - RECOMMENDED AS COMMITTEE REPORT

July 24, 2012 Board of Supervisors - PASSED, ON FIRST READING
   Ayes: 10 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Kim, Mar, Olague and Wiener
   Excused: 1 - Farrell

July 31, 2012 Board of Supervisors - FINALLY PASSED
   Ayes: 10 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Mar, Olague and Wiener
   Absent: 1 - Kim

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/31/2012 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Date Approved