

ORDINANCE NO. 2012-8

AMENDING SECTION 27.38.020, “PERMITTED USES,” SECTION 27.38.030, “SPECIAL USES,” SECTION 27.38.040, “CONDITIONS OF USE,” SECTION 27.38.100, “BUILDING LINE AND SETBACKS,” SECTION 27.38.110, “REQUIRED RETAIL FRONTAGE,” AND SECTION 27.38.140, “DOWNTOWN ECONOMIC DEVELOPMENT,” OF CHAPTER 27.38, “CBD DISTRICTS—CENTRAL BUSINESS DISTRICT,” AND SECTION 27.74.020, “POWER TO GRANT,” OF CHAPTER 27.74, “SPECIAL USE PERMITS,” OF THE SAN MATEO MUNICIPAL CODE

WHEREAS, currently Municipal Code 27.38.110, “Required Retail Frontage,” requires the ground floor of buildings within the Required Retail Frontage area to be used for retail sales, personal services, eating and drinking establishments, theaters and cultural facilities and banks, with the exception of block corners; and

WHEREAS, the Council recently endorsed a review of the ground floor retail zoning code requirements as the City has an interest in encouraging startup companies within the downtown area; and

WHEREAS, the major change (in retail trends) has been in store depths, which have become less deep since the advent of “just-in-time” deliveries to replenish inventories throughout the selling year rather than major deliveries two to three times a year, and

WHEREAS, in Downtown San Mateo, many existing and older commercial buildings are 100-130 feet deep, rather than the current typical retail store depth of 60 to 75 feet, and

WHEREAS, there are a number of buildings in downtown San Mateo that, because of the era in which they were built, are too deep to be attractive spaces for retailers, despite the strong demographics and walking character of downtown San Mateo, and

WHEREAS, the City wishes to maintain retail frontage in its downtown core, while at the same time allowing for alternative uses in the rear of non-corner retail buildings which are no longer viable for retail use, and

WHEREAS, the City wishes to maintain a retail focus for corner properties in the Downtown retail core area due to their visibility and prominence in determining the character of the downtown retail core, and

WHEREAS, in accordance with California Government Code Section 65352, the Planning Division referred the proposed amendments to affected agencies; and

WHEREAS, the proposed Required Retail Frontage Requirements Zoning Code Amendments are consistent with the City’s Downtown Plan and General Plan; and

WHEREAS, in accordance with California Government Code Section 65350 et seq. and California Government Code Section 65853 et seq., the Planning Commission held a public hearing pursuant to the notice required by law for these amendments of the Zoning Code, at which the Commission received and considered written and oral evidence, and made its recommendations; and

WHEREAS, the City held one (1) community meeting and a study session with City Council on the Required Retail Frontage Study and provided opportunities for the involvement of public agencies, civic, education, and other community and interested groups; and

WHEREAS, the City Council introduced the ordinance at its meeting of October 1, 2012, and requested minor revisions prior to adoption;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SAN MATEO, CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1. Subsection (1) of Section 27.38.020, "Permitted Uses," of Chapter 27.83, "CBD Districts—Central Business District," of the San Mateo Municipal Code is amended to read:

"(1) Any use permitted in the C2 district, except an animal hospital and emergency shelters; provided that the use limitations contained in Section 27.38.110, Required Retail Frontage, shall apply to properties located within the Required Retail Frontage area, as shown in the Downtown Plan;"

Section 2. Paragraph 1 of Section 27.38.030, "Special Uses," of Chapter 27.38, "CBD Districts—Central Business District," of the San Mateo Municipal Code is amended to read:

"The following uses may also be permitted if their site locations and proposed development plans are first approved as provided in Chapters 27.06 through 27.12, 27.62, 27.74, 27.78 and 27.80; however, the specific use limitations contained in section 27.38.110, Required Retail Frontage, shall apply to properties located within the Required Retail Frontage area, as shown in the Downtown Plan:"

Section 3. Section 27.38.040, "Conditions of Use," of Chapter 27.38, "CBD Districts—Central Business District," of the San Mateo Municipal Code is amended to read:

"27.38.040 CONDITIONS OF USE. All non-residential uses permitted in this district shall be subject to the following conditions:

(a) Automobile service stations, automobile repair facilities and other similar automobile service uses are not permitted, with the exception of an automobile service station fully enclosed within a parking structure or other building.

(b) There shall be no manufacturing, processing or treatment of products other than those which are clearly incidental and essential to the retail business conducted on the same premises.

- (c) All permitted uses in this district shall be conducted without objection from adjoining users due to odor, dust, smoke, noise, vibration, or other similar cause.
- (d) Any exterior sign displayed shall pertain only to a use conducted within the building.
- (e) All uses, including storage of equipment, materials, supplies, and commercial vehicles for off-site business permitted under this chapter shall be conducted wholly within an enclosed building, except as may be specifically authorized by Special Use Permit or as an accessory use to an approved permitted or special use.
- (f) All ground floor uses shall maintain visibility of their space from the street and maintain retail storefronts comparable to traditional retail sales operations, including display of goods and services for sale."

Section 4. Subsection 1 of Section 27.38.100, "Building Line and Setbacks," of Chapter 27.38, "CBD Districts—Central Business District," of the San Mateo Municipal Code is amended to read:

"(1) New developments shall be built to the property line to a minimum height of 26 feet, up to the maximum height as permitted in the street wall area or to the maximum height permitted for parcels outside the street wall area, except where a setback is required to meet ground floor open space requirements or where a setback buffer is required adjacent to a residential district pursuant to the Building Height and Bulk Plan in the Downtown Plan."

Section 5. Section 27.38.110, "Required Retail Frontage," of Chapter 27.38, "CBD Districts—Central Business District," of the San Mateo Municipal Code is amended to read:

"27.38.110 REQUIRED RETAIL FRONTAGE. The following provisions apply in the Required Retail Frontage area as shown in the City's Downtown Plan (the "Required Retail Frontage"):

(a) Permitted Uses. The following uses are permitted on the ground floor subject to the requirements in section 27.38.040, Conditions of Use, and the standards listed in subsection (c) below:

(1) Retail Sales. Uses principally engaged in retail sale or rental of consumer or household goods, including ancillary repair services. These retail uses are characterized by face-to-face transactions conducted by both the buyer and seller on the business premises. Retail businesses that conduct a majority of their sales (over 50%) via the Internet or other means of telecommunications are not considered "retail" for the purposes of this section.

(2) Personal Services. Uses principally providing services of a personal convenience nature to the individual consumer. These types of uses are primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Typical personal services uses include, but are not limited to beauty and hair salons, shoe repair shops and tailor shops. This definition of

"Personal Services" does not include professions as defined in section 5.24.160 of the City of San Mateo Municipal Code or any similar professions.

(3) Eating and Drinking Services. Uses principally engaged in the preparation and retail sale of food and/or beverages, but excluding uses principally involving food preparation for off-site catering.

(4) Theaters and Cultural Facilities. Uses providing entertainment such as motion pictures, plays or operas or cultural facilities such as a museum.

(5) Banks. Uses providing financial services including banks, savings and loan institutions, lending institutions, and credit unions unless located at the intersection of two streets within the Required Retail Frontage area as shown in the Downtown Plan; banks and other financial services are prohibited at these corner locations. Such uses shall be retail service in nature, dedicated to serving the general customer, and not be open by appointment only. At least 50% of the ground floor area shall be devoted to this type of retail, customer serving use.

(b) Special Uses. The following uses are permitted subject to approval of a Special Use Permit.

(1) All Properties. Any other use deemed similar in nature and operation to the permitted uses, and found to be consistent with the purposes of this Chapter and the policies of the Downtown Plan, may be authorized upon approval of a Special Use Permit by the Planning Commission, subject to the provisions of Chapters 27.08, Rules of Procedure, and 27.74, Special Use Permits, unless appealed to the City Council in accordance with section 27.08.060.

(2) Ground Floor Dependent Offices on Non-Corner Properties. Offices used for on-site property management, or for professional or consulting services, including, but not limited to, travel agencies, insurance agencies, income tax preparers, real estate agencies and notary publics, when not exceeding 2,500 square feet per building and not located at the intersection of two streets within the Required Retail Frontage area as shown in the Downtown Plan. Such uses shall require ground floor visibility to serve patrons on an unannounced or drop-in basis, shall conduct a majority of their business face-to-face on the premises with their customers, and shall maintain retail storefronts comparable to traditional retail sales operations, including display of goods and services for sale.

(c) Standards.

(1) Ground Floor Retail Frontage Width and Depth Standards.

(i) For non-corner properties with street frontage widths of 25 linear feet or less, at least 67% of the building's street frontage, to a depth of 60 feet, shall be limited to the Permitted Uses specified above.

(ii) For non-corner properties with street frontage widths greater than 25 linear feet, at least 75% of the building's street frontage, to a depth of 60 feet, shall be limited to the Permitted Uses specified above.

(iii) Reduction in Ground Floor Retail Frontage Width and Depth Requirement. Reductions in the above requirements may be authorized upon approval of a Special Use Permit by the Planning Commission, subject to the provisions of Chapters 27.08, Rules of Procedure, and 27.74, Special Use Permits, and if each of the following findings can be made in addition to the findings required for Special Use Permits:

(aa) The property has physical limitations such as narrow building or lot width, or an unusual building or lot configuration which renders it infeasible to meet the retail depth and width requirements set forth above; and

(bb) The proposed uses and associated changes to the building and property are consistent with the purposes of this Chapter, and applicable policies pertaining to downtown including but not limited to the General Plan, Downtown Plan, and Pedestrian Master Plan.

(2) Public Access. All permitted and specially-permitted uses shall be directly accessible from a public sidewalk or a plaza accessible from the public sidewalk along the required frontage.

(3) View of Interior Space. New or reconstructed building walls at the ground level shall have at least 75% of the width along the street devoted to pedestrian entrances, transparent show or display windows of at least two feet in depth, or windows affording a view of retail, office, or lobby space.

(4) Ground Floor Entries to Other Uses.

(i) For lots with street frontage widths of 25 linear feet or less, not more than 33% of the street frontage shall be devoted to entrances to uses other than the above Permitted Uses.

(ii) For lots with street frontage widths greater than 25 linear feet, not more than 25% of the street frontage shall be devoted to entrances to uses other than the above Permitted Uses.

(5) Location of Parking. Surface parking shall not be permitted within 50 feet of property lines designated for Required Retail Frontage and shall be required to be located behind a building meeting the requirements of this title.

(6) Second Floor Offices. Second floor offices, including medical and dental clinics, and financial institutions are permitted only if the ground floor of the structure is occupied by one of the Permitted Uses listed above."

Section 6. Section 27.38.140, "Downtown Economic Development," of Chapter 27.38, "CBD Districts—Central Business District," of the San Mateo Municipal Code is amended to read:

"27.38.140 DOWNTOWN ECONOMIC DEVELOPMENT.

To encourage development of large, vacant, underutilized parcels as designated in the Downtown Plan, exceptions from land use standards contained in this title may be granted upon approval of a Downtown Economic Development Permit by the City Council for properties in the Central Business District (CBD). Approval of such an application shall be based on the following findings:

(a) The project is consistent with the goal statements of the Downtown Plan;

(b) The project is of an excellent design quality and is consistent with the Downtown Retail Core and Downtown Historic District Design Guidelines;

(c) The project is a significant development which presents a substantial economic development opportunity for the City and attempts to maximize use of the site;

(d) The project has a minimum building floor area ratio of 1.0 (not including surface and structured parking) or includes a substantial public improvement such as a public parking garage, open space plaza, public marketplace or other public facility; and

(e) Any unmitigated significant impacts are outweighed by the project's economic, social or other benefits.

In no case, however, shall the project exceed the maximum height and bulk standard and building intensity standard as set forth in Chapter 27.40, Building Height and Bulk Overlay District and the Building Height and Intensity Plan of the General Plan."

Section 7. Section 27.74.020 "Power To Grant," of Chapter 27.74, "Special Use Permits," of the San Mateo Municipal Code is amended to read:

"27.74.020 POWER TO GRANT. Power to grant a special use permit shall be limited to those uses designated as "special use" within the districts established under this title. Other nondesignated uses which the Planning Commission concludes are so similar to any specifically allowed use in the district as to be virtually identical thereto in terms of impact and land use requirements may also be allowed as special uses. The appropriate approval body shall have the power to hear evidence that the granting of such permit will or will not adversely affect the general health, safety and/or welfare of the community, and that the use, if permitted, will not cause injury or disturbance to adjacent property traffic or by excessive noise, smoke, odor or noxious gas, dust, glare, heat or fumes, or industrial waste. Any physical alteration, physical expansion, or change of an existing approved special use shall require a review by and be final with the Planning Commission, unless appealed to the City Council in accordance with section 27.08.060. Any use designated as a "special use," but which does not currently have a Special Use Permit, shall be required to procure a Special Use Permit from the appropriate approval body for any physical alteration, physical expansion, or change of the use."

Section 8. ENVIRONMENTAL DETERMINATION. The adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061 (b) (3) because it can be seen with certainty that amending the City's retail frontage requirements will not have a significant impact on the physical environment.

Section 9. SEVERABILITY. In the event any section, clause or provision of this Ordinance shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect. It is the intent of the City Council that it would have adopted all other portions of this Ordinance irrespective of any such portion declared to be invalid or unconstitutional.

Section 10. PUBLICATION. This Ordinance shall be published in summary in the Examiner Peninsula Edition, posted in the City Clerk's Office, and posted on the City's website, in accordance with Section 2.15 of the Charter and shall be effective 30 days after the date of adoption.

The foregoing ordinance was introduced on October 1, 2012, and adopted by the City Council of the City of San Mateo, State of California on the 15th day of October, 2012, by the following vote:

AYES: Council Members Lim, Matthews, Freschet, Ross and Grotte

NOES: NONE

ABSENT: NONE

ATTEST:

(SEAL) /s/ PATRICE M. OLDS
Patrice M. Olds, City Clerk

/s/ BRANDT GROTTTE
Brandt Grotte, Mayor