



# SAN FRANCISCO **PLANNING DEPARTMENT**

**MEMO**

**DATE:** July 14, 2016  
**TO:** Historic Preservation Commission  
**FROM:** Aaron D. Starr  
Manager of Legislative Affairs  
**RE:** Planning Code Reorganization: Phase 2, Article 7

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Attached, please find the Planning Commission case report for Phase 2 of the Planning Code Reorganization ordinance. The Planning Commission initiated this ordinance on June 30, 2016, and scheduled the adoption hearing for October 13, 2016. Per your request, there will be an information presentation on this item at your July 20 hearing.



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Initiation of Planning Code Text Amendment

HEARING DATE: JUNE 30, 2016

EXPIRATION DATE: N/A

*Project Name:* **Article 7: Phase 2 of the Planning Code Reorganization**  
*Case Number:* **2014-001965PCA** [Board File No. TBD]  
*Initiated by:* Planning Department  
*Staff Contact:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Initiate and Schedule for Adoption on or After September 22, 2016**

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The action before the Commission is initiation of the code amendments described below. Initiation does not involve a decision on the substance of the amendments; it merely begins the required 20 day notice period, after which the Commission may hold a hearing and take action on the proposed Code amendments.

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to reorganize Article 7 and to update, correct, clarify, and simplify Code language in other Planning Code Sections; requiring Conditional Use authorization for Bars, and Liquor Stores on the first floor in the Noriega, Irving, Taraval, and Judah Neighborhood Commercial Districts; enacting permanent controls requiring Conditional Use authorization for Medical Cannabis Dispensaries in the Noriega, Irving, Taraval, and Judah Neighborhood Commercial Districts; requiring Conditional Use authorization for Personal Services on the second floor in the Noriega, Irving, Taraval, and Judah Neighborhood Commercial Districts; prohibiting Kennels in the North Beach Neighborhood Commercial District.

### The Way It Is Now:

#### Main Amendments

1. Article 7 of the Planning Code contains land use controls, development standards, and density controls for the City's Neighborhood Commercial Districts. These controls are outlined in zoning control tables.
2. All uses allowed in Neighborhood Commercial Districts are defined in Section 790 of the Planning Code.
3. The Conditional Use (CU) mailed notice requirement is 20 days for Neighborhood Commercial and Mixed Use Districts and 10 days for all other districts. The General Plan, and Variance mailing requirement is 10 days for all zoning districts.

4. Section 316 contains CU procedures and findings for Neighborhood Commercial Districts and Mixed Use Districts, which are essentially the same as the controls in Section 306 of the Planning Code.

**Sunset NCD Amendments**

5. Bars and Liquor Stores are principally permitted on the first floor in the Noriega, Irving, Taraval, and Judah Neighborhood Commercial Districts;
6. An interim control requires CU authorization for Medical Cannabis Dispensaries in the Noriega, Irving, Taraval, and Judah Neighborhood Commercial Districts.
7. Personal Services are principally permitted on the second floor in the Noriega, Irving, Taraval, and Judah Neighborhood Commercial Districts.

**Other Amendments**

8. Mobile Food Facilities are currently listed as a separate use in the Article 2 zoning control tables, and defined as a distinct and separate use in Section 102 of the Planning Code.
9. "Use Characteristic" is a term used in the Article 2 zoning control tables but not currently defined in the Planning Code.
10. Various Neighborhood Commercial Districts are missing or incorrectly cited in Section 134 of the Planning Code.
11. Accessory Uses are defined in Section 204 of the Planning Code.
12. Waterborne Commerce is a term used in the Article 2 zoning control tables, but is actually defined in Section 102 as a Maritime Use.

**The Way It Would Be:**

**Main Amendments**

1. Article 7 of the Planning Code will still contain land use controls, development standards, and density controls for the City's Neighborhood Commercial Districts; however the proposed ordinance would revise the zoning control tables to match the tables in Article 2.
2. Use definitions in Section 790 of the Planning Code would be deleted. Neighborhood Commercial Districts would use the standardized use definitions in Section 102.
3. The CU, General Plan, and Variance mailing noticing requirement would be 20 days for all zoning districts.
4. Section 316 would be deleted. Conditional Use procedures and findings for CUs in Neighborhood Commercial Districts and Mixed Use Districts would be found in Section 306 of the Planning Code along with all other zoning districts.

**Sunset NCD Amendments**

5. Bars and Liquor Stores would require CU authorization on the first floor in the Noriega, Irving, Taraval, and Judah Neighborhood Commercial Districts;

6. The existing interim control that requires CU authorization for Medical Cannabis Dispensaries in the Noriega, Irving, Taraval, and Judah Neighborhood Commercial Districts would become permanent.
7. Personal Services would require CU authorization to establish on the second floor in the Noriega, Irving, Taraval, and Judah Neighborhood Commercial Districts.

#### **Other Amendments**

8. The definition for Mobile Food Facilities would be amended to only refer to the Public work's Code for the definition and refer to temporary use controls and restaurant controls for approval.
9. A definition for "Use Characteristic" would be added to Section 102.
10. Section 134 of the Planning Code would be amended to correct any missing or miss-cited neighborhood commercial districts.
11. The definition of Accessory Uses in Section 204 would be moved to Section 102.
12. Waterborne Commerce would be deleted from the Article 2 zoning control tables and replaced with Maritime Use.

## **BACKGROUND**

### **Overall Goals and Phasing**

Initiated in 2013, the Code Reorganization Project seeks to restructure the Planning Code so that it's easier to read, understand, and use. This Ordinance is Phase 2 of the Planning Code Reorganization project and focuses on Article 7 of the Planning Code. Phase 1 was adopted by the Board of Supervisor on February 10, 2016 (Board File 141253), and signed by the Mayor on February 20, 2015 (Enactment Number 022-15).

Phase 1 of the Code Reorganization program streamlined the use definitions in the Planning Code by consolidating them into one section of the Code (Section 102). The Planning Department also reorganized Article 2, which includes Residential (RH, RM, and RC), Downtown (C-3), and Industrial (PDR, and M) zoning districts, by creating Zoning Control Tables similar to the ones already used in our Neighborhood Commercial Districts. The major benefit to Zoning Control Tables is that they allow users to obtain building standards and use controls for a particular zoning district in one easy to use chart. The Planning Commission unanimously recommended approval of the Phase 1, the Article 2 Reorganization Ordinance, in October of 2014.

Having successfully completed Phase 1 with significant community support, the Department is now proposing to initiate Phase 2. This phase of the project will focus on Article 7 of the Planning Code, which contains controls for Neighborhood Commercial Districts.

Phase 2 will delete the definitions in Article 7 (Planning Code Section 790) so that Neighborhood Commercial Districts use the same consolidated definitions created in Phase 1, and update the format of the Zoning Control Tables. The final phase, Phase 3, will do the same thing for Article 8 of the Planning Code (Mixed Use Districts), and will be initiated once Article 7 is complete.

One of the benefits of the new zoning control tables is that they will account for every use in the Code. This will allow users to easily find out what uses are allowed in a particular zoning district in one

chart, rather than having to rely on interpretations by the Zoning Administrator or complex cross referencing. It will also allow for greater customization by removing use groupings that limit how certain uses can be regulated.

#### **How Did We Get Here?**

The Planning Code maintained the same basic structure until 1986 when the NCD controls were added to the Code in Article 7. Prior to that, all development standards and general definitions were located in Article 1, use definitions and use controls were located in Article 2.

For its time, Article 7 was a dramatically new way of organizing the Planning Code and thinking about land use, primarily because it used vertical controls to regulate uses; however, because of the structural differences between Articles 2 and 7, and the desire to more closely regulate retail and service uses, Article 7 was given its own set of use definitions. When Article 8 was added to the Code, it followed the same format as Article 7 along with adding its own list of use definitions. Today we have three sets of use definitions in the Planning Code; one for R, C, M and PDR Districts in Section 102, one for NCDs in Article 7, and one for MUDs in Article 8. At the end of this process, there will only be one set of use definitions in the Planning Code (Section 102) and one standard format for zoning control tables.

## **ISSUES AND CONSIDERATIONS**

### **Two Ordinances, One Goal**

The proposed Article 7 Reorganization ordinance is actually split into two separate ordinances. One ordinance deletes all of the Article 7 zoning control tables and Article 7 use definitions in Section 790. The other ordinance adds the new zoning control tables back and makes other proposed changes. This was done to make the changes easier to identify and understand, and to make the 692 pages much more manageable. It also allows member so the public to only to print out half of the ordinance if they just want to see what is being changed. The Commission's single action today will initiate both ordinances.

### **Outreach and Process to Date**

The Department originally presented the Planning Code Reorganization effort to the Planning Commission on June 20, 2013. At that time, the Department gave an overview of how the Planning Code had grown over time from about 18 pages in the 1930s to the 1336+ page Code we have today, and how that growth added both necessary and unnecessary complexity to the Code. Staff also discussed the proposed organizational structure of the new Article 2 including the proposed use categories, the use of zoning control tables and consolidating definitions into Section 102.

After that presentation, the Department held a series of community outreach meetings both before and after the ordinance was initiated by the Planning Commission. At those meetings, the Department gave an overview of the proposal to interested community members and took feedback on the proposed reorganization. The Department spent the next few months further refining the proposed Ordinance based on the outreach meetings, comments from the Commission and further analysis of the Planning Code. When it was finally adopted by the Planning Commission in October of 2013, those that had participated in the outreach meetings expressed their support for the proposed amendments.

On June 3, staff sent out an invitation to a June 22 community outreach meeting for Phase 2 of the Code Reorganization Project to approximately 800 recipients. That outreach meeting is intended to go over the

proposed ordinance and answer questions. Staff anticipates hosting other outreach meetings between the initiation hearing on June 30 and the scheduled adoption hearing on September 22. The number and format of the meetings will largely depend on interest and need.

#### **Deletion of Section 316 and the 20-Day Notice**

Planning Code Section 316 outlines the procedures for CU authorization in Neighborhood Commercial, and Mixed Use Districts. The section is not substantially different than Section 306, which outlines the CU procedures for all other zoning districts in the City. In fact in several instances, the reader is directed back to Section 306. The one significant difference is the 20-day mailed notice required for CU applications in NC Districts. In all other districts this mailed notice is required 10 days prior to the hearing. The Department is proposing to maintain the 20 day noticing period and use it for all mailed CU, General Plan, and Variance notices in all zoning districts. Further, other requirements for posted notices and newspaper notices are already 20 days in all zoning districts. This change will help standardize the noticing requirements in the Planning Code.

#### **Changes to the Sunset Neighborhood Commercial Districts**

Unlike the Article 2 Reorganization, the proposed ordinance does include some substantive changes, most which were requested by Supervisor Tang. Over the last year, the Planning Department has been working with Supervisor Tang's office on amendments that she wanted to make to the NCDs within her Supervisorial District. Staff felt that it was possible to include these changes in the propose Article 7 reorganization.

Those specific changes are called out above, but essentially they would:

1. Make permanent the interim controls that require CU authorization for Medical Cannabis Dispensaries in the Sunset NCDs. The CU requirement was inadvertently taken out as part of the Article 2 Reorganization. As a stop gap measure, the Supervisor passed interim controls that put them back. The changes in this ordinance would make them permanent.
2. Require CU for Bars and Liquor Stores on the ground floor, where they are currently principally permitted. These uses typically require a CU authorization in most NCDs.
3. Require CU approval for Personal Service uses on the ground floor but principally permit Instructional Services on the second floor. These two uses were separated as part of the Article 2 Reorganization project, with the intention of regulating them separately in these zoning districts. The purpose of regulating them separately is to reduce the possibility of Personal Service uses located on the second floor being used as a cover for illicit activities, which is an issue that the Supervisor has been trying to address in her district.

## **IMPLEMENTATION**

The Department has determined that this ordinance will help the Department implement the Planning Code by standardizing the Planning Code, making it easier to use and understand.

## **REQUIRED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may initiate the proposed Ordinance and schedule a time for the ordinance to be heard for adoption.

## **RECOMMENDATION**

The Department recommends that the Commission recommend approval of the resolution to initiate the Planning Code amendments for consideration on or after September 22, 2016.

## **BASIS FOR RECOMMENDATION**

The Department recommends that the Commission initiate the proposed ordinance because it will allow for the Code Reorganization effort to move forward, adding more clarity and better organization to the Planning Code. Further, the Department believes that the September 22, 2016 adoption date will provide sufficient time for the community to review the proposed amendments and for the Department to conduct further outreach.

## **ENVIRONMENTAL REVIEW**

The proposal to amend the Planning Code is anticipated to result in no physical impact on the environment. Evaluation under CEQA will be complete prior to the initiation hearing.

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance. The Department held a pre-initiation outreach meeting on June 22 at the Planning Department's office. Additional outreach meetings between initiation and adoption are anticipated.

<b>RECOMMENDATION:</b>	<b>Initiate and Consider Adoption on or after September 22, 2016</b>
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### **Attachments:**

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Draft Ordinance Part 1 (Deletions)
- Exhibit C: Draft Ordinance Part 2 (Additions and Modifications)