



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Amendment

INITIATION HEARING DATE: JUNE 22, 2017

*Project Name:* **Article 8 Corrections**  
*Case Number:* **2017-003521PCA**  
*Initiated by:* Planning Commission  
*Staff Contact:* Audrey Butkus, Legislative Affairs  
[audrey.butkus@sfgov.org](mailto:audrey.butkus@sfgov.org), (415) 575-9129  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
[aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org), 415-558-6362  
*Recommendation:* **Initiate and Schedule for Adoption on or After July 13, 2017**

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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 correct several errors and make clarifying amendments to Article 8. The changes are intended to be corrective and clarifying in nature and are not considered substantive changes.

#### The Way It Is Now:

1. Sec. 823(c)(9)(A) states:  
"No portion of a nighttime entertainment use, as defined in Section 102.17 of this Code, shall be permitted within 200 linear feet of any property within a RED or RED-MX District . . .".
2. Sec. 827(a)(3) contains a spelling error in the word "liens".
3. Sec. 841.26 states the affordability requirement for MUR Districts is 15% onsite and 20% offsite. This requirement is not current.

#### The Way It Would Be:

The proposed legislation would make non-substantive changes, technical corrections, and clarifications to Code language identified above. Specifically:

1. Clarifies in the Western SOMA SUD that no portion of a non-accessory nighttime entertainment use shall be permitted within 200 feet of any property with a RED or RED-MX District. The language would be modified as follows:  
"No portion of a non-accessory nighttime entertainment use, as defined in Section 102.17 of this Code, shall be permitted within 200 linear feet of any property within a RED or RED-MX District . . .".

2. Corrects a spelling error to state “lines” instead of “liens” in Sec. 827(a)(3).
3. Clarifies that the affordability requirements in Sec. 841 for MUR Districts is subject to restrictions defined further in Sec. 415.

## **ISSUES AND CONSIDERATIONS**

### **Sec. 823(c)(9)(A)**

This section prohibits nighttime entertainment within 200 of RED and RED-MX Districts. The definition of nighttime entertainment includes Limited Live Performance Permits. However, because Limited Live Performance Permits are almost entirely permitted as accessory uses, they are not subject to this restriction (which only applies to principal uses). The proposed amendment would clarify this in the Planning Code.

### **Sec. 827(a)(3)**

This section contains a spelling error. The word “liens”, should be the word “lines”.

### **Sec. 841.26**

This table lists the affordability requirements for MUR Districts. The requirements that are listed are not up to date. These requirements, however, are being updated on a fairly regular basis, in addition to the fact that the affordability requirements are not always a straightforward percentage for both MUR and other zoning districts. Replacing the current text with “Restrictions apply, see Sec. 415”, which the proposed amendment would reference instead of listing specific required percentages of affordability, is intended to make sure a comprehensive and up-to-date figure is always referenced. Sec. 415 details the affordability requirements for all Residential and Live/Work development projects.

## **RECOMMENDATION**

The Department recommends that the Commission recommend approval of the resolution of intent to initiate the Planning Code amendments on or after July 13, 2017.

## **BASIS FOR RECOMMENDATION**

Due to multiple revisions of some Planning Code Sections, over time text has been dropped inadvertently, spelling errors have arisen, and amendments made by one ordinance are not reflected in subsequent legislation. This legislation is intended to correct accumulated errors in the Code and to update some sections where needed.

A substantial portion of the proposed changes can be classified as “good government” measures meant to improve the clarity of the Planning Code. Such changes are meant to improve the ability of decision makers, Department staff, and the public to understand, interpret, and implement the requirements of the Code.

## **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.

## **IMPLEMENTATION**

The Department determined that this Ordinance will not impact our current implementation procedures.

**ENVIRONMENTAL REVIEW**

Staff anticipates that the proposed ordinance will not be considered a project under CEQA. A formal CEQA determination will be conducted prior to the Commission's final action.

**PUBLIC COMMENT**

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

<b>RECOMMENDATION:</b> <b>Recommendation of Approval</b>
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**Attachments:**

- Exhibit A:     Draft Planning Commission Resolution
- Exhibit B:     Board of Supervisors File No. TBD



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Draft Resolution

HEARING DATE JUNE 22, 2017

*Project Name:* **Article 8 Corrections**  
*Case Number:* **2017-003521PCA** [Board File No. TBD]  
*Initiated by:* Planning Commission  
*Staff Contact:* Audrey Butkus, Legislative Affairs  
 audrey.butkus@sfgov.org, 415-575-9129  
*Reviewed by:* Aaron D Starr, Manager of Legislative Affairs  
 aaron.starr@sfgov.org, 415-558-6362  
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**INITIATING AMENDMENTS TO THE PLANNING CODE TO CORRECT TYPOGRAPHICAL ERRORS, CLARIFY NIGHTTIME ENTERTAINMENT RESTRICTIONS, AND UPDATE INCLUSIONARY AFFORDABLE HOUSING REQUIREMENTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider initiation of the proposed Ordinance on June 22, 2017; and,

WHEREAS, the proposed amendments would amend the Planning Code to correct several errors and make clarifying amendments to Article 8; and

WHEREAS, the proposed amendments are intended to be corrective and clarifying in nature and are not considered substantive changes; and

WHEREAS, the Environmental Review will be completed prior to the Commission taking action on this Ordinance; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that pursuant to Planning Code Section 302(b), the Planning Commission Adopts a Resolution to Initiate amendments to the Planning Code;

AND BE IT FURTHER RESOLVED, that pursuant to Planning Code Section 306.3, the Planning Commission authorizes the Department to provide appropriate notice for a public hearing to consider the above referenced Planning Code amendments contained in the draft ordinance, approved as to form by the City Attorney in Exhibit A, to be considered at a publicly noticed hearing on or after **July 13, 2017**.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 22, 2017.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:

FILE NO.

ORDINANCE NO.

1 [Planning Code – Article 8 Corrections]

2

3 **Ordinance amending the Planning Code to correct typographical errors, clarify**  
4 **nighttime entertainment restrictions, and update inclusionary affordable housing**  
5 **requirements; affirming the Planning Department’s determination under the California**  
6 **Environmental Quality Act; and making findings of consistency with the General Plan,**  
7 **the eight priority policies of Planning Code Section 101.1, and making findings as**  
8 **required by Planning Code Section 302.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
12 **Board amendment additions** are in double-underlined Arial font.  
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
14 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
15 subsections or parts of tables.

13

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

15

16 Section 1. Findings.

17 (a) The Planning Department has determined that the actions contemplated in this  
18 ordinance comply with the California Environmental Quality Act (California Public Resources  
19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
20 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference. The Board affirms this  
21 determination.

22 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
23 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
24 City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board

25

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
2 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
4 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in  
5 Commission Resolution No. \_\_\_\_\_, and the Board incorporates such reasons herein by  
6 reference.

7

8 Section 2. The Planning Code is hereby amended by revising Sections 823, 827, and  
9 841.26, to read as follows:

10 **SEC. 823. WESTERN SOMA SPECIAL USE DISTRICT.**

11 \* \* \* \*

12 (c) **Controls.** All provisions of the Planning Code shall apply except as otherwise  
13 provided in this Section.

14 \* \* \* \*

15 (9) **Buffers from Nighttime Entertainment and Animal Services.** Additional  
16 requirements applicable to nighttime entertainment uses and kennels, as defined in Section  
17 224, are as follows:

18 (A) **Nighttime Entertainment.** No portion of a *non-accessory* nighttime  
19 entertainment use, as defined in Section 102.17 of this Code, shall be permitted within 200  
20 linear feet of any property within a RED or RED-MX District. This buffer shall not apply to any  
21 nighttime entertainment use within the WMUO District where a nighttime entertainment use  
22 that was established with a building permit application or a permit from the Entertainment  
23 Commission or San Francisco Police Department was in operation within five years prior to  
24 submission of a building permit application to re-establish a nighttime entertainment use.

25 \* \* \* \*

1 **SEC. 827. RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE DISTRICT (RH-DTR).**

2 (a) **Building Standards.**

3 \* \* \* \*

4 (3) **Required Streetwall.** Building area below 85 feet in height is required to be  
 5 built to 100 percent of all property ~~lines~~ lines facing public rights-of-way, except where  
 6 setbacks are required by this Section and except where publicly accessible open space is  
 7 provided according to the provisions of this Section. Recesses, insets and breaks between  
 8 buildings are permitted to provide vertical articulation to the facade, provided the overall  
 9 integrity of the streetwall is maintained.

10 \* \* \* \*

11  
 12 **SEC. 841. MUR – MIXED USE-RESIDENTIAL DISTRICT.**

13 \* \* \* \*

14 **Table 841**

15 **MUR – MIXED USE-RESIDENTIAL DISTRICT ZONING CONTROL TABLE**

<i>No.</i>	<i>Zoning Category</i>	<i>§ References</i>	<i>Mixed Use-Residential District Controls</i>
<b>Building and Siting Standards</b>			
* * * *	* * * *	* * * *	* * * *
<b>841.26</b>	<b>Affordability Requirements</b>	<b>§ 415</b>	<i>15% onsite/20% off site</i> <u>Restrictions apply, see Section 415</u>
* * * *	* * * *	* * * *	* * * *

23 \* \* \* \*



1           Section 3. Effective Date. This ordinance shall become effective 30 days after  
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
4 of Supervisors overrides the Mayor’s veto of the ordinance.

5  
6           Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
10 additions, and Board amendment deletions in accordance with the “Note” that appears under  
11 the official title of the ordinance.

12  
13  
14 APPROVED AS TO FORM:  
15 DENNIS J. HERRERA, City Attorney

16 By: \_\_\_\_\_  
17       KATE H. STACY  
18       Deputy City Attorney

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