



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

INITIATION HEARING DATE: JUNE 22, 2017
ADOPTION HEARING DATE: SEPTEMBER 7, 2017

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Project Name: **Article 8 Corrections**
Case Number: **2017-003521PCA**
Initiated by: Planning Commission
Staff Contact: Audrey Butkus, Legislative Affairs
audrey.butkus@sfgov.org, (415) 575-9129
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval**

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.

BACKGROUND

On June 22, 2017, this item came before the Commission to be initiated as a proposed Planning Code Amendment. The Commission voted 6:0 to approve the initiation of the proposed ordinance with Commissioners Hillis, Fong, Koppel, Melgar, Moore, and Richards voting in the affirmative and Commissioner Johnson being absent. There was no public comment or Commissioner comments made on the initiation of the proposed ordinance.

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, and are being updated on a fairly regular basis. Further, 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” 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 proposed Ordinance and adopt the attached Draft Resolution to that effect.

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 recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

IMPLEMENTATION

The Department determined that this Ordinance will positively impact our current implementation procedures by providing more accurate information .

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

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

RECOMMENDATION: Recommendation of Approval
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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 SEPTEMBER 7, 2017

Project Name: **Article 8 Corrections**
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Initiated by: Planning Commission
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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND 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 the proposed Ordinance on September 7, 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 proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment; 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 the Planning Commission hereby recommends that the Board of Supervisors **approve** the proposed ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

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.

1. **General Plan Compliance.** The proposed Ordinance are consistent with the following Objectives and Policies of the General Plan:

GENERAL PLAN PRIORITIES

The General Plan seeks ensure that the qualities that make San Francisco unique are preserved and enhanced while also serving as the embodiment of the community's vision for the future of San Francisco. As a whole, the General Plan's goals are to: create and maintain the economic, social, cultural, and esthetic values that establish the desirable quality and unique character of the city; improve the city as a place for healthful, safe, and satisfying living by providing adequate open spaces, community facilities and affordable housing of a high standard; ensuring commerce and industry are able to thrive; coordinating the varied patterns of land use with circulation routes and facilities that are required for the efficient movement of people and goods; and reflecting the growth and development of the city with the surrounding region.

The proposed Ordinance will serve the General Plan by amending sections of the Planning Code to be consistent, clear, and concise. These amendments will improve the quality of the Planning Code and thereby make it easier for the objectives and policies of the Code to be carried out.

HOUSING ELEMENT

OBJECTIVE 10

ENSURE A STREAMLINED, YET THOROUGH, AND TRANSPARENT DECISION-MAKING PROCESS.

Policy 10.1

Create certainty in the development entitlement process, by providing clear community parameters for development and consistent application of these regulations.

The proposed Ordinance will bring more consistency to the Planning Code. The corrections made to Article 8 are intended to bring certainty to the development process and Planning Code policies by providing clear community parameters for development and consistent application of these regulations.

2. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

3. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 7, 2017.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: September 7, 2017

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.

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

17 Section 1. Findings.

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

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

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 *liens 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**

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

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: Not defined as a project under CEQA Guidelines
15 DENNIS J. HERRERA, City Attorney Sections 15378 and 15060(c)(2) because it does not
16 result in a physical change in the environment.

17 By:


KATE H. STACY
Deputy City Attorney

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