



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: JUNE 25, 2020

90-DAY DEADLINE: AUGUST 30, 2020

Project Name: Arts Activities and Social Service or Philanthropic Facilities as Temporary Uses
Case Number: 2020-003039PCA [Board File No. 200215]
Initiated by: Supervisor Ronen / Introduced February 25, 2020
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.merlone@sfgov.org, (415) 575-9129
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval with Modifications**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to allow Arts Activities and Social Service or Philanthropic Facilities as a temporary use in vacant ground-floor commercial spaces in all districts except Residential.

The Way It Is Now:

Sections 205 through 205.5 authorize various types of temporary uses to operate for time limits that vary between 24 hours and four years with options for extension. Temporary uses are further defined by unique uses allowed, operating hours, fenestration requirements and changes of use.

The Way It Would Be:

The proposed Ordinance would establish a new type of Temporary Use authorization (TUA) which would allow Arts Activities and Social Service or Philanthropic Facility Uses as a temporary use in any non-Residential zoned, vacant ground-floor commercial space. The initial approval period would be for one year with a one-year extension available at the discretion of the Planning Director. No fenestration or storefront transparency violations may be further exacerbated in their non-compliance by the proposed temporary use.

BACKGROUND

Empty storefronts are pervasive throughout San Francisco and have a harmful effect on the health and well-being of the City's commercial corridors. At the same time, the City's nonprofit agencies and community-serving organizations are increasingly struggling with displacement, planned and unplanned transitions between facilities that disrupt operations, and a general lack of stability in the places that they operate. This Ordinance provides a temporary use option which would enable nonprofit agencies

providing arts, philanthropic, or social services and that are experiencing transitions in their facilities to operate out of unused vacant commercial storefront space for a temporary period.

ISSUES AND CONSIDERATIONS

Anticipated Amendments

The Planning Department has been working in conjunction with Supervisor Ronen's Office to adapt the proposed Ordinance to create permit avenues for COVID-19 recovery and relief efforts. The anticipated amendments are described below as well as attached as Exhibit B.

- 1. Define COVID-19 Relief and Recovery uses that are eligible for the proposed TUA.** One of the many unfortunate consequences of the pandemic will likely be an increase in the amount of storefront vacancies across the City. The loss of profits from the shutdown, combined with the costs of reworking their space to operate within the appropriate protocols for social distancing, may prove too high a burden for some businesses that were already struggling financially.¹ In addition to an expected rise in storefront vacancies, the pandemic has exacerbated the gap in services to San Francisco's most vulnerable populations. Now more than ever, San Francisco residents will need access to COVID-19 testing sites, essential items distribution, sanitation stations, and safe resting places. As public transportation cannot currently be relied on for at-risk populations to safely travel to city centers and receive necessary aide, these essential services need to be made accessible across all neighborhoods in the City.

Now more than ever, San Francisco residents will need access to COVID-19 testing sites, essential items distribution, sanitation stations, and safe resting places.

The City's Emergency Operations Center (EOC) released a report in May which detailed the greatest needs of the Tenderloin residents during the COVID-19 Public Health Emergency². A similar study is currently being conducted for the Mission neighborhood. Supervisor Ronen intends to take the findings from the Tenderloin EOC report and the pending Mission EOC report to inform the types of uses that should be supported by the proposed TUA permit under the umbrella of COVID-19 Relief and Recovery uses. The largest areas of need identified in the EOC's Tenderloin Neighborhood Plan were: 1) food insecurity needs, 2) distribution of essential items and resources, 3) sites for safe social distancing and/or daytime resting places, & 4) access to bathrooms and handwashing. It is Supervisor Ronen's intention to include uses similar to those described above, as well as COVID-19 testing sites, as descriptors for the types of uses that would be allowed within the "COVID-19 Relief and Recovery" section of the proposed TUA. If approved, this amendment would any non-Residentially zoned, vacant ground-floor commercial storefront in the City to operate a COVID-19 Relief and Recovery use through Sec. 205's Interim Activities in

¹ J. Sabatini, "San Francisco plots economic course to rise from out of the recession," *The San Francisco Examiner*, 01-May-2020. [Online]. Available: <https://www.sfexaminer.com/news/san-francisco-plots-economic-course-from-out-of-the-recession/>

² <https://sf.gov/sites/default/files/2020-05/Tenderloin%20Neighborhood%20Plan.050620.pdf>

Vacant Ground-Floor Commercial Spaces TUA. "COVID-19 Relief and Recovery" would include any use providing direct services in housing, employment, health, education and training, legal assistance, public benefits, enrollment and financial assistance preparing and distributing food, water and other essential items, establishing testing facilities, or providing access to restroom or handwashing facilities, or performing any other service that the Department determines will aid COVID-19 recovery and relief efforts. As is required for the Social Service or Philanthropic Facility and Arts Activities uses operating under this TUA, the COVID-19 Relief and Recovery use would be able to operate for an initial period of one year, with a one-year extension possible at the discretion of the Planning Director. It should be noted that under Chapter 79 and 79A of the Administrative Code, City-operated COVID-19 Relief and Recovery uses would be subject the notification requirements established in Proposition I, passed by the voters in 1998.

2. Create a fee waiver for COVID-19 Relief and Recovery uses seeking a TUA through section 205.6.*

The services provided under the COVID-19 Relief and Recovery uses of Sec. 205 are responding to the declared state of emergency in San Francisco. As such, these temporary uses should be encouraged and face as little bureaucratic hurdles as possible to ensure their establishment. One such way to reduce the barriers to establishment is through a fee waiver for any TUA filed under 205.6 for COVID-19 Relief and Recovery. One small challenge that should be noted is these types of permits may occasionally require additional review by the Director to ensure the proposed use meets the Department's definition of a COVID-19 Relief and Recovery use. The ability for additional review where there may be questions on whether a proposed TUA application would qualify may delay approval of these types of applications, however the Department feels it is necessary to ensure the integrity of this use type given the fee waiver associated with it.

The Department processed 74 Temporary Use permits in 2019 which generated approximately \$80k in fees. Although the addition of a new Temporary Use authorization under Section 205.6 will likely increase the number of TUA applications filed, the fee waiver proposes to exempt a small and limited percentage of these new TUA's. All TUA permits *combined* make up a very small amount of the total permit and fees revenue for the Department; therefore, the Department does not anticipate a major financial impact if the fee waiver for COVID-19 Relief and Recovery TUA's filed under Section 205.6 is adopted into the proposed Ordinance.

**Exhibit B, which shows the anticipated amendments to the original Ordinance, display the proposed TUA as Sec. 205.7, not 205.6. References to 205.6 in the staff report refer to its location in the original Ordinance. When referencing Exhibit B, please refer to Sec. 205.7.*

Arts Activities uses are vital to ensuring residents can access Arts education, creative spaces, and view artistic performances, yet they are often constrained by high rental costs and zoning controls.

Arts Activities

Arts Activities generally include uses such as studios for dance or music, arts creation workshops (ceramics, jewelry, etc), and photography and film development spaces. Arts Activities uses are vital to ensuring residents can access Arts education, creative spaces, and view artistic performances, yet they are often

constrained not only by rental costs, but also by zoning controls. Prior to a code reorganization in 2017, Article 7, which regulates the Neighborhood Commercial Districts, contained its own Use definitions. “Arts Activities” was not a defined Use in Article 7. Article 7 was reorganized in 2017 to consolidate its definitions with the rest of the definitions in the Planning Code. As such, any Use type previously undefined in Article 7 (but that existed in the rest of the Code) was listed in Article 7 as “Not Permitted”. There have been several initiatives to gradually make Arts Activities more permissive in NCD’s which have resulted in the Use being permitted in the ground floor of Supervisorial Districts 1, 4, 5, 10, and 11. The inclusion of Arts Activities in the proposed TUA will assist artists and their organizations by opening temporary space across the City, which may prevent an evicted Arts Activities Use from needing to leave the City while looking for another permanent location, and will allow residents of Supervisorial Districts that have not permitted Arts Activities in their NCD’s to experience the benefits of an Arts Activity use in their neighborhood, even if only temporarily.

General Plan Compliance

Objective 3 of the Community Safety Element is to “establish strategies to address the immediate effects of a disaster”. Policy 3.9 further identifies that the Department should “work collaboratively with nonprofit partners to assist vulnerable populations during and immediately after a disaster and to ensure resumption of social services directly after a disaster”. The proposed Ordinance, with the anticipated amendments is will assist in the COVID-19 Relief and Recovery process by expanding temporary use authorizations to vacant commercial storefronts across all non-Residential districts in the City in order to provide services of a charitable nature to local residents. Policy VI-1.1 of the Arts Element is to “review, revise and coordinate city permit policies and codes to better meet the needs of the arts.” The proposed Ordinance will assist Arts Activities uses in finding affordable, temporary space in the event of a lease gap or eviction.

Racial and Social Equity Analysis

Understanding the benefits, burdens and opportunities to advance racial and social equity that proposed Planning Code and Zoning Map amendments provide is part of the Department’s Racial and Social Equity Initiative. This is also consistent with the Mayor’s Citywide Strategic Initiatives for equity and accountability and with the Office of Racial Equity mandates, which requires all Departments to conduct this analysis.

The Planning Code amendments in the proposed Ordinance, in combination with the anticipated amendments from Supervisor Ronen, will advance racial and social equity by increasing access to essential services and resources for vulnerable communities in the City, and by helping reduce displacement pressures on nonprofits providing essential community services. A waiver for recovery and relief services, in particular, will help get essential services and uses more expeditiously on the ground to people in need.

Data from a SF Budget and Legislative Analyst report documented the challenges nonprofits face in San Francisco due to high rents.³ COVID-19 data also reveal that the greatest impacts of the pandemic are

³ http://www.sfhsn.org/documents/hsn_iss_oth_blanprnt_10-09-13.pdf

affecting the City's most vulnerable residents.^{4 5} Many of the city's nonprofits, already stretched thin, are currently focused on response efforts, such as food access, in the neighborhoods where they are located. In addition, in 2017 the Metropolitan Transportation Commission conducted an equity analysis to identify a series of disadvantaged communities otherwise identified as Communities of Concern (COCs) in San Francisco. San Francisco's COCs include a diverse cross-section of populations and communities that could be considered disadvantaged or vulnerable now and in the future. COCs can have high levels of households with minority or low-income status, seniors, people who have limited English proficiency, people who have disabilities, and more.

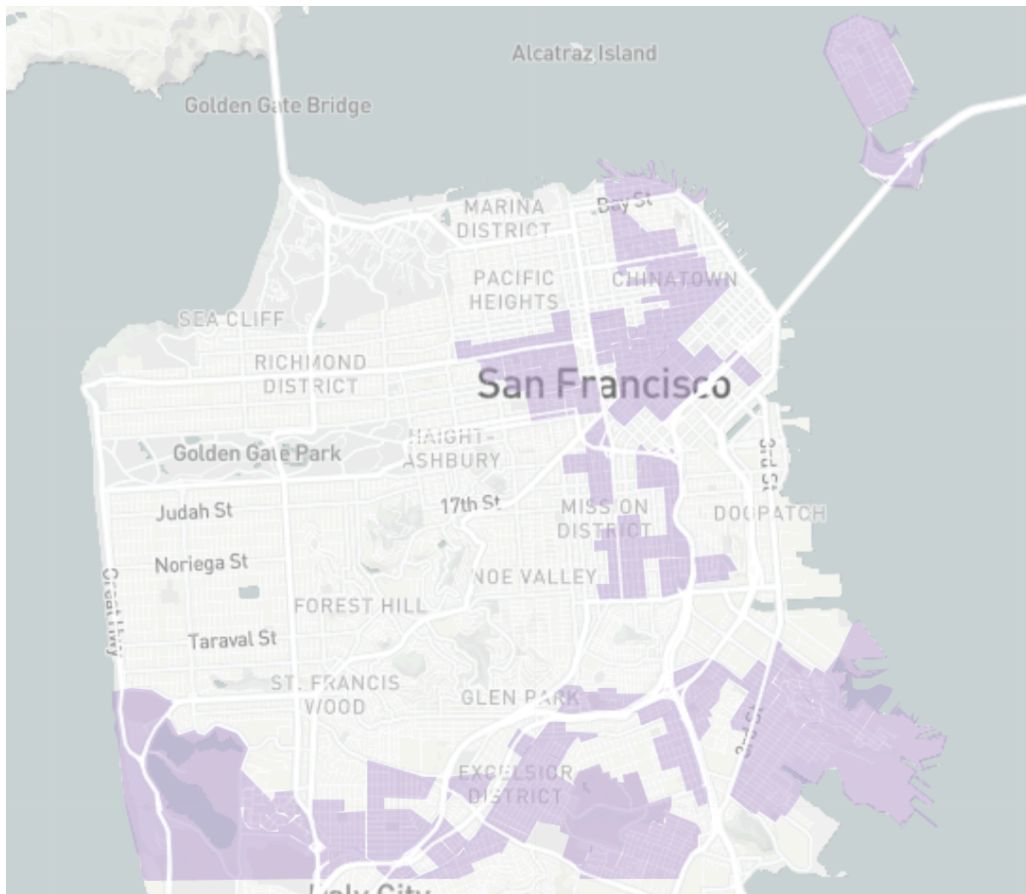


Figure 1: COC's Mapped. <https://coc-map.sfcta.org/>

The study revealed that many of the COCs identified are in the eastern and southern outer reaches of the City. It is these same populations that are more likely to be dependent on public transportation for travel outside their neighborhood, and yet the COVID-19 pandemic has made travel especially difficult due to

⁴ <https://data.sfgov.org/stories/s/w6za-6st8>

⁵ J. Palomino, T. Sanchez, "Latinos' Coronavirus Burden," *The San Francisco Chronicle*, 08-May-2020. [Online]. Available: <https://www.sfchronicle.com/bayarea/article/Bay-Area-Latinos-hit-hardest-by-coronavirus-15252632.php>

mandatory reduced ridership capacity and other sanitation concerns. Traditionally, assistance organizations tend to be located in clusters towards the center of the City. In addition to expanding the ability of temporary uses to be responsive to the current COVID-19 relief and recovery needs across the City, the proposed Ordinance's creation of a TUA that allows Social Service or Philanthropic Facility and COVID-19 Relief and Recovery uses to locate in any non-Residential district's vacant commercial storefronts will allow these services to come to neighborhoods where there may not be as many services and be accessed by the residents who need them most. In addition, the allowance for Arts Activities to operate on a Temporary basis across the City's vacant commercial storefronts will create the opportunity for a use type that broadens perspectives on culture, craft, and expression, to neighborhoods wherein the use has not been permitted for several years. Expanding Arts Activities uses to all neighborhoods across the City should be encouraged to increase access to life-enriching activities, rather than concentrating these uses in clusters of the City where they remain inaccessible for some of the most vulnerable San Franciscans.

Implementation

The Department has determined that this Ordinance will impact our current implementation procedures; however, the proposed changes can be implemented without increasing permit costs or review time. The potential increase in TUA's filed is not anticipated to have a noticeable impact on staff time and the proposed waiver for COVID-19 Relief and Recovery uses is estimated to be a small financial loss that can be absorbed by the Department without adjusting other permit costs.

RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Modify the Ordinance to include all anticipated amendments outlined in the Issues and Considerations Section.

BASIS FOR RECOMMENDATION

Prior to the COVID-19 Public Health Emergency, charitable organizations and Arts Activity uses were already facing challenges with finding affordable spaces to operate. The proposed Ordinance as originally drafted sought to create a stop-gap measure for these types of uses that may have been facing a pending eviction, while also helping to temporarily fill vacant storefronts. The emergence of the pandemic brought with it an opportunity for the proposed Ordinance to be further amended with the goal of providing assistance in the COVID-19 Relief and Recovery effort. It is important that relief is able to be provided to San Francisco's residents in an expedient and efficient manner. The anticipated changes from Supervisor Ronen, in combination with the original Ordinance, will open avenues for non-profit organizations and relief efforts to temporarily locate in the neighborhoods with the populations they serve, while avoiding delays caused by bureaucratic hurdles.

Recommendation 1: Include the following anticipated amendments from Supervisor Ronen.

- a. **Define COVID-19 relief and recovery uses that are eligible for the proposed TUA.**

Staff recommends that the Commission include COVID-19 Relief and Recovery uses in the proposed TUA because they will be essential to ensuring residents across the City are receiving the proper aide

and assistance to recover from the pandemic. The pandemic has exacerbated the gap in services to San Francisco's most vulnerable populations and is expected to result in storefront vacancies caused by the shutdown. As public transportation cannot currently be relied on for at-risk populations to safely travel to city centers and receive necessary aide, these essential services need to be made accessible across all neighborhoods in the City.

b. Create a fee waiver for COVID-19 relief and recovery uses seeking a TUA through section 205.6.

Staff recommends a fee waiver for all 205.6 TUA's determined to be a COVID-19 Relief and Recovery use because the services provided under the COVID-19 Relief and Recovery uses of Sec. 205.6 are responding to the declared state of emergency in San Francisco. As such, these temporary uses should be encouraged and face as little bureaucratic hurdles as possible to ensure their establishment.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

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.

PUBLIC COMMENT

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

Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Anticipated Changes to Board File No. 200215
- Exhibit C: Board of Supervisors File No. 200215



SAN FRANCISCO PLANNING DEPARTMENT

EXHIBIT A

Planning Commission Draft Resolution HEARING DATE JUNE 25, 2020

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: **Arts Activities and Social Service or Philanthropic Facilities as Temporary Uses**
Case Number: **2020-003039PCA** [Board File No. 200215]
Initiated by: Supervisor Ronen / Introduced February 25, 2020
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

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO ALLOW ARTS ACTIVITIES AND SOCIAL SERVICE OR PHILANTHROPIC FACILITIES AS A TEMPORARY USE IN VACANT GROUND-FLOOR COMMERCIAL SPACE; 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, on February 25, 2020 Supervisor Ronen introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 200215, which would amend the Planning Code to allow Arts Activities and Social Service or Philanthropic Facilities as a temporary use in vacant ground-floor commercial space;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on June 25, 2020; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c) and 15378; 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

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** 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:

Prior to the COVID-19 Public Health Emergency, charitable organizations and Arts Activity uses were already facing challenges with finding affordable spaces to operate. The proposed Ordinance as originally drafted sought to create a stop-gap measure for these types of uses that may have been facing a pending eviction, while also helping to temporarily fill vacant storefronts. The emergence of the pandemic brought with it an opportunity for the proposed Ordinance to be further amended with the goal of providing assistance in the COVID-19 Relief and Recovery effort. It is important that relief is able to be provided to San Francisco's residents in an expedient and efficient manner. The anticipated changes from Supervisor Ronen, in combination with the original Ordinance, will open avenues for non-profit organizations and relief efforts to temporarily locate in the neighborhoods with the populations they serve, while avoiding delays caused by bureaucratic hurdles.

Recommendation 1: Include the following anticipated amendments from Supervisor Ronen.

a. Define COVID-19 relief and recovery uses that are eligible for the proposed TUA.

The Commission recommends including COVID-19 Relief and Recovery uses in the proposed TUA because they will be essential to ensuring residents across the City are receiving the proper aide and assistance to recover from the pandemic. The pandemic has exacerbated the gap in services to San Francisco's most vulnerable populations and is expected to result in storefront vacancies caused by the shutdown. As public transportation cannot currently be relied on for at-risk populations to safely travel to city centers and receive necessary aide, these essential services need to be made accessible across all neighborhoods in the City.

b. Create a fee waiver for COVID-19 relief and recovery uses seeking a TUA through section 205.6.

The Commission recommends a fee waiver for all 205.6 TUA's determined to be a COVID-19 Relief and Recovery use because the services provided under the COVID-19 Relief and Recovery uses of Sec. 205.6 are responding to the declared state of emergency in San Francisco. As such, these temporary uses should be encouraged and face as little bureaucratic hurdles as possible to ensure their establishment.

1. In the City's FY 12-13 budget, responsibility for providing strategic direction, planning and oversight of early care and education programs was consolidated in the new agency, OECE
2. The proposed Ordinance will correct the Planning Code so that it is in line with the City's current practices and adopted budget.
3. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

COMMUNITY SAFETY ELEMENT

OBJECTIVE 3

ESTABLISH STRATEGIES TO ADDRESS THE IMMEDIATE EFFECTS OF A DISASTER.

Policy 3.9

Work collaboratively with nonprofit partners to assist vulnerable populations during and immediately after a disaster and to ensure resumption of social services directly after a disaster.

The proposed Ordinance, with the anticipated amendments is will assist in the COVID-19 Relief and Recovery process by expanding temporary use authorizations to vacant commercial storefronts across all non-Residential districts in the City in order to provide services of a charitable nature to local residents.

ARTS ELEMENT

OBJECTIVE VI.1

SUPPORT THE CONTINUED DEVELOPMENT AND PRESERVATION OF ARTISTS' AND ARTS ORGANIZATIONS' SPACES.

Policy VI.1.1

Review, revise and coordinate city permit policies and codes to better meet the needs of the arts.

The proposed Ordinance will assist Arts Activities uses in finding affordable, temporary space in the event of a lease gap or eviction.

4. **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.

5. **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 APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on June 25, 2020.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: June 25, 2020

REVISED LEGISLATIVE DIGEST

[Planning Code - Arts Activities, Social Service or Philanthropic Facilities, and COVID-19 Recovery Activities as Temporary Uses; Fee Waiver for COVID-19 Recovery Activities]

Ordinance amending the Planning Code to allow Arts Activities, Social Service or Philanthropic Facilities, and COVID-19 Recovery Activities as a temporary use in vacant ground-floor commercial space; affirming the Planning Department’s determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

Existing Law

Sections 205 through 205.5 authorize various types of temporary uses to operate for time limits that vary between 24 hours and four years with options for extension.

Amendments to Current Law

This ordinance would enact an additional form of temporary use which would allow Arts Activities, Social Service or Philanthropic Facility Uses, and COVID-19 Relief and Recovery uses for up to two years in a vacant ground-floor commercial space in all use districts other than Residential Districts. The temporary use may be provided, in whole or in part, either on site or off site, and such use may also conduct its administrative activities on site as a sole principal use. If the applicant for the temporary use proposes a COVID-19 Recovery and Relief use, the Planning Department fee for reviewing the application shall be waived.

The approval or commencement of the temporary use is not considered a conversion, discontinuance, abandonment, or change of the current authorized use. Authorization of the temporary use does not waive the requirement to obtain any additional permits that may be required by other City Codes or preclude authorization of any other temporary uses recognized under Sections 205 et seq.

Arts Activities are defined in Section 102 of the Planning Code as a use that “includes performance, exhibition (except exhibition of films), rehearsal, production, post-production and some schools of any of the following: dance; music; dramatic art; film; video; graphic art; painting; drawing; sculpture; small-scale glassworks; ceramics; textiles; woodworking; photography; custom-made jewelry or apparel; and other visual, performance, and sound arts and craft.” It excludes accredited Schools and Post-Secondary Educational Institutions and includes commercial arts and art-related business service uses, as described in the definition. A Social Service or Philanthropic Facility use is defined in Section 102 as “an Institutional Community Use providing assistance of a charitable or public service nature, and not of a profit-making or commercial nature.” A COVID-19 Relief and Recovery use is defined in the ordinance as “any use providing direct services in housing, employment, health, education and training, legal assistance, public benefits, enrollment and financial assistance preparing and distributing food, water and other essential items, establishing testing facilities, or

FILE NO.

providing access to restroom or handwashing facilities, or performing any other service that the Department determines will aid COVID-19 relief and recovery efforts.”

Background Information

Empty storefronts are currently pervasive throughout San Francisco, which is having a harmful effect on the health and well-being of the City’s commercial corridors. Meanwhile, arts organizations and community-serving agencies are increasingly struggling with displacement, planned and unplanned transitions between facilities that disrupt operations, and a general lack of stability in the places where they operate. This ordinance provides a temporary use option that will enable arts and community service organizations to operate out of unused or underused vacant storefront properties and allow these vital services to remain and thrive in San Francisco. In turn, their presence will help to mitigate the neighborhood blight caused by vacant storefronts, encourage economic activity along commercial corridors struggling with vacancies, and promote arts, cultural and civic activities in San Francisco. Allowing art and community service activities to operate as temporary uses in vacant storefront properties is intended to help preserve and promote the cultural, socioeconomic, and historical context of the surrounding neighborhood, especially within vulnerable communities.

This temporary use option provides multiple benefits. For the City and its neighborhoods, it helps to mitigate the presence of neighborhood blight; encourages economic activity along commercial corridors struggling with vacancies; promotes arts, cultural, and civic activities; and facilitates constructive, efficient, and community-affirming uses of unused or underused private property for the public good. For nonprofit agencies, it provides access to new spaces in which to operate on either a short-term or mid-term basis that can assist them during periods of transition between facilities. For property owners, it provides an efficient way of activating an otherwise unused storefront property that would allow owners to avoid costly fees for blight violations, fees for registering a vacant storefront under the City’s Vacant and Abandoned Commercial Storefront program, or any new fees associated with the proposed vacancy tax on the March, 2020 ballot.

n:\legana\as2020\2000288\01455804.docx

1 Planning Code - Arts Activities, and Social Service or Philanthropic Facilities, and COVID-19
 2 Recovery Activities as Temporary Uses; Fee Waiver for COVID-19 Recovery Activities

3 **Ordinance amending the Planning Code to allow Arts Activities, and Social Service or**
 4 **Philanthropic Facilities, and COVID-19 Recovery Activities as a temporary use in**
 5 **vacant ground-floor commercial space; affirming the Planning Department's**
 6 **determination under the California Environmental Quality Act; making findings of**
 7 **consistency with the General Plan and the eight priority policies of Planning Code,**
 8 **Section 101.1; and adopting findings of public necessity, convenience, and general**
 9 **welfare under Planning Code, Section 302.**

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

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

18 Section 1. Findings.

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

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

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the 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 Planning Code will serve the public necessity, convenience, and welfare for the reasons set
5 forth in Planning Commission Resolution No. _____, and the Board incorporates such
6 reasons herein by reference.

7
8 Section 2. Legislative Purpose and Intent.

9 (a) Empty storefronts are currently pervasive throughout San Francisco, which is
10 having a harmful effect on the health and well-being of the City’s commercial corridors.
11 Meanwhile, arts organizations and community-serving agencies are increasingly struggling
12 with displacement, planned and unplanned transitions between facilities that disrupt
13 operations, and a general lack of stability in the places where they operate.

14 (b) Low-barrier planning permits such as temporary use authorizations that will
15 enable arts and community service organizations to operate out of unused or underused
16 vacant storefront properties will allow these vital services to remain and thrive in San
17 Francisco. In turn, their presence will help to mitigate the neighborhood blight caused by
18 vacant storefronts, encourage economic activity along commercial corridors struggling with
19 vacancies, and promote arts, cultural and civic activities in San Francisco.

20 (c) Allowing art and community service activities to operate as temporary uses in
21 vacant storefront properties is intended to help preserve and promote the cultural,
22 socioeconomic, and historical context of the surrounding neighborhood, especially within
23 vulnerable communities.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Section ~~3 2~~. Article 2 of the Planning Code is hereby amended by revising Section 205 and adding Section 205.7, to read as follows:

SEC. 205. TEMPORARY USES, GENERAL.

(a) The temporary uses listed in Sections 205.1 through ~~205.7~~ ~~205.5~~, where not otherwise permitted in the district, may be authorized as provided therein and in this Section 205, up to the time limits indicated. Further time for such uses may be authorized only by action upon a new application, subject to all the requirements for the original application, unless otherwise indicated in Sections 205.1 through ~~205.7~~ ~~205.5~~.

* * * *

(d) The time periods referenced in Sections 205.1 through 205.3 and Sections ~~205.5~~ ~~through 205.7~~ are consecutive hours or consecutive calendar days; they are not the total number of hours or days that the use is in operation. Therefore, a 24-hour authorization that begins at 6:00 a.m. expires at 6:00 a.m. the following day, even if the use was in operation only eight hours of that 24-hour period. Similarly, a 60-day authorization expires after 60 calendar days even though the use may only have been open for business three days per week during that 60-day period. Hours or days of unused authorization cannot be stored or credited.

(e) Any temporary uses authorized pursuant to this Section 205 and Sections 205.1 through ~~205.7~~ ~~205.6~~ ~~205.5~~ shall not be required to comply with any Planning Code requirements that are not expressly applicable to such temporary uses under this Section 205 and Sections 205.1 through ~~205.7~~ ~~205.6~~ ~~205.5~~, provided, however, any temporary uses authorized pursuant to this Section 205 and Sections 205.1 through ~~205.7~~ ~~205.6~~ ~~205.5~~ shall

1 be subject to all applicable initiative ordinances approved by the voters of the City and County
2 of San Francisco.

3 (f) The decision of the Planning Director to authorize or deny authorization of any
4 temporary use pursuant to this Section 205 and Sections 205.1 through 205.7 ~~205.5~~ may be
5 appealed to the Board of Appeals within 15 days after the date of the decision by filing a
6 written notice of appeal with that body.

7 **SEC. 205.7 205.6. TEMPORARY USES: INTERIM ACTIVITIES IN VACANT GROUND-**
8 **FLOOR COMMERCIAL SPACES.**

9 (a) **Arts Activities, Social Service or Philanthropic Facilities, and COVID-19**
10 **Relief and Recovery uses; Authorization Interim Activity as a Temporary Uses.** *Within all*
11 *districts listed in Section 201 of this Code except for Residential Districts, the Planning Director may*
12 *authorize an Arts Activity or Social Service or Philanthropic Facility use, as those uses are*
13 *defined in Section 102, or any COVID-19 Relief and Recovery use as defined in subsection*
14 *(b) an Interim Activity as a temporary use in a vacant ground-floor commercial space for a maximum*
15 *of two years. The temporary uses may be provided, in whole or in part, either on site or off site.*
16 *Such uses may also conduct their administrative activities on site as a sole Principal Use.*

17 *The Planning Director’s initial authorization (“Initial Period”) shall not exceed one year and*
18 *may be extended by the Director up to the two-year maximum pursuant to the provisions of subsection*
19 *(i) below.*

20 (b) **Definitions.** *For purposes of this Section 205.6, the following definitions shall apply:*
21 **“COVID-19 Relief and Recovery use” means any use providing direct services in**
22 **housing, employment, health, education and training, legal assistance, public benefits,**
23 **enrollment and financial assistance preparing and distributing food, water and other essential**
24 **items, establishing testing facilities, or providing access to restroom or handwashing facilities.**

1 or performing any other service that the Department determines will aid COVID-19 relief and
2 recovery efforts.

3 “Interim Activity” means any Arts Activity or any Social Service or Philanthropic Facility,
4 as those terms are defined in Section 102 of this Code. An Office use for administrative
5 purposes may be allowed if it is incidental to the Interim Activity’s provision of services to the
6 public.

7 “Vacant ground-floor commercial space” means a space with street frontage on the ground
8 floor that is zoned for a Non-Residential Use, as defined in Section 102 of this Code, and is vacant.

9 (c) **Application.** The property owner or the property owner’s authorized agent
10 (“Applicant,” in either case) shall submit an application for temporary use to the Planning
11 Department, on a form prepared by the Planning Department. The application shall be accompanied
12 by the applicable fees pursuant to Planning Code Section 350 and shall include an affidavit signed by
13 the Applicant and, if applicable, each tenant occupying any portion of the vacant ground-floor
14 commercial space for the ~~Interim Activity~~ temporary use or each tenant’s authorized agent,
15 acknowledging that (1) the use of the space ~~for the Interim Activity~~ is temporary and subject to the
16 time limits set forth in this Section 205.6, (2) the Applicant will pay any outstanding fees, invoices, or
17 penalties owed to City agencies, and (3) the Applicant is in compliance with all requirements of the
18 Municipal Code, including any requirements to abate any Code violations, including Building Code
19 violations. The Applicant shall not be required to pay additional fees set forth in Article 4 of the
20 Planning Code as a prerequisite to obtaining temporary use authorization pursuant to this Section
21 ~~205.7~~ 205.6.

22 (d) **New, Additional, or Modified Temporary Uses.** New, additional, or modified
23 temporary uses that were not previously approved by the Planning Director shall be reviewed through
24 the filing of a new application and submittal of a new application fee.

1 (e) **New Tenants.** Additional or different tenants may commence occupancy within and use
2 the subject site without additional applications or fees, provided that each new tenant submits a
3 completed affidavit to the Department attesting to the truthfulness and correctness of the information in
4 the previously submitted application and declaring that the new tenant will not discontinue, add to, or
5 modify the approved Interim Activity.

6 (f) **No Conversion, Change, Discontinuance, or Abandonment of Use.** The approval or
7 commencement of ~~an Interim Activity~~ as a temporary use as authorized under this Section ~~205.7~~
8 ~~205.6~~ shall not be considered a conversion, discontinuance, abandonment, or change of use for
9 purposes of this Code, notwithstanding Sections 182 and 183 of this Code. Any property for which the
10 ~~Interim Activity~~ temporary use is authorized shall retain its authorized land use(s). Such authorized
11 land uses, including any nonconforming uses, shall become operative upon the expiration, termination,
12 or abandonment of such temporary use authorization.

13 (g) **Fenestration, Transparency, and Visibility Requirements.** Construction proposed in
14 connection with the ~~Interim Activity~~ temporary use shall not cause noncompliance or exacerbate
15 existing noncompliance with respect to fenestration, transparency, or any other visibility requirement
16 of Section 145.1 of this Code. Further, no film, adhesive, blinds, or other treatment may be applied to
17 any existing fenestration.

18 (h) **Information To Be Available To Public.** The Department shall make available to the
19 public in the Planning Department's main office and on its website a list of all applications approved
20 under this Section 205.6, along with applicable time frames and any additional information the
21 Planning Department deems useful for or relevant to the continued and successful activation of the
22 subject sites in the surrounding neighborhood.

23 (i) **Extension of Initial Period.** Upon the Planning Director's written determination that
24 permits for the vacant ground-floor commercial space are being and have been diligently pursued, and
25 that the ~~Interim Activity~~ temporary use has been consistent with public convenience, necessity, or the

1 general welfare of the City, the Planning Director is authorized to permit the ~~Interim Activity~~
2 temporary use to exceed the Initial Period for an additional period of time not to exceed a total time
3 of 24 months ~~for the Interim Activity~~. This extension shall require a separate determination of the
4 Planning Director according to this Section ~~205.7(i) 205.6(i)~~, and the authorization of the temporary
5 use ~~Interim Activity~~ may not exceed a total duration of 24 months.

6 (j) **Other Temporary Uses.** Authorization of ~~an Interim Activity~~ a temporary use
7 pursuant to this Section ~~205.7 205.6~~ shall not preclude the authorization of any other temporary uses
8 recognized in Sections 205.1 through ~~205.6 205.5~~.

9 (k) **Additional Permits.** Authorization of a temporary use under this Section 205.7
10 does not waive the requirement to obtain any additional permit(s) that may be required by
11 other City Codes, including but not limited to permits required by the Health Code or Building
12 Code.

13 (l) **Fee Waiver for Uses that Propose a COVID-19 Recovery and Relief**
14 **Activity.** If an applicant for approval of a temporary use under this Section 205.6 proposes a
15 COVID-19 Recovery and Relief use, as defined in subsection (b) above, the Planning
16 Department fee for reviewing the application shall be waived.

17
18 Section 4 3. Effective Date. This ordinance shall become effective 30 days after
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
20 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
21 of Supervisors overrides the Mayor's veto of the ordinance

22
23 Section 5 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

1 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
2 additions, and Board amendment deletions in accordance with the “Note” that appears under
3 the official title of the ordinance.

4

5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By: _____
8 JUDITH A. BOYAJIAN
9 Deputy City Attorney

10 n:\legana\as2020\2000288\01455803.docx

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 [Planning Code - Arts Activities and Social Service or Philanthropic Facilities as Temporary
2 Uses]

3 **Ordinance amending the Planning Code to allow Arts Activities and Social Service or**
4 **Philanthropic Facilities as a temporary use in vacant ground-floor commercial space;**
5 **affirming the Planning Department’s determination under the California Environmental**
6 **Quality Act; making findings of consistency with the General Plan, and the eight**
7 **priority policies of Planning Code, Section 101.1; and adopting findings of public**
8 **necessity, convenience, and general welfare under 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 ~~*italics Times New Roman font*~~.
12 **Board amendment additions** are in Arial font.
13 **Board amendment deletions** are in ~~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. 200215

22 and is incorporated herein by reference. The Board affirms this determination.

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

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the 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 Planning Code will serve the public necessity, convenience, and welfare for the reasons set
5 forth in Planning Commission Resolution No. _____, and the Board incorporates such
6 reasons herein by reference.

7
8 Section 2. Article 2 of the Planning Code is hereby amended by revising Section 205
9 and adding Section 205.6, to read as follows:

10 **SEC. 205. TEMPORARY USES, GENERAL.**

11 * * * *

12 (e) Any temporary uses authorized pursuant to this Section 205 and Sections 205.1
13 through ~~205.6~~ ~~205.5~~ shall not be required to comply with any Planning Code requirements that
14 are not expressly applicable to such temporary uses under this Section 205 and Sections
15 205.1 through ~~205.6~~ ~~205.5~~, provided, however, any temporary uses authorized pursuant to this
16 Section 205 and Sections 205.1 through ~~205.6~~ ~~205.5~~ shall be subject to all applicable initiative
17 ordinances approved by the voters of the City and County of San Francisco.

18 * * * *

19 **SEC. 205.6. TEMPORARY USES: INTERIM ACTIVITIES IN VACANT GROUND-FLOOR**
20 **COMMERCIAL SPACES.**

21 (a) Interim Activity as a Temporary Use. Within all districts listed in Section 201 of this
22 Code except for Residential Districts, the Planning Director may authorize an Interim Activity as a
23 temporary use in a vacant ground-floor commercial space for a maximum of two years. The Planning
24 Director’s initial authorization (“Initial Period”) shall not exceed one year and may be extended by the
25 Director up to the two-year maximum pursuant to the provisions of subsection (i) below.

1 **(b) Definitions.** *For purposes of this Section 205.6, the following definitions shall apply:*

2 *“Interim Activity” means any Arts Activity or any Social Service or Philanthropic Facility, as*
3 *those terms are defined in Section 102 of this Code. An Office use for administrative purposes may be*
4 *allowed if it is incidental to the Interim Activity’s provision of services to the public.*

5 *“Vacant ground-floor commercial space” means a space with street frontage on the ground*
6 *floor that is zoned for a Non-Residential Use, as defined in Section 102 of this Code, and is vacant.*

7 **(c) Application.** *The property owner or the property owner’s authorized agent*
8 *(“Applicant,” in either case) shall submit an application for temporary use to the Planning*
9 *Department, on a form prepared by the Planning Department. The application shall be accompanied*
10 *by the applicable fees pursuant to Planning Code Section 350 and shall include an affidavit signed by*
11 *the Applicant and, if applicable, each tenant occupying any portion of the vacant ground-floor*
12 *commercial space for the Interim Activity or each tenant’s authorized agent, acknowledging that (1) the*
13 *use of the space for the Interim Activity is temporary and subject to the time limits set forth in this*
14 *Section 205.6, (2) the Applicant will pay any outstanding fees, invoices, or penalties owed to City*
15 *agencies, and (3) the Applicant is in compliance with all requirements of the Municipal Code, including*
16 *any requirements to abate any Code violations, including Building Code violations. The Applicant shall*
17 *not be required to pay additional fees set forth in Article 4 of the Planning Code as a prerequisite to*
18 *obtaining temporary use authorization pursuant to this Section 205.6.*

19 **(d) New, Additional, or Modified Temporary Uses.** *New, additional, or modified*
20 *temporary uses that were not previously approved by the Planning Director shall be reviewed through*
21 *the filing of a new application and submittal of a new application fee.*

22 **(e) New Tenants.** *Additional or different tenants may commence occupancy within and use*
23 *the subject site without additional applications or fees, provided that each new tenant submits a*
24 *completed affidavit to the Department attesting to the truthfulness and correctness of the information in*
25

1 the previously submitted application and declaring that the new tenant will not discontinue, add to, or
2 modify the approved Interim Activity.

3 (f) **No Conversion, Change, Discontinuance, or Abandonment of Use.** The approval or
4 commencement of an Interim Activity as a temporary use as authorized under this Section 205.6 shall
5 not be considered a conversion, discontinuance, abandonment, or change of use for purposes of this
6 Code, notwithstanding Sections 182 and 183 of this Code. Any property for which the Interim Activity
7 is authorized shall retain its authorized land use(s). Such authorized land uses, including any
8 nonconforming uses, shall become operative upon the expiration, termination, or abandonment of such
9 temporary use authorization.

10 (g) **Fenestration, Transparency, and Visibility Requirements.** Construction proposed in
11 connection with the Interim Activity shall not cause noncompliance or exacerbate existing
12 noncompliance with respect to fenestration, transparency, or any other visibility requirement of Section
13 145.1 of this Code. Further, no film, adhesive, blinds, or other treatment may be applied to any
14 existing fenestration.

15 (h) **Information To Be Available To Public.** The Department shall make available to the
16 public in the Planning Department's main office and on its website a list of all applications approved
17 under this Section 205.6, along with applicable time frames and any additional information the
18 Planning Department deems useful for or relevant to the continued and successful activation of the
19 subject sites in the surrounding neighborhood.

20 (i) **Extension of Initial Period.** Upon the Planning Director's written determination that
21 permits for the vacant ground-floor commercial space are being and have been diligently pursued, and
22 that the Interim Activity has been consistent with public convenience, necessity, or the general welfare
23 of the City, the Planning Director is authorized to permit the Interim Activity to exceed the Initial
24 Period for an additional period of time not to exceed a total time of 24 months for the Interim Activity.
25 This extension shall require a separate determination of the Planning Director according to this

1 Section 205.6(i), and the authorization of the Interim Activity may not exceed a total duration of 24
2 months.

3 (j) **Other Temporary Uses.** Authorization of an Interim Activity pursuant to this Section 205.6
4 shall not preclude the authorization of any other temporary uses recognized in Sections 205.1 through
5 205.5.

6
7 Section 3. Effective Date. This ordinance shall become effective 30 days after
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
10 of Supervisors overrides the Mayor’s veto of the ordinance

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

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By: _____
22 JUDITH A. BOYAJIAN
23 Deputy City Attorney

24 n:\legana\as2020\2000288\01430742.docx