



# MEMO TO THE PLANNING COMMISSION

**HEARING DATE: November 19, 2020**

November 12, 2020

Proposition H – Initiative Ordinance – Planning Code and Business and Tax Regulations Code – Save Our Small Businesses Initiative, Simplifying Restrictions in Neighborhood Commercial Districts and Permitting Processes for Certain Businesses

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**Recommendation:** Informational Only

## Background

Mayor London Breed submitted the initiative measure, Proposition H, to the Department of Elections for the November 3, 2020 Election. While the election has not yet been certified, the proposition currently leads by about 61% to 39% and is projected to pass. The initiative will become effective 10 days after the Board of Supervisors certifies the election, which is anticipated to happen in mid-December 2020.

## Summary

The initiative ordinance shifts the approval action for many small business uses from a conditional use authorization from the Planning Commission to an over-the-counter administrative approval. In addition, the initiative eliminates neighborhood notification for storefront land use changes in Neighborhood Commercial Districts and provides existing businesses with greater flexibility to adapt their operations in response to the COVID-19 pandemic and shifting retail landscape. The initiative calls upon the City to streamline the review and approval processes for small businesses to 30-days. This will not only assist with their recovery in the wake of the COVID-19 pandemic, but also simplify the process to start a new business in San Francisco.

The initiative ordinance includes the following:

### Planning Specific Provisions:

The initiative ordinance reduces notification and conditional use authorization (CU) requirements for many small businesses. It allows for greater flexibility for storefronts to change uses and adapt to the operational restrictions of the COVID-19 pandemic. In addition, some use definitions have been broadened and additional temporary uses are permitted.

- **Neighborhood Notification**
  - o Eliminates neighborhood notification for principally permitted uses in Neighborhood Commercial (NC) Districts, Limited Commercial Uses (LCUs) and Limited Corner Commercial Uses (LCCUs). These change of use permits will now be able to be approved over-the-counter.
- **Permitted Uses**
  - o All NC District Zoning tables, except for the Mission Street NCT, 24<sup>th</sup> Street-Mission NCT, and SOMA NCT, have been updated to allow for more principally permitted and conditionally permitted uses.
    - Arts Activities and Social Service or Philanthropic Facilities are now principally permitted on all floors.
    - Non-Retail Sales and Services (e.g. office space) are principally permitted on upper floors and permitted with a conditional use authorization on the ground floor.
    - General Entertainment, Movie Theaters, Community Facilities, Restaurants, Limited Restaurants, Animal Hospitals, and Retail Professional Services (e.g. realtors, accountants, insurance agents) are now principally permitted where currently permitted with a conditional use authorization, and conditionally permitted where currently not permitted. Restaurant controls were not amended in North Beach.
- **Temporary Uses**
  - o Allows temporary retail uses in bars and entertainment venues for up to six years without abandoning the original use;
  - o Allows 60-day “pop-up” retail in vacant commercial storefronts in addition to occupied commercial storefronts.
- **Limited Commercial Uses and Limited Corner Commercial Uses**
  - o Limited Commercial Uses in RH, RTO and RM districts are only regulated by the controls in NC-1. Before, these uses were regulated by NC-1 district controls or a more restrictive NC District if it was within a certain proximity.
- **Outdoor Activity Areas**
  - o Eliminates the CU requirement for Outdoor Activity Areas (e.g. back patios for restaurants) in NC Districts so long as the space is used only between 9 am and 10 pm, the use is not Bar, and if it’s a Restaurant Use where customers are seated at tables. Should a business want to exceed these limits it could seek CU authorization to do so.
- **Retail Workspace**
  - o Creates a new Use called Retail Workspace, which requires that an eating or drinking use occupy the front 1/3 of the retail space while the back 2/3rds may be used as a co-working space where desks can be rented by the hour;

- Expands the definitions of Accessory Use in NC Districts to allow Eating and Drinking Uses to have a Retail Workspace as an Accessory Uses with limits on the hours of operation, but not on floor area.
- **Expands Definitions**
  - Expands the definition of a Social Service or Philanthropic Facility (aka Non-profits) to allow for associated on-site office use;
  - Expands the definition of a Bona Fide Eating Place to include a per occupant rate for the food sales requirement in addition to the traditional, majority of gross sales requirement.

#### Multi-agency Provisions:

- Requires the creation of a streamlined review and inspection process for principally permitted storefront uses in NC Districts with a target approval in 30 days or less;
- Requires that in cases of City error, permits to remedy that error be prioritized and have fees waived;
- Establishes policy to allow restaurant table service within parklets in addition to the existing use of parklets by any member of the public;
- Locks-in the Initiative's provisions for 3 years from passage, except to further relax restrictions.

## Implementation

Upon certification of the election, Planning department staff will begin to process applications in accordance with the requirements of the initiative ordinance. We expect more projects to qualify for over-the-counter review, with the expansion of permitted uses and the elimination of some neighborhood notifications. In addition, we expect to see some storefronts change their operations or uses to in response to the COVID-19 pandemic.

We are working with the Department of Building Inspection, Mayor's Office of Economic and Workforce development, Small Business Commission, Department of Public Health, Entertainment Commission, and others to implement the multi-agency provisions to streamline review and approval.