



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: April 21, 2021

90-Day Deadline: June 21, 2021

Project Name: Simplify Restrictions on Small Businesses
Case Number: 2021-002933PCA [Board File No. 210285]
Initiated by: Mayor London Breed / Introduced March 16, 2021
Staff Contact: Sheila Nickolopoulos, Citywide Planning
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Reviewed by: Aaron Starr, Manager of Legislative Affairs
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Recommendation: Approval with Modifications

Planning Code Amendment

The proposed Ordinance, called the ‘Small Business Recovery Act,’ will amend the Planning Code to simplify procedures and allow flexibility for neighborhood, cultural, and entertainment establishments. Amendments pertinent to the Historic Preservation Commission are highlighted below.

| The Way It Is Now | The Way It Would Be |
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| The Historic Preservation Commission may request a Department review of Administrative Certificates of Appropriateness and Minor Permits to Alter within 20 days of the Department’s written decision. (Secs 1006.2, 1111.1) | The Historic Preservation Commission may request a Department review of Administrative Certificates of Appropriateness and Minor Permits to Alter within 10 days of the Department’s written decision. (Secs 1006.2, 1111.1) |
| The Planning Code includes unique definitions for 32 types of Retail uses. | Four unique definitions would be removed and nested within other categories: Cat Boarding and Trade Shop will be part of General Retail Sales and Service; Gym and Instructional Service will be part of Personal Service. |
| A permitted conditional use that is discontinued for three years (e.g., the space has been vacated) is considered abandoned per the Planning Code and cannot be restored, except upon approval of a new | A permitted conditional use that is abandoned will not require a new CU to re-establish the use, so long |

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| <p>conditional use application. In the Castro Street Neighborhood Commercial District and the Jackson Square Special Use District, the period of nonuse for a CU is 18 months. (Sec 178d)</p> | <p>as another use has not been established in that space. (Sec 178d)</p> |
| <p>The Planning Department relies on a property's permit history to verify that a use was properly established. If that cannot be verified through the permit history, the business owner must then file a change of use permit to legally establish the use, which may also require seeking CU authorization for the use. Ensuring a business was legally established often happened when a new owner is buying an existing business, and that business is also regulated by another city or state agency, like Dept of Public Health, the Entertainment Commission, or California Alcohol Beverage Control (ABC).</p> | <p>New Sec 193.2.3 allows the establishment of a Nighttime Entertainment use for any premise that has been deemed a Continuing Entertainment Operations Establishment by the Entertainment Commission, regardless of the zoning permissibility of such uses within the district, by obtaining a building permit and without obtaining a Conditional Use Authorization or being subject to any neighborhood notification requirements. (Sec 193)</p> |
| <p>Prop H permitted outdoor activity areas in NC and NCTs under certain limitations: located on the ground level; operating 9:00 a.m. to 10:00 p.m.; not operated in association with a Bar use; where associated with a Limited Restaurant or Restaurant Use, the Outdoor Activity Area includes only seated, not standing, areas for patrons; and alcohol is dispensed to patrons inside the premises or through wait staff service at the patron's outdoor seat in the Outdoor Activity Area. (Sec 202.2(7))</p> | <p>Outdoor activity with the same Prop H provisions will be allowed as of right on building roofs. (Sec 202.2(7))</p> |
| <p>Nighttime Entertainment does not require CU authorization to be removed.</p> | <p>Creates new Sec 202.10, which will require a CU for the removal of nighttime entertainment uses for three years after the effective date of the ordinance. (Sec 202.10)</p> |
| <p>Catering is an allowable accessory use in Limited Restaurants but not in Restaurants. (Sec 204.3)</p> | <p>Catering will be an allowable accessory use in Limited Restaurants and Restaurants. (Sec 204.3)</p> |
| <p>The February 2020 Mayoral Declaration of Local Emergency created the Shared Space Program for recurring temporary outdoor entertainment, arts, and recreation uses. These allowances would end when the emergency Program ends.</p> | <p>Creates Sec 205.8 to allow temporary outdoor entertainment, arts and recreation uses, limited in duration to not more than 2 years, for 9am-10pm. (Sec 205.8)</p> |
| <p>An ADU is not permitted in any building in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail Districts if it would eliminate or reduce the size of a ground-story retail or commercial space. (207(c)(4)(C)(viii))</p> | <p>If a minimum 25' depth from street frontage is preserved for commercial use, space at the rear of the ground floor may be converted to an ADU in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail District. (207(c)(4)(C)(viii))</p> |

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| Project sponsors seeking a Conditional Use Authorization for a Restaurant, Limited Restaurant, or Bar are required to produce concentration calculations based on a linear footage analysis. (Sec 303(o)) All Formula Retail is required to produce the same concentration calculations. (Sec 303.1(d)(1)) | Project sponsors seeking a Conditional Use Authorization for Formula Retail, or a Restaurant, Limited Restaurant, or Bar will not be required to produce concentration calculations. (Sec 303(o), 303.1(d)(1)) |
| Code-mandated conditions of approval for a CU for Nighttime Entertainment, General Entertainment and Other Entertainment uses replicate conditions imposed by the Entertainment Commission: that these uses must be closed 2am-6am; must not use amplified sound midnight-6am; and must be soundproofed. (Sec 303(p)) | Conditions of approval imposed by the Entertainment Commission for Nighttime Entertainment, General Entertainment and Other Entertainment uses will be removed from the Planning Code, including: that these uses must be closed 2am-6am; must not use amplified sound midnight-6am; and must be soundproofed. (Sec 303(p)) |
| Bars, Medical Cannabis, Nighttime Entertainment, Non-Retail Sales and Service, and Formula Retail are ineligible for 90-day Expedited Processing. (Sec 303.2) | Bars, Medical Cannabis, Nighttime Entertainment, non-retail sales and service, and Formula Retail with 20 or fewer locations will be eligible for 90-day Expedited Processing (aka, codified CB3P). All projects eligible for Expedited Processing will be presented to the Planning Commission via an abbreviated case report. (Sec 303.2) |
| A change of use in an Eastern Neighborhood Mixed Use district, which is defined as a change from one use category to another, are subject to 311 notification requirements. (Sec 311) | A change of use in an Eastern Neighborhood Mixed Use district, which is defined as a change from one use category to another, will be exempt from 311 notification requirements, as was implemented for NCs under Prop H. (Sec 311) |
| Limited Live Performance Permits (per Police Code Section 1060.1(e)) are not exempt from being considered an accessory use. (Secs 703(d)(6), 803.2(d)(6), 803.3(b)(1)(C)(v)) | Limited Live Performance Permits (per Police Code Section 1060.1(e)) will be exempt from being considered an accessory use. (Secs 703d6, 803.2d6, 803.3b1Cv) |

Amendments to the Business and Tax Code and the Police Code

The Ordinance would amend the Business and Tax Regulations Code to

- 1) Expand streamlined review and inspection procedures to principally permitted storefront uses citywide. Prop H, approved by voters in November 2020, established a 30-day permit process timeline for Principally Permitted uses in Neighborhood Commercial zoning. The 30-day permit process timeline for Principally Permitted storefront commercial uses in all relevant zoning districts. (Admin Code Sec 32)

The Ordinance will also amend the Police Code to:

- 1) Extend time for limited live performances from 10 p.m. to 11 p.m.;
- 2) Allow additional One-Time Entertainment Permits and One-Time Outdoor Amplified Sound Permits; and

- 3) Exempt single individual performances without amplification from permit requirements.

Background

Prior to the pandemic, a decades-long consumer shift to online shopping caused both a general decline and wholesale changes to San Francisco's retail sector. Businesses that provide some kind of in-person experience—be it dining, a class, or performance intertwined with retail shopping—have grown. Those businesses were the most vulnerable to the COVID-19 pandemic shutdowns. The pandemic accelerated and intensified the challenges of operating a neighborhood business, and the impacts have been felt by small business owners, their employees, their patrons, and commercial property owners.

In the summer of 2020, following the shelter-in-place orders and anticipating severe economic impacts due to the pandemic, the Mayor created the Economic Recovery Task Force to convene business owners, community advocates, and City staff to identify tangible steps towards economic recovery. Specifically related to neighborhood businesses, the [October 2020 report](#) made five recommendations:

- Recommendation 1.2: **Redesign building permit processes** and eliminate unnecessary permits not directly related to health and safety
- Recommendation 4.1: Extend, improve, and **support the Shared Spaces Program**
- Recommendation 4.3: Allow more **flexible use of the ground floor** retail
- Recommendation 4.4: **Rethink the rules that restrict flexible/temporary arts, culture, hospitality and entertainment uses.**
- Recommendation 8.2: Catalyze neighborhood **recovery through the arts.**

In November 2020, 61% of San Francisco voters approved Prop H, Save Our Small Businesses, which significantly reduced permitting process requirements for neighborhood businesses in Neighborhood Commercial zoning, standardized regulations for common retail uses across the city, and created a streamlined permitting process for Principally Permitted uses.

The proposed Small Business Recovery Act (SBRA), introduced on March 16, 2021, will build on these efforts, with three goals:

- **Further cutting bureaucracy** by building on previous successes, including Prop H, the Community Based Priority Processing Program (CB3P), and the emergency version of the Shared Spaces Program. Neighborhood businesses are the heart of San Francisco, but the permitting process has been notoriously glacial and convoluted. Prop H was approved by a strong majority of voters and dramatically simplified the process for some business types in some locations. The proposed amendments in this Ordinance build on the spirit of Prop H and Shared Spaces, and implement the ERTF recommendations.
- **Enhancing flexibility for small businesses** to adapt their operations as they recover from Covid impacts and adjust to a changing retail landscape. The past decade's trends are expected to continue: 50% of retail growth (measured in square feet) has been concentrated in the restaurant industry and 20% has been in the personal care and services industry. These trends are reflected in employment too: since 2008, the restaurant industry has added 17,000 jobs, more than the retail sector as a whole (+16,000 jobs). These businesses have struggled with health and safety protocols that have either limited their ability to provide their core offerings and, for long stretches of the pandemic, prohibited them from operating at all. As the local market for certain types of brick and mortar businesses decline, the City

needs processes and policies that support new businesses and give existing businesses the flexibility to adapt.

- Providing targeted **protections and opportunities for entertainment and cultural** establishments, which were some of the first businesses to close at the start of the pandemic and will likely be some of the last to reopen. The metro area's arts, entertainment, and recreation industry saw a 52.3% decline in employment (from 21,400 to 10,200 jobs) between February 2020 and February 2021. This was the second highest local job loss rate of any industry (behind only hotels) during this period. The local arts, entertainment and recreation industry saw much steeper losses than the industry nationwide, which had a 22.7% decline in employment during this same period. Arts and culture are defining San Francisco characteristics that need City support.

Issues and Considerations

The pandemic has exacerbated pre-existing retail conditions and vulnerabilities. Restaurants and personal services—the retail sectors that saw the most growth in the decade leading up to the pandemic—have been hit particularly hard by social distancing mandates. While some businesses have been able to modify their operations to make it through the pandemic, others have shuttered. As the city recovers, small neighborhood businesses are a vital for communities, business owners, and employees.

The Mayor's Office has worked closely with Planning to identify and shape the SBRA amendments and to consider the Department's advisement on impact and implementation. The three categories of proposed amendments align with Department values to support neighborhood businesses recovery.

Simplifying the Permit Process: The SBRA proposals to streamline permitting will expand existing simplified processes to more businesses and remove burdensome requirements.

- The SBRA will reduce the time from 20 to 10 days that of the Historic Preservation Commission may request a Department Review of Administrative Certificates of Appropriateness (required for any construction, addition, major alteration, relocation, removal, or demolition of a structure, object or feature, on a designated landmark property, in a landmark district, or a designated landmark interior) and for Minor Permits to Alter (required for any construction, addition, major alteration, relocation, removal, or demolition of a structure, object or feature, but does not require an HPC hearing). This will decrease the time that a permit application is placed on hold and allow new businesses to open more quickly. *Staff recommend that the Commission approve with a modification that this 10-day period also be applied to public appeals in Sections 1006.2 and 1111.1 so that the appeal periods are consistent.*
- SBRA will expand the Prop H guarantee to process permits for Principally Permitted businesses on the ground floor withing 30-days of application submission. As mandated by Prop H, agencies issuing operational and construction permits (Planning, DBI, DPH, Fire, SFPUC, Entertainment, and Public Works) have built the administrative system for this expedited review, which can be expanded to benefit more businesses. The 30-day permit processing for Principally Permitted businesses reduces time and cost for applicants and provides valuable certainty. It also benefits the City by reducing staff time processing Principally Permitted uses.
- SBRA will also expand the Prop H elimination of neighborhood notifications. Already in place for neighborhood commercial zoning, notifications for change of use categories in Mixed Use and Commercial zoning areas will also be eliminated. These are zoning districts include SoMa and

- downtown and have a significant number of neighborhood-serving businesses.
- SBRA will expand access to expedited conditional use hearings to include Bars, Nighttime Entertainment, Medical Cannabis Dispensaries, Non-Retail Sales and Services, and small Formula Retail (Formula Retail with 11-20 locations worldwide). This expedited processing provides businesses with the certainty of a 90-day conditional use hearing timeline while allowing adequate time for community input. The inclusion of small Formula Retail is a direct response to public requests to support locally grown Formula Retail.
 - The elimination of the abandonment clause for non-formula retail uses will also decrease uncertainty for businesses. Under current regulation, if, for example, a bar with conditional use authorization were to close and the space sits vacant for more than three years, an incoming bar would have to repeat the CU process. Removing the abandonment clause will allow vacant commercial spaces to be occupied more quickly when the new business is the same use as the previously “abandoned” CU.
 - Prop H permitted outdoor activity areas in NC and NCTs with specific limitations, which would be expanded to rooftops. Outdoor space has been a lifeline for neighborhood businesses during the pandemic and will continue to be through recovery. Any rooftop operations would be subject health and safety requirements.
 - Currently, a Restaurant, Limited Restaurant, Bar, or Formula Retail applying for a Conditional Use Authorization is required to produce use concentration calculations based on a linear footage analysis within 300 feet of the proposed business. Producing these calculations can be costly and comes with a substantial margin of error if there are nearby vacant storefronts or if a use isn’t clear to an applicant. Linear feet calculations do not represent how one experiences the streetscape, so it may not be a meaningful measurement. This change will not impact SUDs with concentration caps on certain uses. *Note:* under Prop H, Restaurants and Limited Restaurants are now Principally Permitted in almost all NCs for at least the next three years, so the short-term impact of this change will be in the 23 zoning districts that require a CU for bars (there are 51 NCs). Formula Retail requires a CU in NCs where it is permitted.

Expanding Flexibility: The Economic Recovery Task Force recommended giving neighborhood businesses more flexibility to modify operations and adapt to a changing retail environment.

- The SBRA will allow Restaurants, not just Limited Restaurants, to host Catering businesses. This expansion will give existing businesses and entrepreneurs more opportunities to share space and operating costs. The dining industry has been hit particularly hard by the pandemic, and this change will offer another path to recovery.
- The SBRA will delete unique Cat Boarding and Trade Shop definitions and categorize those uses as part of General Retail Sales and Service, and delete the unique definitions for Instructional Services and Gyms and make those part of Personal Services. This simplification reduces the overall number of separate retail definitions and is intended to decrease the need for change-of-use permits, saving businesses cost, time, and confusion. On the ground floor, this change will not trigger any changes to the permitting of Cat Boarding, Gym, or Instructional Service; it will make Trade Shop more permissive in one NC (Pacific Ave) where a CU is currently required.
- The SBRA will allow ADUs to be constructed in the rear of ground floor commercial spaces if a minimum of 25 feet depth of commercial space is maintained facing the street front. The Code currently allows a regular unit (but not an ADU) to take space on the ground floor so long as the ground floor still meets active use provisions (Sections 145.1 and 145.5). In most cases, where the commercial space is flush with the sidewalk, this means that the residential space can take over the any amount of the ground floor except the front 25', which must be occupied by an Active Use per Section 145.1(c)(3). The proposed

change would align the ADU allowances under the same provisions as for regular dwelling units. An ADU would need to meet all light, air, and safety requirements, but this may give property owners more flexibility to adapt and produce housing units. Any resulting ADUs would be subject to applicable rent control policies.

Supporting Arts and Culture: The SBRA changes will save businesses hundreds of dollars and encourage more partnerships between small businesses and local talent.

- The SBRA will permit temporary entertainment uses in outdoor areas, including temporary structures, and any ancillary uses of indoor areas, for a maximum of two years. This provision will give businesses more opportunity and flexibility in modifying their operations as they recover from the pandemic, as well as provide artists and performers with recovery opportunities.
- The new requirement for a CU to remove a nighttime entertainment use for the next 3 years is a measure to protect against the potential permanent loss of venues, many of which are irreplaceable or difficult to re-create elsewhere, as they recover from the economic impacts of the pandemic.
- The SBRA will remove the Planning Code requirement to impose certain specific pre-determined conditions in order to approve an entertainment CU for each project. The Planning Commission and Entertainment Commission would still have full authority to impose any conditions that make sense. The findings requirements are about future noise impacts, which is duplicative of the Entertainment Commission's requirement to set a sound limit for every permittee that ensures compliance with the City noise ordinance.
- Several proposed amendments will align the Planning Code with amendments to Police Code:
 - Changes to Police Code Section 1060.1 will allow live performances with Limited Live Performance Permits to conclude at 11pm instead of 10pm and remove a restriction on One Time Event Permits and One Time Outdoor Amplified Sound Permits that limits them to 12 days in a 12-month period. Removing these restrictions will allow, for example, a farmers' market or recurring street closure, to host special performances.
 - Changes to Police Code Section 1060.1(e) will allow a single unamplified performer in a business until 10pm without an entertainment permit. This will help retailers or other businesses add a single musician without needing to incur fees/process, but it will not provide so much flexibility that someone could sidestep normal entertainment permitting to become a concert venue without appropriate approvals.

General Plan Compliance

The primary goals of the Commerce and Industry Element of the General Plan are economic vitality, social equity, and environmental quality. The Small Business Recovery Act aligns with this Element's emphasis on equitable economic development for neighborhood commerce, as stated in the following objectives and policies.

Objective 3: Provide expanded employment opportunities for City residents, particularly the unemployed and economically disadvantaged.

- *Policy 3.1: Promote the attraction, retention, and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.*
- *Policy 3.4: Assist newly emerging economic activities*

Objective 6: Maintain and strengthen viable neighborhood commercial areas easily accessible to City residents

- *Policy 6.1: Ensure and encourage the retention and provision of neighborhood-serving goods and services in the City's commercial districts, while recognizing and encouraging diversity among the districts.*
- *Policy 6.2: Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society*
- *Policy 6.4: Encourage the location of neighborhood shopping areas throughout the City so that essential retail goods and personal services are accessible to all residents*

Racial and Social Equity Analysis

Understanding the benefits, burdens and opportunities to advance racial and social equity that the proposed Planning Code 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's requirement that all Departments conduct this analysis.

As emphasized by the Economic Recovery Task Force, the city's existing complex process for opening a small business in San Francisco requires both substantial financial and social capital to navigate. For certain business types, the uncertainty of approvals deters people with limited financial resources or without an understanding of how to get through the process. A time- and capital-intensive permitting process that requires high tolerance for uncertainty and risk favors business owners who have the resources to withstand the process. Business owners with limited time and capital tend to be low-income and Black, American Indian, or people of color. Therefore, the process is inherently inequitable.

The Planning Code amendments in the proposed Ordinance will simplify the permit process, expand flexibility, and support arts and culture. These changes will make the process of opening and operating small businesses easier for all small business owners. Particularly as we enter this recovery period, when private capital (e.g., bank loans for small businesses) is sparse, the City needs to reduce process that can prolong the time a new business is paying rent, and potentially employees, while waiting for permit approvals. New and existing neighborhood business owners, their employees, their patrons, and commercial property owners will benefit from these changes.

How will the proposed Code changes affect racial and social equity? Who will benefit from or be burdened by the proposed Code changes?

The proposed changes will remove process and cost barriers to opening and operating neighborhood businesses. As neighborhood commercial areas recover from the impacts of the past year and private capital is particularly difficult for small businesses to access, the most significant equity benefit is that new neighborhood businesses can be assured that their permit applications will be processed in a month. Since the 30-day process was made available to the public at the end of January 2021 as a result of Prop H, **75% of Prop H applicants have been Black, American Indian, and people of color and 42% women-owned businesses.** Expanding the process will continue to support Black, American Indian, and people of color populations, both business owners and their current and future employees who have been hit hard by Covid-19. Retail employees tend to be younger and are disproportionately women and Black, American Indian, and people of color. Staff will continue to monitor applicant data over time and use this information to make process adjustments in coordination with the Black, American Indian, and people of color business owners, as needed.

For existing neighborhood businesses, the Planning Code amendments in the proposed Ordinance offer more flexibility to host outdoor entertainment or to add an accessory catering use to a restaurant. This will be particularly beneficial to individual performers or operators who need temporary use of a space while building their business or augmenting their existing, core business.

The removal of unique definitions (cat boarding, trade shop, instructional service, and gym) may limit some neighborhoods' ability to regulate those specific uses in the future, because the definition changes do not change the use controls in almost every zoning district. If in the future there are community members that seek to specifically regulate these uses in their neighborhood, an appropriate Code amendment could be crafted to meet that neighborhood's needs. The proposed amendments do not change the process or limit the ability to change use controls in the future.

The change to allow ADUs in the rear of commercial structures enables a more affordable housing type adjacent to neighborhood shopping and often close to transit as well. It may benefit commercial tenants by producing smaller, more affordable spaces and it may benefit property owners who can update their properties and provide an affordable-by-design housing unit. It may benefit tenants interested in living in an affordable space in a neighborhood commercial corridor.

Are there strategies to mitigate the direct effects or unintended consequences and to advance racial and social equity?

The Planning Department and the Office of Economic and Workforce Development implement several important efforts focused on economic development in [Priorities Geographies](#).¹ Combined, these efforts provide the resources and connections to vulnerable communities to identify needs, monitor policy implementation, and work with vulnerable communities to developed mitigations if needed.

- Cultural Districts: The Mayor's Office of Housing and Community Development is leading City efforts (including the Planning Department, the Office of Economic and Workforce Development, and the Arts Commission, among others) to coordinate resources to stabilize vulnerable communities facing, or at risk of, displacement or gentrification. Each community associated with a cultural district has developed or will develop strategies tailored to their particular needs. Cultural Districts include: Japantown Cultural District, Calle 24 Latino Cultural District (in the Mission), SoMa Pilipinas – Filipino Cultural District, Compton's Transgender Cultural District (in the Tenderloin), Leather and LGBTQ Cultural District (in the SOMA), African American Arts and Cultural District (in the Bayview), and Castro LGBTQ Cultural District.
- Invest in Neighborhoods (IIN), an ongoing OEWD program, strengthens neighborhood commercial districts by leveraging resources from across multiple departments and nonprofit partners. These include business support services/technical assistance, grants and loans, and streetscape improvements. IIN offers tailored services and resources and is strives to be well-connected to community stakeholders.
- The Planning Department's Racial Equity Plan Phase 2 (forthcoming in late 2021, pending direction from the Office of Racial and Social Equity) will provide a framework for external functions such as community

¹ Priority Geographies are areas of investments to support culturally significant enterprise, arts, services, or businesses, and because a significant portion of its residents or people who spend time in the area or location are members of a specific cultural, community, racial, or ethnic group that historically has been discriminated against, displaced, and oppressed. The map of Priority Geographies is online at: <https://sfplanning.org/project/recovery-strategies>

- planning, legislation, public information, and historic preservation.
- The Planning Department’s Racial and Social Equity Team, in collaboration with a consultant, will work to define circumstances in the Planning Code that may lead to disparities and disadvantages in San Francisco across racial and social groups and identify Planning Code sections to prioritize for an audit of the Planning Code; whether small business regulation is prioritized will be determined. Based on the information and research, the Planning Department and the consultant will recommend updates to the Planning Code to better address the existing disparities and advantages in San Francisco. Recommendations are anticipated in 2022.
 - New community-based planning efforts in the Tenderloin, Fillmore/Western Addition, Sunset District, and ongoing MAP2020 efforts, are neighborhood-driven collaborations between residents, community organizations, businesses, and City agencies. These efforts will seek to identify current neighborhood needs and prioritize City and community investments for housing and homelessness, open space, health and wellness, transit and mobility, economic development, arts and culture, and environmental justice.

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.

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 so that in Sections 1006.2 and 1111.1, a 10-day appeal period is granted for public appeals as well as review initiated by the Historic Preservation Commission. This modification will ensure consistent appeal periods.
 - a. The amendment to Section 1006.2 would be: “Administrative Certificates of Appropriateness. Upon receipt of a building permit application, the Department will review and render a decision on an Administrative Certificate of Appropriateness without a hearing before the HPC. The Department shall mail the Department's written decision on an Administrative Certificate of Appropriateness to the applicant and to any individuals or organizations who so request. Any Departmental decision on an Administrative Certificate of Appropriateness may be appealed to the HPC within 10 ~~15~~ days of the date of the written decision. The HPC may also request review of any Departmental decision on an Administrative Certificate of Appropriateness by its own motion within 10 ~~20~~ days of the written decision.”
 - b. The modification to Section 1111.1(b) would be: “Upon receipt of a building permit application and delegation of its review to Department staff, the Department will review and render a decision on a Permit for Minor Alterations without a hearing before the HPC. The Department shall mail its written decision approving a Permit for Minor Alteration to the applicant and any individuals or organizations who have so requested in writing to the Department. The Department's decision may be appealed to the HPC within 10 ~~15~~ days of the date of the written decision. The HPC may also review the decisions of the Department by its own motion if such

motion is made within ~~10~~ 20 days of the date of the written decision.”

Basis for Recommendation

The proposed amendments to the Planning Code support the recommendations of the City’s Economic Recovery Task Force, align with General Plan objectives, and extend the processes supported by voters in Prop H. In a city of neighborhoods, small businesses are essential to the livability and vitality of San Francisco. Neighborhood businesses provide “social infrastructure” – the places where community convenes and is created.

The pandemic has exacerbated pre-existing retail conditions and vulnerabilities. Particularly as we enter a period of recovery from the impacts of the COVID pandemic, neighborhood businesses need the flexibility to modify their operations and re-engage their patrons. Removing bureaucracy will help both existing businesses to rebuild and provide opportunities for new businesses. Supporting arts and culture will encourage more partnerships between small businesses and local talent.

The suite of changes in the proposed Small Business Recovery Act will support economic recovery for neighborhood businesses through multiple avenues. The proposed amendments will support businesses without undue burdens on communities.

The one recommended modification, described above, will ensure consistent appeal periods for an Administrative Certificate of Appropriateness and a Permit for Minor Alterations, whether the appeal originates from the public or the Historic Preservation Commission.

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: Board of Supervisors File No. 210285



HISTORIC PRESERVATION COMMISSION DRAFT RESOLUTION

HEARING DATE: April 21, 2021

Project Name: Simplify Restrictions on Small Businesses
Case Number: 2021-002933PCA [Board File No. 210285]
Initiated by: Mayor London Breed / Introduced March 16, 2021
Staff Contact: Sheila Nickolopoulos, Legislative Affairs
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Reviewed by: Aaron D Starr, Manager of Legislative Affairs
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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO 1) SHORTEN THE TIME FOR THE HISTORIC PRESERVATION COMMISSION TO REQUEST REVIEW OF MINOR ALTERATION PERMITS AND CERTIFICATES OF APPROPRIATENESS; 2) DELETE SEPARATE DEFINITIONS OF “CAT BOARDING,” “GYM,” “TRADE SHOP,” AND “SERVICES, INSTRUCTIONAL”; 3) ALLOW PERMITTED CONDITIONAL USES TO CONTINUE AFTER THREE YEARS OF ABANDONMENT; 4) ALLOW THE CONTINUATION OF LONGSTANDING PLACES OF ENTERTAINMENT WITHOUT REQUIRING A PERMIT; 5) ALLOW OUTDOOR ACTIVITY AREAS ON ROOFTOPS; 6) TEMPORARILY REQUIRE A CONDITIONAL USE AUTHORIZATION FOR USES REPLACING NIGHTTIME ENTERTAINMENT USES; 7) ALLOW ACCESSORY CATERING USES IN RESTAURANTS; 8) ALLOW ACCESSORY DWELLING UNITS ON THE GROUND FLOOR IN NEIGHBORHOOD COMMERCIAL, CHINATOWN BUSINESS, AND CHINATOWN VISITOR DISTRICTS; 9) ALLOW TEMPORARY OUTDOOR ENTERTAINMENT, ARTS AND RECREATION ACTIVITIES, 10) DELETE CERTAIN CONDITIONAL USE FINDING REQUIREMENTS FOR NIGHTTIME ENTERTAINMENT USE; 11) DELETE CONDITIONAL USE FINDINGS RELATED TO FORMULA RETAIL CONCENTRATIONS IN CERTAIN DISTRICTS; 12) REQUIRE EXPEDITED PERMIT PROCESSING FOR COMMERCIAL USES ON THE GROUND FLOOR ; 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 March 16, 2021 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 210285, which would amend Planning Code Sections 102, 145.4, 155.2, 155.4, 178, 202.2, 204.3, 207, 209.3, 210.3, 210.3C, 249.1, 249.33, 249.35A, 249.84, 249.87, 303, 303.1, 303.2, 309, 311, 703, 703.9, 731, 732, 733, 734, 750, 801.2, 803.2, 803.3, 803.9, 843, 890.54, and 890.116, and adding Sections 193, 202.10, and 205.8;

WHEREAS, The Historic Preservation Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on April 21, 2021; and,

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

WHEREAS, the Historic Preservation 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Historic Preservation Commission has reviewed the proposed Ordinance; and

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

MOVED, that the Historic Preservation 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:

The Commission finds that the proposed amendments to the Planning Code, called the ‘Small Business Recovery Act,’ support the recommendations of the City’s Economic Recovery Task Force, align with General Plan objectives, and extend the processes supported by voters in Prop H. In a city of neighborhoods, small businesses are essential to the livability and vitality of San Francisco. Neighborhood businesses provide “social infrastructure” – the places where community convenes and is created.

The pandemic has exacerbated pre-existing retail conditions and vulnerabilities. Particularly as we enter a period of recovery from the impacts of the COVID pandemic, neighborhood businesses need the flexibility to modify their operations and re-engage their patrons. Removing bureaucracy will help both existing businesses to rebuild and provide opportunities for new businesses. Supporting arts and culture will encourage more partnerships between small businesses and local talent.

The suite of changes in the proposed Small Business Recovery Act will support economic recovery for neighborhood businesses through multiple avenues. The proposed amendments will support businesses without undue burdens on communities.

The recommended modification will ensure consistent appeal periods for an Administrative Certificate of Appropriateness and a Permit for Minor Alterations, whether the appeal originates from the public or the Historic Preservation Commission.

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED

Policy 3.1

Promote the attraction, retention, and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The proposed Ordinance will facilitate the establishment and long-term viability of neighborhood businesses, which benefits employers, employees, and patrons.

Policy 3.4

Assist newly emerging economic activities

The proposed Ordinance will support economic recovery from pandemic impacts for existing and new neighborhood businesses.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY. ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the City's commercial districts, while recognizing and encouraging diversity among the districts.

Policy 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society

Policy 6.4

Encourage the location of neighborhood shopping areas throughout the City so that essential retail goods and personal services are accessible to all residents.

The proposed Ordinance will support the three preceding policies by decreasing the process and cost associated with opening a neighborhood business, granting neighborhood businesses the flexibility to adapt

their operations to changing retail dynamics, and providing targeted protections and opportunities for entertainment and cultural establishments.

AREA PLANS

The proposed Ordinance is consistent with the following Objectives and Policies of area plans, which focus on fostering healthy and vibrant retail that is appropriate to the surrounding neighborhood scale and that provides a variety of good and services, as well as employment opportunities.

BALBOA PARK STATION AREA PLAN

OBJECTIVE 1.2: STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.

Policy 1.2.3: Retain and improve the neighborhood's existing businesses while also attracting new businesses that address unmet retail and service needs of the diverse local neighborhoods.

BAYVIEW HUNTERS POINT AREA PLAN

OBJECTIVE 7: ENCOURAGE HEALTHY RETAIL REUSE IN THE EXISTING COMMERCIAL CORE OF THIRD STREET AND COMPLEMENTARY GROWTH IN ADJACENT SECTIONS.

CENTRAL SOMA AREA PLAN

OBJECTIVE 3.4: FACILITATE A VIBRANT RETAIL ENVIRONMENT THAT SERVES THE NEEDS OF THE COMMUNITY.

OBJECTIVE 3.6 RECOGNIZE THE IMPORTANCE OF NIGHTLIFE USES IN CREATING A COMPLETE NEIGHBORHOOD.

CHINATOWN AREA PLAN

OBJECTIVE 5: RETAIN AND ENHANCE CHINATOWN'S ROLE AS A VISITOR ATTRACTION.

DOWNTOWN AREA PLAN

OBJECTIVE 3: IMPROVE DOWNTOWN SAN FRANCISCO'S POSITION AS THE REGION'S PRIME LOCATION FOR SPECIALIZED RETAIL TRADE.

EASTERN NEIGHBORHOODS AREA PLANS (CENTRAL WATERFRONT, EAST SOMA, MISSION, SHOWPLACE SQUARE/POTRERO, WESTERN SOMA)

OBJECTIVE 6.1: SUPPORT THE ECONOMIC WELLBEING OF A VARIETY OF BUSINESSES IN THE EASTERN NEIGHBORHOODS.

GLEN PARK AREA PLAN

OBJECTIVE 1: PROTECT AND STRENGTHEN THE QUALITIES THAT MAKE DOWNTOWN GLEN PARK SPECIAL.

MARKET AND OCTAVIA AREA PLAN

OBJECTIVE 1: CREATE A LAND USE PLAN THAT EMBRACES THE MARKET AND OCTAVIA NEIGHBORHOOD'S POTENTIAL AS A SUSTAINABLE MIXED- USE URBAN NEIGHBORHOOD.

Policy 1.1.9: *Allow small-scale neighborhood-serving retail and other community-serving uses at intersections in residential districts*

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 will support neighborhood serving retail uses and enhance future opportunities for resident employment in and ownership of such businesses.

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 will support the preservation of cultural and economic diversity of our neighborhoods.

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 will fortify the service sectors and will not cause displacement of the industrial sectors due to office development. The proposed Ordinance will support future opportunities for resident employment or ownership in these sectors.

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 adversely affect the 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.

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 April 21, 2021.

Jonas P. Ionin
Commission Secretary

AYES: List commissioners in alphabetical order

NOES: see above, or put: None

ABSENT: see above or put: None

ADOPTED: XXXXXX XX, 20XX

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

April 14, 2021

Planning Commission
Attn: Jonas Ionin
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Commissioners:

On April 6, 2021, Mayor Breed introduced the following legislation:

File No. 210285

Ordinance amending the Planning, Business and Tax Regulations, and Police Codes to adopt and implement the Small Business Recovery Act by, among other things: 1) expanding streamlined review and inspection procedures to principally permitted storefront uses Citywide; 2) deleting separate definitions of “Cat Boarding,” “Gym,” “Trade Shop,” and “Services, Instructional” from the Planning Code; 3) allowing permitted conditional uses to continue after three years of abandonment; 4) allowing Outdoor Activity Areas on rooftops; 5) allowing accessory catering uses in Restaurants; 6) allowing accessory dwelling units on the ground floor in Neighborhood Commercial, Chinatown Business, and Chinatown Visitor Districts; 7) allowing temporary outdoor entertainment, arts and recreation activities; 8) deleting certain conditional use finding requirements for Nighttime Entertainment use; 9) deleting conditional use findings related to formula retail concentrations in certain districts; 10) requiring expedited permit processing for commercial uses on the ground floor; 11) shortening the time for the Historic Preservation Commission to request review of minor alteration permits and certificates of appropriateness; 12) extending time for limited live performances from 10 p.m. to 11 p.m.; 13) allowing additional One-Time Entertainment Permits and One-Time Outdoor Amplified Sound Permits; 14) exempting single individual performances without amplification from permit requirements; affirming the Planning Department’s determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk

Land Use and Transportation Committee

- c: Rich Hillis, Director
- Scott Sanchez, Zoning Administrator
- Lisa Gibson, Environmental Review Officer
- Devyani Jain, Deputy Environmental Review Officer
- Adam Varat, Acting Director of Citywide Planning
- Aaron Starr, Manager of Legislative Affairs
- Andrea Ruiz-Esquide, Deputy City Attorney
- Joy Navarrete, Major Environmental Analysis

1 [Planning, Business and Tax Regulations, Police Codes - Small Business Recovery Act]

2
3 **Ordinance amending the Planning, Business and Tax Regulations, and Police Codes to**
4 **simplify procedures and allow flexibility for neighborhood, cultural, and entertainment**
5 **establishments by 1) expanding streamlined review and inspection procedures to**
6 **principally permitted storefront uses citywide; 2) deleting separate definitions of “Cat**
7 **Boarding,” “Gym,” “Trade Shop,” and “Services, Instructional” from the Planning**
8 **Code; 3) allowing permitted conditional uses to continue after three years of**
9 **abandonment; 4) allowing the continuation of longstanding places of entertainment; 5)**
10 **allowing Outdoor Activity Areas on rooftops; 6) temporarily requiring a conditional use**
11 **authorization for uses replacing Nighttime Entertainment uses; 7) allowing accessory**
12 **catering uses in Restaurants; 8) allowing accessory dwelling units on the ground floor**
13 **in Neighborhood Commercial, Chinatown Business, and Chinatown Visitor Districts; 9)**
14 **allowing temporary outdoor entertainment, arts and recreation activities, 10) deleting**
15 **certain conditional use finding requirements for Nighttime Entertainment use; 11)**
16 **deleting conditional use findings related to formula retail concentrations in certain**
17 **districts; 12) requiring expedited permit processing for commercial uses on the ground**
18 **floor; 13) shortening the time for the Historic Preservation Commission to request**
19 **review of minor alteration permits and certificates of appropriateness; 14) extending**
20 **time for limited live performances from 10 p.m. to 11 p.m.; 15) allowing additional One-**
21 **Time Entertainment Permits and One-Time Outdoor Amplified Sound Permits; 16)**
22 **exempting single individual performances without amplification from permit**
23 **requirements; affirming the Planning Department’s determination under the California**
24 **Environmental Quality Act; and making findings of consistency with the General Plan,**

1 and the eight priority policies of Planning Code, Section 101.1, and findings of public
2 necessity, convenience, and welfare under Planning Code, Section 302 .

3 NOTE: Unchanged Code text and uncodified text are in plain Arial font.
4 Additions to Codes are in *single-underline italics Times New Roman font*.
5 Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
6 Board amendment additions are in double-underlined Arial font.
7 Board amendment deletions are in ~~strikethrough Arial font~~.
8 Asterisks (* * * *) indicate the omission of unchanged Code
9 subsections or parts of tables.

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

9
10 Section 1. Environmental and Land Use Findings.

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

16 (b) On _____, 2021, the Planning Commission, in Resolution No. _____, adopted
17 findings that the actions contemplated in this ordinance are consistent, on balance, with the
18 City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board
19 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
20 Board of Supervisors in File No. _____, and is incorporated herein by reference.

21 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
22 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in
23 Planning Commission Resolution No. _____, and incorporates such reasons by this reference
24 thereto. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File
25 No. _____.

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Section 2. This ordinance shall be known as the Small Business Recovery Act.

Section 3. Article 1 of the Business and Tax Regulations Code is hereby amended by revising Section 32, to read as follows:

SEC. 32. COORDINATED AND STREAMLINED CITY REVIEW OF THE ESTABLISHMENT, MODIFICATION, AND/OR OPERATION OF A PRINCIPALLY PERMITTED COMMERCIAL USE ~~THAT IS PRINCIPALLY PERMITTED IN A NEIGHBORHOOD COMMERCIAL OR NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT~~; EXPEDITED PROCESS AND WAIVER OF ADDITIONAL FEES WHERE DEPARTMENT ERROR REQUIRES ADDITIONAL PROCESSING.

(a) **General Requirement.** City departments that are responsible for reviewing permit applications for the establishment, modification, and/or operation of a principally permitted storefront commercial use ~~that is principally permitted in a Neighborhood Commercial District or Neighborhood Commercial Transit District~~ shall develop a process for the coordinated and streamlined review of those permit applications, with timely responses from applicants, and any inspections required in connection with the applications, in order to (1) ensure that San Francisco’s commercial corridors remain thriving, (2) support existing businesses in adapting their business models in a changing economic environment, (3) improve access for business owners from all backgrounds to successfully open their business in San Francisco, and (4) protect the City’s tax base.

(b) **Deadline for Implementation of Coordinated and Simplified Review Process.** The City departments subject to this Section 32 include, but are not limited to, the Planning Department, Department of Building Inspection, Fire Department, Department of Public Works, and Health Department. No later than 30 days from the effective date of this Section

1 32, the subject City departments shall implement a coordinated and simplified process for the
2 review of all applications for principally permitted storefront commercial uses ~~that are principally~~
3 ~~permitted in the district~~, and shall periodically review and update the process. For permits
4 outside of Neighborhood Commercial District or Neighborhood Commercial Transit Districts, the
5 subject City departments shall apply the coordinated and simplified process for the review of all
6 applications for storefront commercial uses that are principally permitted in the district no later than
7 90 days after the operative date of the ordinance in Board of Supervisors File No. _____, amending
8 this Section 32.

9 * * * *

10
11 Section 4. The Planning Code is hereby amended by revising Sections 102, 145.4,
12 155.2, 155.4, 178, 202.2, 204.3, 207, 209.3, 210.3, 210.3C, 249.1, 249.33, 249.35A, 249.84,
13 249.87, 303, 303.1, 303.2, 309, 311, 703, 703.9, 731, 732, 733, 734, 750, 801.2, 803.2,
14 803.3, 803.9, 843, 890.54, and 890.116, and adding Sections 193, 202.11, and 205.8, to read
15 as follows:

16
17 **SEC. 102. DEFINITIONS.**

18 * * * *

19 ~~**Cat Boarding.** A Retail Sales and Service Use that provides boarding only for cats.~~

20 * * * *

21 **Entertainment, Nighttime.** A Retail Entertainment, Arts and Recreation Use that includes
22 dance halls, discotheques, nightclubs, private clubs, and other similar evening-oriented
23 entertainment activities which require dance hall keeper police permits or Place of
24 Entertainment police permits, as defined in Section 1060 of the Police Code, which are not
25 limited to non-amplified live entertainment, including Restaurants and Bars which present

1 such activities, but shall not include any Arts Activity, any theater performance space which
2 does not serve alcoholic beverages during performances, or any temporary uses permitted
3 pursuant to Sections 205 through 205.4 of this Code. This use is also subject to the controls in
4 Section 202.11.

5 * * * *

6 **Flexible Retail.** A Retail Sales and Service Use in Neighborhood Commercial Districts,
7 subject to the requirements of Sections 179.2 and 202.9, that combines a minimum of two of
8 the following distinct Uses within a space that may be operated by one or more business
9 operators:

- 10 (1) Arts Activities;
- 11 (2) Restaurant, Limited;
- 12 (3) Retail Sales and Services, General;
- 13 (4) Service, Personal; and
- 14 (5) Service, Retail Professional; ~~and~~
- 15 ~~(6) Trade Shop.~~

16 * * * *

17 ~~**Gym.** A Retail Sales and Service Use including a health club, fitness, gymnasium, or exercise facility~~
18 ~~when including equipment and space for weight-lifting and cardiovascular activities.~~

19 * * * *

20 **kennel.** A Retail Sales and Services Use where dogs, or dogs and cats, are boarded for
21 compensation, or are cared for or trained for hire, or are kept for sale or bred for sale, where
22 the care, breeding, or sale of the dogs, or dogs and cats, is the principal means of livelihood of
23 the occupants of the premises.

24 * * * *

1 **Manufacturing, Light.** An Industrial Use that provides for the fabrication or production of
2 goods, by hand or machinery, for distribution to retailers or wholesalers for resale off the
3 premises, primarily involving the assembly, packaging, repairing, or processing of previously
4 prepared materials. Light manufacturing uses include production and custom activities usually
5 involving individual or special design, or handiwork, such as the following fabrication or
6 production activities, as may be defined by the Standard Industrial Classification Code Manual
7 as light manufacturing uses:

8 * * * *

9 It shall not include ~~Trade Shop~~, Agricultural and Beverage Processing 1 or 2, or Heavy
10 Manufacturing 1, 2, or 3. This use is subject to the location and operation controls in Section
11 202.2(d).

12 * * * *

13 **Production, Distribution, and Repair (PDR) Use.** A grouping of uses that includes, but is
14 not limited, to all Industrial and Agricultural Uses, Ambulance Services, Animal Hospital,
15 Automotive Service Station, Automotive Repair, Automotive Wash, Arts Activities, Business
16 Services, ~~Cat Boarding~~, Catering, Commercial Storage, Kennel, Motor Vehicle Tow Service,
17 Livery Stable, Parcel Delivery Service, Public Utilities Yard, Storage Yard, Trade Office, ~~Trade~~
18 ~~Shop~~, Wholesale Sales, and Wholesale Storage.

19 * * * *

20 **Retail Sales and Service, General.** A Retail Sales and Service Use that provides goods
21 and/or services to the general public and that is not listed as a separate Retail Sales and
22 Service Use in this Section 102. This use includes, but is not limited to the sale or provision of
23 the following goods and services:

24 * * * *

25

1 (i) Books, stationery, greeting cards, office supplies, copying service, music, and
2 sporting goods; ~~and~~

3 (j) Toys, gifts, and photographic goods and services;:-

4 (k) Trade shops that provide custom-crafted goods and/or services for sale directly to the
5 consumer, reserving some storefront space for display and retail service; this may include but is not
6 limited to repair of personal apparel, accessories, household goods, appliances, furniture, and similar
7 items, upholstery services, and other artisan craft uses; and

8 (l) Boarding for domestic cats.

9 * * * *

10 **Sales and Services, Retail.** A Commercial Use category that includes Uses that involve the
11 sale of goods, typically in small quantities, or services directly to the ultimate consumer or end
12 user with some space for retail service on site, excluding Retail Entertainment Arts and
13 Recreation, and Retail Automobile Uses and including, but not limited to: Adult Business,
14 Animal Hospital, Bar, Cannabis Retail, ~~Cat Boarding~~, Chair and Foot Massage, Tourist
15 Oriented Gift Store, General Grocery, Specialty Grocery, ~~Gym~~, Hotel, Jewelry Store, Kennel,
16 Liquor Store, Massage Establishment, Mortuary (Columbarium), Motel, Non-Auto Sales,
17 Pharmacy, Restaurant, Limited Restaurant, General Retail Sales and Service, Financial
18 Service, Fringe Financial Service, Limited Financial Service, Health Service, ~~Instructional~~
19 ~~Service~~, Personal Service, Retail Professional Service, Self-Storage, and Tobacco
20 Paraphernalia Establishment, ~~and Trade Shop~~.

21 * * * *

22 **Service, Business.** A Non-Retail Sales and Service Use that provides the following kinds of
23 services primarily to businesses and/or to the general public and does not fall under the
24 definition of Office: radio and television stations, newspaper bureaus, magazine and trade
25 publication publishing, microfilm recording, slide duplicating, bulk mail services, parcel

1 shipping services, parcel labeling and packaging services, messenger delivery/courier
2 services, sign painting and lettering services, non-vehicular equipment rental, or building
3 maintenance services.

4 * * * *

5 ~~**Service, Instructional.** A Retail Sales and Service Use that includes instructional services not certified
6 by the State Educational Agency, such as art, dance, exercise, martial arts, and music classes.~~

7 * * * *

8 **Service, Personal.** A Retail Sales and Services Use that provides grooming services to the
9 individual, including salons, cosmetic services, tattoo parlors, and health spas, bathhouses,
10 and steam rooms; health clubs, fitness, gymnasium or exercise facilities when including equipment
11 and space for weight lifting and cardiovascular activities; or instructional services not certified by the
12 State Educational Agency, such as art, dance, exercise, martial arts, and music classes. Personal
13 Service does not include Massage Establishments ~~or Gym~~, which ~~is~~are defined separately in
14 this Section 102.

15 * * * *

16 ~~**Trade Shop.** A Retail Sales and Service Use that provides custom-crafted goods and/or services for
17 sale directly to the consumer, reserving some storefront space for display and retail service, subject to
18 the conditions in Section 202.2. A trade shop includes, but is not limited to:~~

- 19 ~~(a) Repair of personal apparel, accessories, household goods, appliances, furniture, and
20 similar items, but excluding repair of motor vehicles and structures;~~
- 21 ~~(b) Upholstery services;~~
- 22 ~~(c) Carpentry;~~
- 23 ~~(d) Printing of a minor processing nature, including multi-copy and blueprinting services and
24 printing of pamphlets, brochures, resumes, and small reports, but excluding printing of books,
25 magazines, or newspapers;~~

1 ~~(e) Tailoring; and~~

2 ~~(f) Other artisan craft uses, including fine arts uses. Arts Activities and Light Manufacturing~~
3 ~~shall be considered distinct from Trade Shops.~~

4 * * * *

5 **SEC. 145.4. REQUIRED GROUND FLOOR COMMERCIAL USES.**

6 * * * *

7 **Table 145.4**

| Reference for Commercial, Neighborhood Commercial, and Residential-Commercial Districts | Reference for Mixed Use Districts | Use |
|---|-----------------------------------|------------------------------------|
| * * * * | | |
| 102 | N/A | Gym |
| * * * * | | |
| 102 | N/A | Services, Instructional |
| * * * * | | |
| 102 | 890.124 | Trade Shop |
| * * * * | | |

18 * * * *

19 **SEC. 155.2. BICYCLE PARKING: APPLICABILITY AND REQUIREMENTS FOR SPECIFIC**
20 **USES.**

21 Bicycle parking spaces are required in at least the minimum quantities specified in
22 Table 155.2. Bicycle parking shall meet the standards in Section 155.1.

23 * * * *

24 //

25 //

1 **Table 155.2**

2 **BICYCLE PARKING SPACES REQUIRED**

| Use | Minimum Number of Class 1 Spaces Required | Minimum Number of Class 2 Spaces Required |
|---|--|--|
| * * * * | | |
| Sales and Services Use Category | | |
| * * * * | | |
| <i>Trade Shop</i> , Retail Greenhouse or Nursery | One Class 1 space for every 12,000 square feet of Occupied Floor Area, except not less than two Class 1 spaces for any use larger than 5,000 occupied square feet. | Minimum of two spaces. Four Class 2 spaces for any use larger than 50,000 occupied square feet. |
| * * * * | | |

3 * * * *

4 **SEC. 155.4. REQUIREMENTS FOR SHOWER FACILITIES AND LOCKERS.**

5 (a) **Applicability.** Requirements for shower facilities and lockers are applicable under
6 the provisions of Section 155.2(a)(1) through (a)(4) for uses defined under subsection (c)
7 below. Subject uses shall provide shower and clothes locker facilities for short-term use of the
8 tenants or Employees in that building. When shower facilities and lockers are required due to
9 additions to, conversion, or renovation of uses, facilities shall be calculated based on the total
10 square footage of the building or lot after the addition, conversion or renovations.

11 * * * *

1 (c) Requirements.

| 2 Uses | 3 Minimum Shower Facility and Lockers 4 Required |
|--|---|
| 5 Entertainment, Arts and Recreation Uses; 6 Industrial Uses; Institutional Uses; Non- 7 Retail Sales and Services Uses; Utility and 8 Infrastructure Uses; <i>and</i> Small Enterprise 9 Workspace; and Trade Shop | 10 - One shower and six clothes lockers where 11 the Occupied Floor Area exceeds 10,000 12 square feet but is no greater than 20,000 13 square feet, 14 - Two showers and 12 clothes lockers where 15 the Occupied Floor Area exceeds 20,000 16 square feet but is no greater than 50,000 17 square feet, 18 - Four showers and 24 clothes lockers are 19 required where the Occupied Floor Area 20 exceeds 50,000 square feet. |
| 21 * * * * | |

22 SEC. 178. CONDITIONAL USES.

23 The following shall apply to conditional uses:

24 * * * *

25 (d) **Abandonment.** ~~A permitted conditional use that is discontinued for a period of three years, or otherwise abandoned, shall not be restored, except upon approval of a new conditional use application pursuant to the provisions of Article 3 of this Code. For purposes of this subsection (d), the period of nonuse for a permitted conditional use to be deemed discontinued in the Castro Street Neighborhood Commercial District and the Jackson Square Special Use District shall be 18 months.~~

1 A permitted conditional Formula Retail use which is discontinued for a period of 18
2 months, or otherwise abandoned, shall not be restored, except upon approval of a new
3 conditional use application pursuant to Article 3 of this Code.

4 * * * *

5 **SEC. 193. CONTINUATION OF LONGSTANDING PLACES OF ENTERTAINMENT.**

6 Notwithstanding any other provision of the Code, pursuant to Police Code Section 1060.2.3,
7 any premises for which a Place of Entertainment Permit is required and which has been deemed to be a
8 Continuing Entertainment Operations Establishment by the Entertainment Commission, or its Director
9 as appropriate, may establish a Nighttime Entertainment use, regardless of the zoning permissibility of
10 such uses within the district, by obtaining a building permit and without obtaining a Conditional Use
11 Authorization or being subject to any neighborhood notification requirements.

12
13 **SEC. 202.2. LOCATION AND OPERATING CONDITIONS.**

14 (a) **Retail Sales and Service Uses.** The Retail Sales and Service Uses listed below
15 shall be subject to the corresponding conditions:

16 * * * *

17 (7) **Outdoor Activity Area.** An Outdoor Activity Area shall be principally
18 permitted in any Neighborhood Commercial District or Neighborhood Commercial Transit
19 District if it meets all of the following conditions:

20 (A) The Outdoor Activity Area is located on the ground level or on a
21 rooftop within the boundaries of the property;

22 (B) The Outdoor Activity Area is in operation only between 9:00 a.m. and
23 10:00 p.m.;

24 (C) The Outdoor Activity Area is not operated in association with a Bar
25 use;

1 (D) Where associated with a Limited Restaurant or Restaurant Use, the
2 Outdoor Activity Area includes only seated, not standing, areas for patrons; and

3 (E) Alcohol is dispensed to patrons only inside the premises or through
4 wait staff services at the patron’s outdoor seat in the Outdoor Activity Area.

5 Any Outdoor Activity Area seeking to operate beyond these limitations requires
6 a Conditional Use Authorization, unless such Outdoor Activity Area is permitted by Planning
7 Code Section 145.2.

8 * * * *

9 **SEC. 202.11. TEMPORARY LIMITATION ON CHANGE IN USE OR DEMOLITION OF**
10 **NIGHTTIME ENTERTAINMENT USE.**

11 *(a) Notwithstanding any other provision of this Article 2, for the three years following the*
12 *effective date of the ordinance in Board File No. _____ adopting this Section 202.11, a change in use*
13 *or demolition of a Nighttime Entertainment use, as defined in Section 102, shall require Conditional*
14 *Use authorization pursuant to Section 303. In acting on any application for Conditional Use*
15 *authorization for changes in use or demolition of a Nighttime Entertainment Use, the Commission shall*
16 *consider the following criteria in addition to the criteria set forth in Section 303(c) and (d) of this*
17 *Code:*

18 *(1) Preservation of a Nighttime Entertainment use is no longer economically viable and*
19 *cannot effect a reasonable economic return to the property owner. For purposes of defining*
20 *“reasonable economic return,” the Planning Commission shall be guided by the criteria for Fair*
21 *Return on Investment set forth in Section 102;*

22 *(2) The change in use or demolition of the Nighttime Entertainment use will not*
23 *undermine the economic diversity and vitality of the surrounding District;*

1 (3) The change in use or demolition of the Nighttime Entertainment use will not
2 undermine the availability of live entertainment venues for residents to experience live performances or
3 find employment as live performers; and

4 (4) The resulting project will preserve the architectural integrity of important historic
5 features of the Nighttime Entertainment use affected.

6 (b) At the conclusion of the three-year period referenced in subsection (a), this Section 202.10
7 shall expire by operation of law, after which time the City Attorney shall cause this Section to be
8 removed from the Planning Code.

9
10 **SEC. 204.3. ACCESSORY USES FOR USES OTHER THAN DWELLINGS IN C, RC, M,**
11 **AND PDR DISTRICTS.**

12 (a) **Commercial, Residential-Commercial, PDR, and M Districts.** An Accessory
13 Use to a lawful Principal or Conditional Use is subject to the following limitations:

14 * * * *

15 (4) **Accessory Catering Use to Restaurants and Limited Restaurants.**
16 Catering Uses that satisfy the limitations set forth in Section 703(d)(3)(B) shall be permitted as
17 an Accessory Use to Restaurants and Limited Restaurants.

18 * * * *

19
20 **SEC 205.8. TEMPORARY USES: OUTDOOR ENTERTAINMENT, ARTS AND RECREATION**
21 **ACTIVITIES.**

22 (a) Entertainment, Arts and Recreation Activities: Entertainment, Arts and Recreation Uses,
23 as defined in Section 102, may be authorized as a temporary use in outdoor areas, including temporary
24 structures, and any ancillary uses of indoor areas, for a maximum of two years. Such uses may also
25 include the administrative activities of such use.

1 **(b) Duration.** *The initial authorization (“Initial Period”) shall not exceed one year and may*
2 *be extended for an additional year by the Director, for a maximum authorized period of up to two*
3 *years, pursuant to this Section 205.8.*

4 **(c) Hours of Operation.** *Uses permitted by this Section 205.8 may not exceed the hours of*
5 *9:00 a.m. to 10:00 p.m.*

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

9 **(e) No Conversion, Change, Discontinuance, or Abandonment of Use.** *The approval or*
10 *commencement of a temporary use as authorized under this Section 205.8 shall not be considered a*
11 *conversion, discontinuance, abandonment, or change of use for purposes of this Code, notwithstanding*
12 *Sections 178, 182, and 183 of this Code. Any property for which the temporary use is authorized shall*
13 *retain its authorized land use(s). Such authorized land uses, including any nonconforming uses, shall*
14 *again become operative upon the expiration, termination, or abandonment of such temporary use*
15 *authorization.*

16 **(f) Information To Be Available To Public.** *The Department shall make available to the*
17 *public in the Planning Department’s main office and on its website a list of all applications approved*
18 *under this Section 205.8 along with applicable time frames and any additional information the*
19 *Planning Department deems useful for or relevant to the continued and successful activation of the*
20 *subject sites in the surrounding neighborhood.*

21
22 **SEC. 207. DWELLING UNIT DENSITY LIMITS.**

23 * * * *

24 **(c) Exceptions to Dwelling Unit Density Limits.** An exception to the calculations
25 under this Section 207 shall be made in the following circumstances:

1 * * * *

2 (4) Local Accessory Dwelling Unit Program: Accessory Dwelling Units in
3 Multifamily Buildings; Accessory Dwelling Units in Single-Family Homes That Do Not
4 Strictly Meet the Requirements in subsection (c)(6).

5 * * * *

6 (C) Controls on Construction. An Accessory Dwelling Unit regulated by
7 this subsection (c)(4) is permitted to be constructed in an existing or proposed building under
8 the following conditions:

9 * * * *

10 (viii) ~~An Accessory Dwelling Unit shall not be permitted in any building~~
11 ~~in a Neighborhood Commercial District or in the Chinatown Community Business or Visitor Retail~~
12 ~~Districts if it would eliminate or reduce a ground-story retail or commercial space, unless the~~
13 ~~Accessory Dwelling Unit is a Designated Child Care Unit, as defined in Section 102, and meets all~~
14 ~~applicable standards of Planning Code Section 414A.6(e). In Neighborhood Commercial Districts or in~~
15 ~~the Chinatown Community Business or Visitor Retail Districts, Accessory Dwelling Units may not~~
16 ~~eliminate or reduce the size of a ground floor commercial space, except under the following~~
17 ~~circumstances: (1) the Accessory Dwelling Unit may completely eliminate a ground floor commercial~~
18 ~~space if it is being added as a Designated Child Care Unit, as defined in Section 102; or (2) the~~
19 ~~addition of the Accessory Dwelling Unit maintains a depth of at least 25 feet of the commercial space~~
20 ~~that fronts on the public right-of-way.~~

21 * * * *

22 **SEC. 209.3. RC (RESIDENTIAL-COMMERCIAL) DISTRICTS.**

23 These Districts are intended to recognize, protect, conserve, and enhance areas
24 characterized by structures combining Residential uses with neighborhood-serving
25 Commercial uses. The predominant Residential uses are preserved, while provision is made

1 for supporting Commercial uses, usually in or below the ground story, that meet the frequent
 2 needs of nearby residents without generating excessive vehicular traffic. The compact,
 3 walkable, transit-oriented and mixed-use nature of these Districts is recognized by no off-
 4 street parking requirements. The RC Districts are composed of two separate districts, as
 5 follows:

6 * * * *

7 **Table 209.3**

8 **ZONING CONTROL TABLE FOR RESIDENTIAL-COMMERCIAL DISTRICTS**

9

| Zoning Category | § References | RC-3 | RC-4 |
|-------------------------------|--------------|------|------|
| Sales and Service Category | | | |
| * * * * | | | |
| <i>Cat Boarding</i> | § 102 | NP | NP |
| * * * * | | | |

16

17 **SEC. 210.3. PDR DISTRICTS.**

18 These Districts provide space for a wide variety of PDR (production, distribution and
 19 repair) and other non-residential activities in districts where these uses are free from inherent
 20 economic and operational competition and conflicts with housing, large office developments,
 21 and large-scale retail, which are not permitted in these Districts. Other uses that share
 22 operational characteristics with PDR uses are permitted in these Districts, as they require
 23 large flexible spaces and prefer separation from intensive housing districts. PDR-zoned land
 24 is also an important reservoir of space in San Francisco for new and evolving industry and
 25 activity types that cannot be foreseen today and cannot practically function or compete for

space in a typical downtown office or neighborhood commercial environment. Business and activities allowed in PDR Districts generally share a need for flexible operating space that features large open interior spaces, high ceilings, freight loading docks and elevators, floors capable of bearing heavy loads, and large (often uncovered exterior) storage areas. These uses are often not ideally compatible with housing for operational reasons, including the need for significant trucking and delivery activities, 24-hour operation, and emission of noise, odors and vibrations. Importantly, PDR uses are limited in the amount of rent they can afford relative to office, retail, and residential uses, yet are important sectors of the City's economy.

* * * *

Table 210.3
ZONING CONTROL TABLE FOR PDR DISTRICTS

* * * *

| Zoning Category | § References | PDR-1-B | PDR-1-D | PDR-1-G | PDR-2 |
|---------------------------------------|---------------------------|--------------|---------------|---------------|-----------|
| * * * * | | | | | |
| Sales and Service Category | | | | | |
| Retail Sales and Service Uses* | §§ 102, 202(a) | P(1)(11) | P(10)(11) | P(9)(11) | P(1)(11) |
| * * * * | | | | | |
| <i>Cat Boarding</i> | § 102 | <i>P</i> | <i>P</i> | <i>P</i> | <i>P</i> |
| * * * * | | | | | |
| <i>Gym</i> | §§ 102, 210.3C | <i>NP</i> | <i>NP(20)</i> | <i>NP(20)</i> | <i>NP</i> |
| * * * * | | | | | |
| <i>Trade Shop</i> | § 102 | <i>P(11)</i> | <i>P</i> | <i>P</i> | <i>P</i> |
| * * * * | | | | | |

1 * * * *

2 (11) ~~Printing shop and newspaper publication limited to 5,000 Gross Square Feet. Personal Services~~
3 ~~that are a health club, fitness, gymnasium, or exercise facility that include equipment and space for~~
4 ~~weight-lifting and cardiovascular activities are NP except as provided in Section 210.3C.~~

5 * * * *

6 ~~(20) NP except as provided in Section 210.3C.~~

7 * * * *

8 **SEC. 210.3C. ALLOWANCE FOR USES TO SUPPORT THE DEVELOPMENT OF NEW**
9 **PDR SPACE IN THE PDR-1-D AND PDR-1-G DISTRICTS.**

10 * * * *

11 (c) **Controls.** The Planning Commission may permit, per the procedures described
12 below in subsection (d), non-PDR uses on the subject lot pursuant to the following provisions:

13 (1) At least one-third of the total Gross Floor Area developed on the parcel shall
14 contain PDR Uses.

15 (2) For purposes of this subsection (c), every square foot of Small Enterprise
16 Workspace shall count as 0.5 square feet of PDR space and 0.5 square feet of non-PDR
17 space as specified in subsection (c)(3) below.

18 (3) The non-PDR space may contain one or a combination of the following
19 uses:

20 (A) Office Uses;

21 (B) Institutional Uses, except for Hospitals; ~~and/or~~

22 (C) ~~Gym use,~~ Personal Services that are a health club, fitness, gymnasium, or
23 exercise facility that include equipment and space for weight-lifting and cardiovascular activities, as
24 defined in Section 102, in PDR-1-D and PDR-1-G; and/or;

25 (D) Any use otherwise Principally Permitted in the underlying PDR district.

1 * * * *

2 **SEC. 249.1. FOLSOM AND MAIN RESIDENTIAL/COMMERCIAL SPECIAL USE**
3 **DISTRICT.**

4 (a) **Purpose.** In order to convert an under-utilized and outmoded industrial area to a
5 unique residential neighborhood close to downtown which will contribute significantly to the
6 City's housing supply, create tapered residential buildings, provide an appropriate mixture of
7 retail sales and personal services to support new residential development, provide a buffer of
8 office and parking use between the bridge and freeway ramps and the housing sites, and
9 allow the existing industrial, service and office uses to remain, there shall be the Folsom and
10 Main Residential/Commercial Special Use District as designated on Sectional Map No. SU01
11 of the Zoning Map of the City and County of San Francisco.

12 * * * *

13 (b) **Controls.** The following zoning controls are applicable in the
14 Residential/Commercial Special Use District.

15 * * * *

16 (2) **Uses.**

17 (A) Permitted uses are those permitted in an RC-4 District, plus the uses
18 listed in ~~§~~subsection (e)(1)(B) below; provided that, for newly constructed buildings or
19 additions of ~~20% percent~~ or more of an existing building's gross floor area, at least six net
20 square feet of residential use is provided for each one net square foot of non-residential use
21 on any lot. Additions of less than ~~20% percent~~ of a building's gross floor area are exempt from
22 the six-to-one residential requirements. Once granted, this exemption from the residential
23 development requirement for building additions may not be repeated for any single property.
24 Any addition of more than ~~20% percent~~ of gross square feet of building area shall be required
25 to provide the housing on a six-to-one basis for all of the additional building area. All areas

1 used for parking for either residential or non-residential uses shall be excluded in the
2 calculation of the residential/non-residential ratio. For the purposes of application of this six-to-
3 one 6-to-1 ratio, Hotels as defined under Section 102 shall be considered a non-residential
4 rather than a residential use.

5 (B) The use provisions applicable to an RC-4 District shall be applicable
6 to the "Residential/Commercial" Subdistrict with the following modifications or additions:

7 * * * *

8 (vii) ~~Trade Shops and~~ Catering uses shall be permitted as of right
9 above or below the ground floor, and shall require Conditional Use authorization at the ground
10 floor;

11 * * * *

12 **SEC. 249.33. VAN NESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT.**

13 (a) Purpose. There shall be a Van Ness & Market Residential Special Use District,
14 which is comprised of the parcels zoned C-3-G in the Market Octavia Better Neighborhoods
15 Plan area, and whose boundaries are designated on Sectional Map Nos. SU02 and SU07 of
16 the Zoning Map of the City and County of San Francisco. This District is generally comprised
17 of parcels focused at the intersections of Van Ness Avenue at Market Street and South Van
18 Ness Avenue at Mission Street, along with parcels on both sides of Market and Mission
19 Streets between 9th and Division Streets. This District is intended to be a transit-oriented,
20 high-density neighborhood with a significant residential presence and a mix of neighborhood-
21 serving uses. New development and major expansions must be predominantly residential.
22 Other non-residential uses that are allowed and encouraged, include arts, institutional, and
23 retail uses. Retail controls allow for smaller retail use sizes in order to emphasize
24 neighborhood-serving character. These uses compliment the transit rich infrastructure in the
25 area, which includes the Van Ness MUNI Metro Station and the intersection of several major

1 transit corridors including Van Ness, Market Street, Mission Street and other major bus lines.
2 This area is encouraged to transition from largely a back-office and warehouse support
3 function to downtown into a more mixed-use residential district, and serves as a transition
4 zone to the lower scale residential and neighborhood commercial areas to the west of the C-3.
5 A notable amount of large citywide commercial and office activity will remain in the area,
6 including government offices supporting the Civic Center and City Hall. This area was initially
7 identified in the Downtown Plan of the General Plan as an area to encourage housing
8 adjacent to the downtown. As part of the city's Better Neighborhoods Program, this concept
9 was fully articulated in the Market and Octavia Area Plan, and is described therein.

10 (b) **Use Controls.**

11 * * * *

12 (9) **Micro-Retail.** "Micro-Retail" shall mean a Retail Use, other than a Formula
13 Retail Use, measuring no less than 100 gross square feet, no greater than 1,000 gross square
14 feet and a 10 foot minimum depth from the front façade.

15 (A) **Applicability.** Micro-Retail controls shall apply to projects with new
16 construction or alterations to greater than 50% of an existing building if located on a lot of at
17 least 20,000 square feet.

18 (B) **Controls.**

19 (i) **Amount.** Applicable development projects shall have at least
20 one Micro-Retail unit for every 20,000 gross square feet of lot area, rounded to the nearest
21 unit.

22 (ii) **Location and Design.** All Micro-Retail units shall be on the
23 ground floor, independently and directly accessed from a public right-of-way or a publicly-
24 accessible open space, and designed to be accessed and operated independently from other
25 spaces or uses on the subject property. For projects adjacent to Privately Owned Publicly

1 Accessible Open Spaces, free standing kiosks are allowed to meet this requirement through
2 Planning Commission approval through a 309 exception.

3 (iii) **Exemption.** Any projects providing ground floor uses that are
4 larger than 1,000 gross square feet and defined as Arts Activities, Child Care Facility,
5 Community Facility, ~~Instructional Service~~, Public Facility, School or Social Service are exempt
6 from the Micro-Retail requirement.

7 (iv) **Exceptions.** Exceptions to the micro-retail requirement may
8 be granted pursuant to the procedures of Section 309.

9 * * * *

10 **SEC. 249.35A. FULTON STREET GROCERY STORE SPECIAL USE DISTRICT.**

11 (a) Purpose. In order to provide for the consideration of a neighborhood-serving
12 grocery store of moderate size in a location accessible to the Hayes Valley and Western
13 Addition neighborhoods, there shall be a Fulton Street Grocery Store Special Use District,
14 consisting of Lots 001 and 058 through 198, inclusive of Assessor's Block 0794, between
15 Laguna and Octavia Streets, as designated on Sectional Map 2SU of the Zoning Map. This
16 Special Use District would enable the consideration of a project containing a grocery store in a
17 district that does not permit such uses. This Special Use District would conditionally permit a
18 grocery store that is a formula retail use, in order to allow consideration of a grocery store that
19 is affordable to the neighborhood. This one-time lift of the ban on formula retail is intended to
20 support an affordable grocery store that is committed to serving and hiring from the
21 neighborhood. According to the U.S. Census Bureau's 2017 American Community Survey,
22 the median household income in the surrounding neighborhood is \$24,041, and over one-third
23 of residents in the neighborhood live below the poverty line.

24 * * * *

1 (d) **Controls.** The following controls apply to projects meeting the criteria of subsection
2 (c) and to any subsequent alterations or changes of use in a building approved under this
3 Section 249.35A.

4 * * * *

5 (4) All subsequent changes of use shall require Conditional Use authorization
6 from the Planning Commission. The only Non-Residential Uses that may be permitted in the
7 space initially approved for a Grocery Store shall include ~~Trade Shop and~~ Institutional Uses,
8 excluding Medical Cannabis Dispensaries, and Hospitals, except that General Retail Sales
9 and Services, Pharmacy, or General or Specialty Grocery uses may be permitted.

10 * * * *

11 **SEC. 249.84. INDIA BASIN SPECIAL USE DISTRICT.**

12 * * * *

13 (g) **Uses.**

14 (1) **Permitted Uses.** The following uses set forth in Table 249.84-1: India Basin
15 Uses shall be permitted as indicated within the different use districts of the SUD, where P
16 means Permitted Use and NP means Non-permitted Use.

17 * * * *

18 **Table 249.84-1: India Basin Uses**

19 * * * *

20 **Notes:**

21 * * * *

22 7. Use not permitted with the exception of ~~Cat Boarding,~~ Kennel, Light Manufacturing, Metal
23 Working, Parcel Delivery Service, Trade Office, ~~Trade Shop,~~ Animal Processing~~+~~, and Food
24 Fiber and Beverage Processing.

25 * * * *

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SEC. 249.87. POTRERO POWER STATION SPECIAL USE DISTRICT.

* * * *

(f) Definitions. For purposes of this Section 249.87, the following definitions shall apply. If not expressly superseded by definitions set forth in this subsection (f), all definitions of the Planning Code shall apply.

* * * *

“Production, Distribution, and Repair (PDR) Use” has the meaning as set forth in Planning Code Section 102 as amended from time to time, except that it also includes trade shops that provide custom-crafted goods and/or services for sale directly to the consumer, reserving some storefront space for display and retail service; this may include but is not limited to repair of personal apparel, accessories, household goods, appliances, furniture, and similar items, upholstery services, and other artisan craft uses.

* * * *

(g) Uses.

* * * *

(2) **Permitted Uses.** The following Uses set forth in Table 249.87-1: Potrero Power Station Land Uses shall be permitted within the different Blocks of the SUD shown in Figure 249.87-1, where P means Permitted Use and NP means Non-permitted Use.

* * * *

Table 249.87-1: Potrero Power Station Land Uses*

* * * *

Notes:

* * * *

1 (4) Automobile Assembly, Agricultural and Beverage Processing ~~±~~, Arts Activities,
2 Business Services, Catering, Light Manufacturing, Metal Working, ~~Trade Shop~~, Wholesale
3 Sales are P at the basement level, ground floor, 2nd floor, and mezzanine only. Other PDR
4 Uses are NP.

5 (5) Agricultural and Beverage Processing ~~±~~, Light Manufacturing, Arts Activities,
6 Business Services, Catering, ~~Trade Shop~~ and Wholesale Sales are P at the basement level,
7 ground floor, 2nd floor, and mezzanine only.

8 * * * *

9 (7) P at the basement level, ground floor, mezzanine, and 2nd floor only; on Blocks 2,
10 3, 11, 12, and 15, and Block 9 if Block 9 is majority non-residential, Bar, Tourist Oriented Gift
11 Store, Specialty Grocery, ~~Gym~~, Liquor Store, Limited Restaurant, ~~General~~ Restaurant,
12 ~~Instructional Service~~, and ~~Retail~~ Personal Service Uses are P on rooftops; other Retail Uses are
13 NP on rooftops.

14 * * * *

15 (10) Hotel is P. Bar, Tourist Oriented Gift Store, Specialty Grocery, ~~Gym~~, Liquor Store,
16 Limited Restaurant, ~~General~~ Restaurant, ~~Instructional Service~~, and ~~Retail~~ Personal Service Uses
17 are P on rooftops; other Retail Uses are NP on rooftops. Only one rooftop bar shall be
18 permitted on Block 9. If building is majority Residential, P at the basement level, ground floor,
19 mezzanine, 2nd floor and 3rd floor only.

20 * * * *

21

22 **SEC. 303. CONDITIONAL USES.**

23 * * * *

24 (o) ~~Eating and Drinking Uses. With regard to a Conditional Use authorization application for~~
25 ~~a Restaurant, Limited Restaurant and Bar uses the Planning Commission shall consider, in addition to~~

1 ~~the criteria set forth in subsection (c) above, the existing concentration of eating and drinking uses in~~
2 ~~the area. Such concentration should not exceed 25% of the total commercial frontage as measured in~~
3 ~~linear feet within the immediate area of the subject site except as otherwise provided in this subsection~~
4 ~~(o). The concentration of eating and drinking uses in the Polk Street Neighborhood Commercial~~
5 ~~District shall not exceed 35% of the total commercial frontage as measured in linear feet within the~~
6 ~~immediate area of the subject site. For the purposes of this Section 303 of the Code, the immediate area~~
7 ~~shall be defined as all properties located within 300' of the subject property and also located within the~~
8 ~~same zoning district. [Subsection deleted.]~~

9 (p) ~~Adult Business, Nighttime Entertainment, General Entertainment, and Other~~
10 ~~Entertainment Uses.~~

11 (1) With respect to Conditional Use authorization applications for Adult
12 Business, ~~Nighttime Entertainment, General Entertainment and Other Entertainment~~ uses, such use
13 or feature shall:

- 14 (A) ~~If the use is an Adult Business, it shall not~~ Not be located within 1,000
15 feet of another such use; and/or
- 16 (B) Not be open between two a.m. and six a.m.; and
- 17 (C) Not use electronic amplification between midnight and six a.m.; and
- 18 (D) Be adequately soundproofed or insulated for noise and operated so
19 that incidental noise shall not be audible beyond the premises or in other sections of the
20 building and fixed-source equipment noise shall not exceed the decibel levels specified in the
21 San Francisco Noise Control Ordinance.

22 * * * *

23 **SEC. 303.1. FORMULA RETAIL USES.**

24 * * * *

1 (c) "Retail Sales or Service Activity or Retail Sales or Service Establishment." For
2 the purposes of this Section 303.1, a retail sales or service activity or retail sales or service
3 establishment shall include the following uses whether functioning as a Principal or Accessory
4 Use, as defined in Articles 1, 2, 7, and 8 of this Code:

5 * * * *

- 6 - Massage Establishment §§ 102, 890.60;
- 7 - Service, Personal §§ 102, 890.116;

8 ~~—Service, Instructional § 102;~~

9 ~~—Gym; § 102~~

10 * * * *

11 (d) **Conditional Use Criteria.** With regard to a Conditional Use authorization
12 application for a Formula Retail use, the Planning Commission shall consider, in addition to
13 the criteria set forth in Section 303, the criteria below and the Performance-Based Design
14 Guidelines adopted by the Planning Commission to implement the criteria below.

15 ~~(1) The existing concentrations of Formula Retail uses within the district and within the~~
16 ~~vicinity of the proposed project. To determine the existing concentration, the Planning Commission~~
17 ~~shall consider the percentage of the total linear street frontage within a 300-foot radius or a quarter of~~
18 ~~a mile radius, at the Planning Department's discretion, from the subject property that is occupied by~~
19 ~~Formula Retail and non-Formula Retail businesses. The Department's review shall include all parcels~~
20 ~~that are wholly or partially located within the 300-foot radius or quarter-mile radius. If the subject~~
21 ~~property is a corner parcel, the 300-foot radius or quarter-mile radius shall include all corner parcels~~
22 ~~at the subject intersection. For each property, the Planning Department shall divide the total linear~~
23 ~~frontage of the lot facing a public right of way by the number of storefronts, and then calculate the~~
24 ~~percentage of the total linear frontage for Formula Retail and non-Formula Retail. Half percentage~~
25 ~~points shall be rounded up.~~

1 ~~For the Upper Market Street Neighborhood Commercial District only, if the application~~
2 ~~would bring the formula retail concentration within a 300-foot radius to a concentration of 20% or~~
3 ~~above, Planning Department staff shall recommend disapproval of the application to the Planning~~
4 ~~Commission. If the application would not bring the formula retail concentration within the 300-foot~~
5 ~~radius to a concentration of 20% or above, Planning Department staff shall assess the application~~
6 ~~according to all the other criteria listed in this Subsection 303.1(d), and recommend approval or~~
7 ~~disapproval to the Planning Commission, according to its discretion and professional judgment. In~~
8 ~~either case, the Planning Commission may approve or reject the application, considering all the~~
9 ~~criteria listed in this Subsection 303.1(d).~~

10 (2 1) The availability of other similar retail uses within the district and within the
11 vicinity of the proposed project.

12 (3 2) The compatibility of the proposed Formula Retail use with the existing
13 architectural and aesthetic character of the district.

14 (4 3) The existing retail vacancy rates within the district and within the vicinity of
15 the proposed project.

16 (5 4) The existing mix of Citywide-serving retail uses and daily needs-serving
17 retail uses within the district and within the vicinity of the proposed project.

18 (6 5) Additional relevant data and analysis set forth in the Performance-Based
19 Design Guidelines adopted by the Planning Commission.

20 (7 6) For Formula Retail uses of 20,000 gross square feet or more, except for
21 General or Specialty Grocery stores as defined in Articles 2, 7 and 8 of this Code, the
22 contents of an economic impact study prepared pursuant to Section 303(i) of this Code.

23 (8 7) Notwithstanding anything to the contrary contained in Planning Code
24 Article 6 limiting the Planning Department's and Planning Commission's discretion to review
25 signs, the Planning Department and Planning Commission may review and exercise

1 discretion to require changes in the time, place and manner of the proposed signage for the
2 proposed Formula Retail use, applying the Performance-Based Design Guidelines.

3 * * * *

4
5 **SEC. 303.2. ~~PRIORITY-EXPEDITED~~ PROCESSING FOR CERTAIN USES IN**
6 **COMMERCIAL SPACE: EXPEDITED CONDITIONAL USE REVIEW AND APPROVAL**
7 **PROCESS AND REDUCED APPLICATION FEE.**

8 * * * *

9 (b) **Priority-Expedited Processing for Certain Uses.** Applications for Conditional Use
10 authorization that comply with the requirements of subsection (c) are eligible for ~~priority~~
11 ~~expedited~~ processing and a prorated application fee. Eligibility for ~~priority-expedited~~ processing
12 shall not require any application separate from a completed application for Conditional Use
13 authorization. Unless modified by this Section 303.2, the provisions of Section 303 shall apply.

14 (c) **Eligibility for Priority-Expedited Processing.** An application for a Conditional Use
15 authorization qualifies for ~~priority-expedited~~ processing (“eligible application”) pursuant to this
16 Section 303.2 if it is seeking to establish, alter, enlarge or intensify a commercial use on the first story
17 or below, or on the second story where the commercial use would operate on both the first and second
18 stories, in the subject building and complies with all of the following requirements:

- 19 (1) It pertains exclusively to Non-Residential Uses;
- 20 (2) It is limited to changes of use, tenant improvements, or other interior or
21 storefront work;
- 22 (3) It does not involve the removal of any Dwelling Units;
- 23 (4) It does not involve a Formula Retail use with more than 20 locations;
- 24 (5) It does not propose or require the consolidation of multiple storefronts;

1 (6) It does not seek to provide off-street parking in a quantity beyond that
2 allowed as of right; *and*

3 ~~(7) It does not seek to establish, expand, or intensify activities during hours of operation~~
4 ~~beyond those permitted as of right;~~

5 ~~(8) It does not seek to sell alcoholic beverages for either on-site or off-premises~~
6 ~~consumption, excepting beer and/or wine sold in conjunction with the operation of a Bona Fide Eating~~
7 ~~Place;~~

8 (~~9~~7) It does not seek to establish or expand any of the following uses:

9 (A) Adult Entertainment.

10 ~~(B) Bar.~~

11 ~~(C) Drive-up Facility.~~

12 ~~(D) Fringe Financial Service.~~

13 ~~(E) Medical Cannabis Dispensary.~~

14 ~~(F) Nighttime Entertainment.~~

15 ~~(G) Non-Retail Sales and Service that is closed to the general public.~~

16 ~~(H) Tobacco Paraphernalia Establishment.~~

17 ~~(I) Wireless Communication Facility; and~~

18 (~~8~~10) Is not within the Calle 24 Special Use District, as described and set forth
19 in Section 249.59 of this Code.

20 If the application qualifies for *priority expedited* processing, the Department shall notify
21 the applicant of the date of acceptance of the complete application and of the applicant's
22 eligibility for *priority expedited* processing. The application fee shall be prorated pursuant to
23 subsection (f).

24 (d) **Expedited Commission Hearing.** An eligible application shall be scheduled for a
25 public hearing on the Planning Commission's consent calendar within 90 days from the date

1 that the application has been deemed complete, unless the hearing date is extended pursuant
2 to subsection (e). An application is deemed complete when the application and filing fee have
3 been accepted by the Department. The Planning Commission shall develop rules and
4 regulations to ensure that eligible applications are heard and determined within 90 days
5 without compromising the review times of other applications. In order to aid the expedited
6 processing of these applications, the Planning Department shall create and use an abbreviated case
7 report for applications that are eligible for this program.

8 * * * *

9 **SEC. 309. PERMIT REVIEW IN C-3 DISTRICTS.**

10 * * * *

11 (a) **Exceptions.** Exceptions to the following provisions of this Code may be granted as
12 provided in the code sections referred to below:

13 * * * *

14 (17) Exceptions to the height and bulk limits for parcels within the Van Ness &
15 Market Residential Special Use District as defined by Section 270(f)(2). In considering such
16 exceptions, the Planning Commission shall consider the extent to which the project achieves
17 the following: (A) sculpts the building massing to achieve an elegant and creative tower form
18 that enhances the skyline; (B) reduces or minimizes potential impacts on winds and shadows;
19 (C) provides ground floor uses that serve a range of income levels and enrich the social
20 landscape of the area such as: Arts Activities, Child Care Facility, Community Facility,
21 ~~Instructional Service~~, Public Facility, School, Social Service, priority health service or
22 neighborhood-serving retail; and (D) maximizes housing density within the allowed envelope.

23 * * * *

24
25 **SEC. 311. PERMIT REVIEW PROCEDURES.**

1 * * * *

2 (b) **Applicability.** Except as indicated herein, all building permit applications in
3 Residential, NC, NCT, and Eastern Neighborhoods Mixed Use Districts for a change of use;
4 establishment of a Micro Wireless Telecommunications Services Facility; establishment of a
5 Formula Retail Use; demolition, new construction, or alteration of buildings; and the removal
6 of an authorized or unauthorized residential unit, shall be subject to the notification and review
7 procedures required by this Section 311. In addition, all building permit applications that would
8 establish Cannabis Retail or Medical Cannabis Dispensary uses, regardless of zoning district,
9 shall be subject to the review procedures required by this Section 311. Notwithstanding the
10 foregoing or any other requirement of this Section 311, the following shall not be subject to the
11 review requirements of this Section 311: (1) a change of use to a Child Care Facility, as defined in
12 Section 102; ~~shall not be subject to the review requirements of this Section 311. Notwithstanding the~~
13 ~~foregoing or any other requirement of this Section 311;~~ (2) building permit applications to construct
14 an Accessory Dwelling Unit pursuant to Section 207(c)(6); ~~shall not be subject to the notification~~
15 ~~or review requirements of this Section 311. Notwithstanding the foregoing or any other requirement of~~
16 ~~this Section 311;~~ (3) a change of use to a principally permitted use in an NC or NCT District or
17 in a limited commercial use or a limited corner commercial use, as defined in Sections 186
18 and 231, respectively; and (4) a change of use in an Eastern Neighborhood Mixed Use District as
19 defined in Section 311(b)(1)(B); ~~shall not be subject to the review or notice requirements of this Section~~
20 ~~311.~~

21 * * * *

22
23 **SEC. 703. NEIGHBORHOOD COMMERCIAL DISTRICT REQUIREMENTS.**

24 * * * *

1 (d) **Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1
2 (Accessory Uses for Dwellings in All Districts), 204.4 (Dwelling Units Accessory to Other
3 Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, Accessory Uses as
4 defined in Section 102 shall be permitted when located on the same lot. Any Use that does
5 not qualify as an Accessory Use shall be classified as a Principal or Conditional Use unless it
6 qualifies as a temporary use under Sections 205 through 205.4 of this Code.

7 No Use will be considered accessory to a permitted Principal or Conditional Use that
8 involves or requires any of the following:

9 * * * *

10 (3) The wholesaling, manufacturing, or processing of foods, goods, or
11 commodities on the premises of an establishment that does not also use or provide for retail
12 sale of such foods, goods, or commodities at the same location where such wholesaling,
13 manufacturing, or processing takes place, with the following exceptions:

14 (A) In the North Beach Special Use District where such activities are
15 limited to 15% of the total floor area occupied by the Principal or Conditional Use to which it is
16 accessory unless the Principal or Conditional Use is Specialty Foods Manufacturing as
17 defined in Section 780.3 of this Code; and

18 (B) Notwithstanding the floor area limitation in subsection (d)(1), a
19 Catering Use limited to food and beverage Catering shall be permitted as an Accessory Use
20 to Restaurants and Limited Restaurants if the following requirements are met:

21 (i) The Catering Use does not operate more than 75% of the total
22 time within the Restaurant's or Limited Restaurant's Hours of Operation on any given day; and

23 (ii) The Catering Use does not distribute or deliver individual
24 meals to customers directly from the subject lot, either by its own means, or through a third-
25 party delivery service.

1 * * * *

2 (6) Any General Entertainment or Nighttime Entertainment use, except for one
3 that involves a Limited Live Performance Permit as set forth in Police Code Section 1060 et
4 seq., or one that does not require a Limited Live Performance Permit as set forth in Police Code
5 Section 1060.1(e).

6 * * * *

7
8 **SEC. 703.9. PRESERVATION OF HISTORIC BUILDINGS WITHIN THE FOLSOM STREET**
9 **NCT AND RCD DISTRICTS.**

10 The following controls are intended to support the economic viability of buildings of
11 historic importance within the Folsom NCT and RCD Districts.

12 * * * *

13 (b) Non-Retail Professional Services, Retail Professional Services, Financial Services,
14 Fringe Financial Services, ~~Gyms~~, Limited Financial Services, Health Services, and Personal
15 Services and Instructional Services, as defined in Section 102, are Principally Permitted. In the
16 RCD District only, in addition to the above uses, Arts Activities as defined in Section 102 are
17 Principally Permitted and Nighttime Entertainment uses as defined in Section 102 require
18 Conditional Use authorization, except that Nighttime Entertainment uses are Principally
19 Permitted in Article 10 Landmark Building No. 120 (St. Joseph's Church at 1401 Howard
20 Street). For all uses listed above, prior to the issuance of any necessary permits, the Zoning
21 Administrator, with the advice of the Historic Preservation Commission, shall determine that
22 allowing the use will enhance the feasibility of preserving the building. The project sponsor
23 must also submit a Preservation, Rehabilitation, and Maintenance Plan that describes any
24 proposed preservation and rehabilitation work and that guarantees the maintenance and
25 upkeep of the historic resource for approval by the Department. This Plan shall include:

* * * *

SEC. 731. NORIEGA STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

* * * *

**Table 731. NORIEGA STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

| Zoning Category | § References | Controls | | |
|---------------------------------------|--------------|-------------------|-------------|-----------|
| Non-Residential Standards and Uses | | | | |
| * * * * | | | | |
| | | Controls by Story | | |
| | | 1st | 2nd | 3rd+ |
| Sales and Service Use Category | | | | |
| Retail Sales and Service Uses* | § 102 | P | P | NP |
| * * * * | | | | |
| <i>Trade Shop</i> | <i>§ 102</i> | <i>P(4)</i> | <i>C(4)</i> | <i>NP</i> |
| <u>* * * *</u> | | | | |

(4) ~~Subject to Formula Retail Controls.~~ *[note deleted]*

* * * *

SEC. 732. IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

* * * *

Table 732. IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

| | | | | |
|---------------------------------------|-----------------|-------------------|-------------|-----------|
| Zoning Category | § References | Controls | | |
| Non-Residential Standards and Uses | | | | |
| * * * * | | | | |
| | | Controls by Story | | |
| | | 1st | 2nd | 3rd+ |
| Sales and Service Use Category | | | | |
| Retail Sales and Service | § 102, 202.2(a) | P | P | NP |
| Uses* | | | | |
| * * * * | | | | |
| <i>Trade Shop</i> | <i>§ 102</i> | <i>P(4)</i> | <i>C(4)</i> | <i>NP</i> |
| * * * * | | | | |

* * * *

(4) ~~Subject to Formula Retail Controls.~~ [Note deleted.]

* * * *

SEC. 733. TARAVAL STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

* * * *

Table 733. TARAVAL STREET NEIGHBORHOOD COMMERCIAL DISTRICT

ZONING CONTROL TABLE

| | | | | |
|------------------------------------|--------------|----------|--|--|
| Zoning Category | § References | Controls | | |
| Non-Residential Standards and Uses | | | | |

| | | | | | |
|---------------------------------------|-----------------|-------------|-------------------|-----------|------|
| * * * * | | | | | |
| | | | Controls by Story | | |
| | | | 1st | 2nd | 3rd+ |
| Sales and Service Use Category | | | | | |
| Retail Sales and Service Uses* | § 102, 202.2(a) | P | P | NP | |
| * * * * | | | | | |
| <i>Trade Shop</i> | <i>§ 102</i> | <i>P(4)</i> | <i>C(4)</i> | <i>NP</i> | |
| * * * * | | | | | |

* * * *

(4) ~~Subject to Formula Retail Controls.~~ [Note deleted.]

SEC. 734. JUDAH STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

* * * *

**Table 734. JUDAH STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

| Zoning Category | References | Controls | | | |
|---|------------|----------|-------------------|-----|------|
| Non-Residential Standards and Uses | | | | | |
| * * * * | | | | | |
| | | | Controls by Story | | |
| | | | 1st | 2nd | 3rd+ |
| Sales and Service Use Category | | | | | |

| | | | | | |
|---|---------------------------------|------------------|-----------------|-----------------|---------------|
| 1 | Retail Sales and Service | § 102, 202.2(a) | P | P | NP |
| 2 | Uses* | | | | |
| 3 | * * * * | | | | |
| 4 | <i>Trade Shop</i> | § 102 | P(4) | C(4) | NP |
| 5 | * * * * | | | | |
| 6 | | | | | |

* * * *

(4) ~~Subject to Formula Retail Controls. [Note deleted.]~~

* * * *

SEC. 750. NCT-1 – NEIGHBORHOOD COMMERCIAL TRANSIT CLUSTER DISTRICT.

* * * *

Table 750. NEIGHBORHOOD COMMERCIAL TRANSIT CLUSTER DISTRICT NCT-1

ZONING CONTROL TABLE

| Zoning Category | § References | Controls | | |
|---|------------------|-------------------|-----|------|
| Non-Residential Standards and Uses | | | | |
| * * * * | | | | |
| | | Controls by Story | | |
| | | 1st | 2nd | 3rd+ |
| Sales and Service Use Category | | | | |
| Retail Sales and Service Uses* | §§ 102, 202.2(a) | P(4) | NP | NP |
| * * * * | | | | |

* * * *

1 (4) ~~P if located more than 1/4 mile from any NC District or Restricted Use Subdistrict with more~~
2 ~~restrictive controls; otherwise, same as more restrictive controls.~~ [Note deleted.]

3 * * * *

4 **SEC. 801.2. REFERENCES TO ARTICLES 1, 2, AND 7 (TEMPORARY).**

5 Articles 1, 2 and 7 of this Code are in the process of a significant reorganization. As a
6 result, some references to Articles 1, 2, and 7 have not yet been modified. The following
7 references in this Section of the Code are amended as follows:

8 * * * *

9 224 shall refer to Section 102, Animal Hospital, ~~Cat Boarding~~, and Kennel

10 * * * *

11
12 **SEC. 803.2. USES PERMITTED IN CHINATOWN MIXED USE DISTRICTS.**

13 * * * *

14 (d) **Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1
15 (Accessory Uses for Dwelling Units in All Districts), 204.4 (Dwelling Units Accessory to Other
16 Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, an Accessory Use
17 as defined in Section 102, shall be permitted in Chinatown Mixed Use Districts when located
18 on the same lot. Any Use not qualified as an Accessory Use shall only be allowed as a
19 Principal or Conditional Use, unless it qualifies as a temporary use under Sections 205
20 through 205.4 of this Code.

21 No use in a Chinatown Mixed Use District will be considered accessory to a
22 Principal Use which involves or requires any of the following:

23 * * * *

1 (6) Any General Entertainment use, except for one that involves a Limited Live
2 Performance Permit as set forth in Police Code Section 1060 et seq., or one that does not
3 require a Limited Live Performance Permit as set forth in Police Code Section 1060.1(e).

4 * * * *

5
6 **SEC. 803.3. USES PERMITTED IN EASTERN NEIGHBORHOODS MIXED USE**
7 **DISTRICTS.**

8 * * * *

9 (b) **Use Limitations.** Uses in Eastern Neighborhood Mixed Use Districts are either
10 Principally Permitted, Conditional, Accessory, temporary, or are not permitted.

11 (1) **Permitted Uses.** If there are two or more uses in a structure, any use not
12 classified below under Section 803.3(b)(1)(C) of this Code as Accessory will be considered
13 separately as an independent permitted, Conditional, temporary or not permitted use.

14 * * * *

15 (C) **Accessory Uses.** Subject to the limitations set forth below and in
16 Sections 204.1 (Accessory Uses for Dwelling Units in All Districts), 204.4 (Dwelling Units
17 Accessory to Other Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code,
18 an Accessory Use is a related minor use which is either necessary to the operation or
19 enjoyment of a lawful Principal Use or Conditional Use, or is appropriate, incidental, and
20 subordinate to any such use, and shall be permitted as an Accessory Use in an Eastern
21 Neighborhoods Mixed Use District. In order to accommodate a Principal Use which is carried
22 out by one business in multiple locations within the same general area, such Accessory Use
23 need not be located in the same structure or lot as its Principal Use provided that (1) the
24 Accessory Use is located within 1,000 feet of the Principal Use; and (2) the multiple locations
25 existed on April 6, 1990. Accessory Uses to non-office uses (as defined in Section 890.70)

1 may occupy space which is noncontiguous or on a different Story as the Principal Use so long
2 as the Accessory Use is located in the same building as the Principal Use and complies with
3 all other restrictions applicable to such Accessory Uses. Any use which does not qualify as an
4 Accessory Use shall be classified as a Principal Use.

5 No use will be considered accessory to a Principal Use which involves or
6 requires any of the following:

7 * * * *

8 (v) Any Nighttime Entertainment use, as defined in Section 102;
9 provided, however, that a Limited Live Performance Permit as set forth in Police Code Section
10 1060 et seq., and entertainment that does not require a Limited Live Performance permit as set forth
11 in Police Code Section 1060.1(e), is allowed in any District except for an RED, RED-MX, MUR,
12 or MUG District.

13 * * * *

14
15 **SEC. 803.9. USES IN MIXED USE DISTRICTS.**

16 * * * *

17 (g) **Retail Controls in the MUG, MUO, CMUO, and UMU Districts.** In the MUG,
18 MUO, CMUO, and UMU District, up to 25,000 gross square feet of retail use (as defined in
19 Section 890.104 of this Code) is permitted per lot. Above 25,000 gross square feet, three
20 gross square feet of other uses permitted in that District are required for every one gross
21 square foot of retail. ~~In the UMU District, Gyms, as defined in Section 102, are exempt from this~~
22 ~~requirement.~~ In the CMUO District, Tourist Hotels, as defined in Sec. 890.46, are exempt from
23 this requirement.

24 //

25 //

1 **SEC. 843. UMU – URBAN MIXED USE DISTRICT.**

2 * * * *

3 **Table 843 UMU – URBAN MIXED USE DISTRICT ZONING CONTROL TABLE**

4

| No. | Zoning Category | § References | Urban Mixed Use District Controls |
|------------|------------------------|--------------------------------|--|
| * * * * | | | |
| 843.51 | Gyms | §§ 218(d), 803.9(g) | <p>P up to 3,999 gross sq.ft. per use; C over 4,000 sq.ft. per use.</p> <p>Not subject to 3:1 ratio, per Sec. 803.9(g)</p> |
| * * * * | | | |

15

16 **SEC. 890.54. LIGHT MANUFACTURING, WHOLESALE SALES, STORAGE.**

17 A commercial use, including light manufacturing, wholesale sales, and storage, as
 18 defined in Subsections (a), (b), (c), and (d) below.

19 (a) Light Manufacturing. A nonretail use that provides for the fabrication or
 20 production of goods, by hand or machinery, for distribution to retailers or wholesalers for
 21 resale off the premises, primarily involving the assembly, packaging, repairing, or processing
 22 of previously prepared materials, when conducted in an enclosed building having no openings
 23 other than fixed windows or exits required by law located within 50 feet of any R District. Light
 24 manufacturing uses include production and custom activities usually involving individual or
 25 special design, or handiwork, such as the following fabrication or production activities as may

1 be defined by the Standard Industrial Classification Code Manual as light manufacturing uses:

2 (1) Food processing, not including mechanized assembly line production
3 of canned or bottled goods;

4 (2) Apparel and other garment products;

5 (3) Furniture and fixtures;

6 (4) Printing and publishing of books or newspaper;

7 (5) Leather products;

8 (6) Pottery;

9 (7) Glass blowing;

10 (8) Measuring, analyzing, and controlling instruments; photographic,
11 medical and optical goods; watches and clocks; and

12 (9) Manufacture of cannabis products or cannabis extracts that are
13 derived without the use of volatile organic compounds (License Type 6—Manufacturer 1, as
14 defined in California Business and Professions Code, Division 10).

15 It shall not include the chemical processing of materials or the use of any machine that
16 has more than five horsepower capacity, nor shall the mechanical equipment required for the
17 use, together with related floor space used primarily by the operators of such equipment, in
18 aggregate occupy more than ¼ of the total gross floor area of the use.

19 It shall ~~be~~ not include ~~a trade shop, as defined in Section 890.124 of this Code, or~~ a heavy
20 industrial use subject to Section 226(e) through (w) of this Code. It shall not include general or
21 heavy manufacturing uses, not described in this ~~§~~ subsection (a).

22 * * * *

23 **SEC. 890.116. SERVICE, PERSONAL.**

24 A retail use which provides grooming services to the individual, including salons,
25 cosmetic services, tattoo parlors, and health spas; ~~and, excluding~~ instructional services not

1 certified by the State Educational Agency, such as art, dance, exercise, martial arts, and
 2 music classes.

3

4 Section 5. PLANNING CODE AMENDMENTS TO ZONING TABLES FOR
 5 NEIGHBORHOOD COMMERCIAL DISTRICTS, NEIGHBORHOOD COMMERCIAL TRANSIT
 6 DISTRICTS, AND MIXED USE DISTRICTS.

7 Consistent with Section 3 of this ordinance, which deletes from Section 102 of the
 8 Planning Code the definitions for “Cat Boarding,” “Gym,” “Services, Instructional,” and “Trade
 9 Shop,” the Neighborhood Commercial, Neighborhood Commercial Transit, and Mixed Use
 10 District Zoning tables in the Planning Code are revised to delete “Cat Boarding,” “Gym,”
 11 “Services, Instructional,” and “Trade Shop,” where those terms appear in the tables, and also
 12 to delete from the tables the related references to Section 102 and to zoning controls by story,
 13 so that the entire row for the deleted term is deleted. These deletions are illustrated in the
 14 following hypothetical zoning control table where an asterisk represents the control by story to
 15 be deleted, either P, NP, or C:

16

17 **HYPOTHETICAL ZONING CONTROL TABLE**

| Zoning Category | References | Controls | | |
|---|-----------------|-------------------|-----|------|
| Non-Residential Standards and Uses | | | | |
| * * * * | | | | |
| | | Controls by Story | | |
| | | 1st | 2nd | 3rd+ |
| Sales and Service Use Category | | | | |
| Retail Sales and Service Uses* | § 102, 202.2(a) | * | * | * |

25

| | | | | | |
|---|--------------------------------|--------------|---|---|---|
| 1 | * * * * | | | | |
| 2 | <i>Cat Boarding</i> | <i>§ 102</i> | * | * | * |
| 3 | <i>Gym</i> | <i>§ 102</i> | * | * | * |
| 4 | <i>Services, Instructional</i> | <i>§ 102</i> | * | * | * |
| 5 | <i>Trade Shop</i> | <i>§ 102</i> | * | * | * |

6 The zoning control tables to be amended pursuant to this Section 4 of this ordinance,
7 with the term or terms to be deleted for each Planning Code section as noted below, are the
8 following:

- 9 710 – Gym; Services, Instructional; Trade Shop
- 10 711 – Trade Shop
- 11 712 – Trade Shop
- 12 713 – Services, Instructional
- 13 714 – Trade Shop
- 14 715 – Gym; Services, Instructional; Trade Shop
- 15 718 - Trade Shop
- 16 719 – Trade Shop
- 17 721 – Trade Shop
- 18 722 – Trade Shop
- 19 723 – Trade Shop
- 20 724 – Gym; Services, Instructional
- 21 725 – Gym; Services, Instructional
- 22 726 – Trade Shop
- 23 727 – Gym; Services, Instructional; Trade Shop
- 24 729 – Trade Shop

- 1 730 – Trade Shop
- 2 735 – Trade Shop
- 3 736 – Trade Shop
- 4 737 – Trade Shop
- 5 738 – Trade Shop
- 6 739 – Trade Shop
- 7 740 – Trade Shop
- 8 741 – Trade Shop
- 9 742 – Gym; Services, Instructional; Trade Shop
- 10 743 – Trade Shop
- 11 744 – Trade Shop
- 12 745 – Trade Shop
- 13 751 – Trade Shop
- 14 752 – Trade Shop
- 15 753 – Trade Shop
- 16 754 – Trade Shop
- 17 755 – Trade Shop
- 18 756 – Trade Shop
- 19 757 – Cat Boarding; Gym; Services, Instructional; Trade Shop
- 20 758 – Cat Boarding; Services, Instructional; Trade Shop
- 21 759 – Trade Shop
- 22 760 – Gym; Services, Instructional; Trade Shop
- 23 761 – Gym; Services, Instructional; Trade Shop
- 24 762 – Gym; Services, Instructional
- 25 763 – Gym; Services, Instructional

- 1 764 – Gym; Services, Instructional; Trade Shop
- 2 810 – Trade Shop
- 3 811 – Gym; Services, Instructional
- 4 812 – Trade Shop
- 5 813 – Trade Shop
- 6 814 – Trade Shop
- 7 840 – Trade Shop
- 8 841 – Trade Shop
- 9 842 – Trade Shop
- 10 843 – Trade Shop
- 11 844 – Trade Shop
- 12 845 – Trade Shop
- 13 846 – Trade Shop
- 14 847 – Trade Shop
- 15 848 – Trade Shop

16

17 Section 6. The Planning Code is hereby amended by revising Sections 1006.2 and

18 1111.1, to read as follows:

19

20 **SEC. 1006.2. REVIEW BY PLANNING DEPARTMENT.**

21 The Department shall review an application for a Certificate of Appropriateness and

22 determine within 30 days of submittal whether the application is complete or whether

23 additional information is required.

24 (a) Minor Alterations. The HPC may define certain categories of work as Minor

25 Alterations and delegate review of an Administrative Certificate of Appropriateness for such

1 Minor Alterations to Department staff. If the HPC delegates such review to Department staff,
2 Minor Alterations shall include the following categories of work:

3 (1) Work the sole purpose and effect of which is to comply with the
4 Unreinforced Masonry Building (UMB) Seismic Retrofit Ordinance and where the proposed
5 work complies with the UMB Retrofit Architectural Design Guidelines adopted by the HPC; or

6 (2) Any other work so delegated to the Department by the HPC.

7 (b) Administrative Certificates of Appropriateness. Upon receipt of a building permit
8 application, the Department will review and render a decision on an Administrative Certificate
9 of Appropriateness without a hearing before the HPC. The Department shall mail the
10 Department's written decision on an Administrative Certificate of Appropriateness to the
11 applicant and to any individuals or organizations who so request. Any Departmental decision
12 on an Administrative Certificate of Appropriateness may be appealed to the HPC within 15
13 days of the date of the written decision. The HPC may also request review of any
14 Departmental decision on an Administrative Certificate of Appropriateness by its own motion
15 within ~~20~~ 10 days of the written decision.

16 * * * *

17 **SEC. 1111.1. DETERMINATION OF MINOR AND MAJOR ALTERATIONS.**

18 (a) The HPC shall determine if a proposed alteration is a Major Alteration or a Minor
19 Alteration and may delegate review of proposed Minor Alterations to Department staff, whose
20 decisions may be appealed to the HPC pursuant to subsection 1111.1(b). All work not
21 determined to be a Minor Alteration shall be a Major Alteration and subject to HPC approval. If
22 so delegated to Department staff, the categories of Minor Alteration shall include but are not
23 limited to the following:

1 (1) Alterations whose sole purpose and effect is to comply with the UMB
2 Seismic Retrofit Ordinances and that comply with the UMB Retrofit Architectural Design
3 Guidelines, which guidelines shall be adopted by the HPC; and

4 (2) Any other work so delegated to the Department by the HPC.

5 (b) Upon receipt of a building permit application and delegation of its review to
6 Department staff, the Department will review and render a decision on a Permit for Minor
7 Alterations without a hearing before the HPC. The Department shall mail its written decision
8 approving a Permit for Minor Alteration to the applicant and any individuals or organizations
9 who have so requested in writing to the Department. The Department's decision may be
10 appealed to the HPC within 15 days of the date of the written decision. The HPC may also
11 review the decisions of the Department by its own motion if such motion is made within ~~20~~ 10
12 days of the date of the written decision.

13 * * * *

14
15 Section 7. The Police Code is hereby amended by revising Sections 1060, 1060.1,
16 1060.24, 1060.29, and 1060.29.2; adding Sections 1060.2.3 and 1060.24.3; and deleting
17 Section 1060.38.1, to read as follows:

18
19 **SEC. 1060. DEFINITIONS.**

20 For the purposes of this Article 15.1, unless otherwise provided in this Article, the
21 following words and phrases shall mean:

22 * * * *

23 "Limited Live Performance Locale." A locale with all the following features:

24 (a) The presentation of Live Performances is a secondary purpose of the locale
25 rather than its primary purpose.

1 (b) The locale is indoors, or consists of an outdoor plaza, courtyard, or similar
2 space, enclosed by surrounding buildings, with or without open means of public ingress and
3 egress, with an area in which Live Performances are presented that is no greater than 200
4 square feet. For purposes of this provision, “outdoor plaza, courtyard, or similar space” also
5 shall include, regardless of the square footage of the Live Performance area, (1) any Plaza as
6 identified in Administrative Code Chapter 94 or (2) any People Place as identified in
7 Administrative Code Chapter 94A.

8 (c) Live Performances presented at the locale conclude by ~~11 10~~ p.m., ~~except as~~
9 ~~otherwise provided in Section 1060.38.1.~~ Notwithstanding the previous sentence, Live Performances
10 must conclude by 10 p.m. at any locale in any of the following areas: (1) the North Beach
11 Neighborhood Commercial District as defined in Planning Code Section 722; (2) the Polk Street
12 Neighborhood Commercial District as defined in Planning Code Section 723; (3) the north and south
13 sides of Chestnut Street between the east side of Fillmore Street and the west side of Divisadero Street;
14 and (4) the north side of Lombard Street, between Fillmore Street and Divisadero Street.

15 (d) The locale is not a Private Residence.

16 (e) Patrons or members are admitted to the locale, except this requirement shall
17 not apply to a Plaza as identified in Administrative Code Chapter 94 or a People Place as
18 identified in Administrative Code Chapter 94A.

19 * * * *

20 “One Time Event Permit.” A permit, as further described in Section 1060.29, allowing a
21 Person to conduct a One Time Event on the premises specified in the permit for no longer
22 than one 24-hour period, ~~and that may be issued for the same premises for no more than a total of 12~~
23 ~~days, whether consecutive or non-consecutive, in a 12-month period.~~

24 * * * *

1 "One Time Outdoor Amplified Sound Permit." A permit allowing One Time Outdoor
2 Amplified Sound on the premises specified in the permit, ~~and that may be issued for the same~~
3 ~~premises for no more than a total of 12 days, whether consecutive or non-consecutive, in a 12-month~~
4 ~~period.~~

5 * * * *

6
7 **SEC. 1060.1. PERMIT REQUIRED.**

8 (a) Except as provided in subsection (e), it # shall be unlawful for any Person to own,
9 conduct, operate, or maintain, or to cause or permit to be conducted, operated, or maintained,
10 any Place of Entertainment, Limited Live Performance Locale, One-Time Event, Fixed Place
11 Outdoor Amplified Sound Locale, One Time Outdoor Amplified Sound, or Sound Truck in the
12 City and County of San Francisco without first having obtained the required permit from the
13 Director or Entertainment Commission. No Person shall operate a Place of Entertainment
14 between 2:00 a.m. and 6:00 a.m. without having both a Place of Entertainment Permit and an
15 Extended-Hours Premises Permit.

16 * * * *

17 (e) No permit shall be required for any Person to own, conduct, operate, or maintain, or to
18 cause or permit to be conducted, operated, or maintained a Limited Live Performance Locale, where
19 any Entertainment ends by 10 p.m, and the Entertainment consists only of a single individual
20 performing without amplification. Any place or premises where this Entertainment occurs must 1)
21 conform to all health, safety, zoning, fire, and other ordinances of the City and County of San
22 Francisco; and 2) have a valid permit to operate (formerly referenced in this Article 15.1 as a public
23 eating place permit) from the Department of Public Health under Health Code Section 452, if
24 applicable. This subsection (e) shall not apply to any premises that does not hold a currently valid
25 permit that is required under this Article 16.

1
2 **SEC. 1060.2.3. DETERMINATION OF CONTINUING ENTERTAINMENT OPERATIONS**
3 **ESTABLISHMENT.**

4 *(a) Where an applicant for a Place of Entertainment Permit provides sufficient evidence to the*
5 *satisfaction of the Entertainment Commission, or its Director if so designated by the Commission, that*
6 *the premises has been in regular operation with a valid Place of Entertainment Permit, or a series of*
7 *consecutive valid Place of Entertainment Permits, without a substantial gap in operation, for at least*
8 *ten years prior to the effective date of the ordinance in Board of Supervisors File No. _____, enacting*
9 *this Section 1060.2.3, the Commission or Director, as applicable, may designate the premises as a*
10 *Continuing Entertainment Operations Establishment for purposes of Section 193 of the Planning Code.*

11 *(b) A “substantial gap in operation” shall not be interpreted to include any of the following:*
12 *(1) a change in ownership of a premises; (2) the temporary closure of a premises for repair,*
13 *renovation, restoration, or remodeling, including, but not limited to, restoration or repair of a premises*
14 *after total or partial destruction or damage due to fire, riot, insurrection, toxic accident, or act of God;*
15 *or (3) the temporary closure of a premises to comply with restrictions connected to the COVID-19*
16 *pandemic.*

17
18 **SEC. 1060.24. PERMITS NOT TRANSFERABLE; PERMIT MUST BE SURRENDERED**
19 **UPON SALE OF BUSINESS; PERMIT AMENDMENT REQUIRED TO CHANGE**
20 **PARTNERS OR OTHER OWNERS.**

21 * * * *

22 ~~*(h) Temporary Permits. Once the Entertainment Commission receives a surrendered Place of*~~
23 ~~*Entertainment Permit, Limited Live Performance Permit, or Fixed Place Outdoor Amplified Sound*~~
24 ~~*Permit under Section 1060.24(b), the new owner of the business may apply to the Director for a*~~
25 ~~*temporary Place of Entertainment Permit, Limited Live Performance Permit, or Fixed Place Amplified*~~

1 ~~Sound Permit, subject to any required Planning Department approvals, for a period not to exceed 90~~
2 ~~days from the date of surrender (a “Temporary Permit”). The Director may grant a Temporary Permit~~
3 ~~provided that (1) the new owner has submitted a completed application for a Place of Entertainment~~
4 ~~Permit, Limited Live Performance Permit, or Fixed Place Outdoor Amplified Sound Permit, (2) the new~~
5 ~~owner’s Entertainment, Live Performance, or Amplified Sound events and activities are consistent with~~
6 ~~those allowed under the prior Permit, (3) the premises at issue complies with all existing health, safety,~~
7 ~~and fire ordinances, and (4) a Temporary Permit is necessary to ensure uninterrupted operations of a~~
8 ~~business at the premises. This Temporary Permit may not be renewed as a Temporary Permit. The~~
9 ~~Entertainment Commission may establish additional procedures and Temporary Permit criteria to help~~
10 ~~carry out the goals of this Section 1060.24(h).~~

11
12 **SEC. 1060.24.3. TEMPORARY PERMITS.**

13 (a) Once the Entertainment Commission receives a surrendered Place of Entertainment Permit,
14 Limited Live Performance Permit, or Fixed Place Outdoor Amplified Sound Permit under Section
15 1060.24(b), the new owner of the business may apply to the Director for a temporary Place of
16 Entertainment Permit, Limited Live Performance Permit, or Fixed Place Outdoor Amplified Sound
17 Permit, respectively, subject to any required Planning Department approvals, for a period not to
18 exceed 90 days from the date of surrender (a “Temporary Permit”). The Director shall grant a
19 Temporary Permit provided that 1) the new owner has submitted a completed application for a Place of
20 Entertainment Permit, Limited Live Performance Permit, or Fixed Place Outdoor Amplified Sound
21 Permit, as applicable; 2) the new owner’s Entertainment, Limited Live Performance, or Fixed Place
22 Outdoor Amplified Sound events and activities, as applicable, are consistent with those allowed under
23 the prior Permit; 3) the premises at issue complies with all existing health, safety, and fire ordinances;
24 and 4) a Temporary Permit is necessary to ensure uninterrupted operations of a business at the
25 premises. A Temporary Permit may not be renewed as a Temporary Permit.

1 (b) Where a Person has received a Pop-Up Retail Temporary Use Authorization as defined in
2 Section 205.1(d) of the Planning Code, for a premises, the Person may apply to the Director for a
3 temporary Limited Live Performance Permit for that premises for a period not to exceed 60 days (a
4 “Pop-Up Permit”). The Director may grant a Pop-Up Permit provided that the permit application
5 satisfies all of the findings required in subsections (f)(1)-(3) and subsection (g) of Police Code Section
6 1060.5.1. The Director may impose any conditions on the Pop-Up Permit the Director determines to be
7 necessary to address health and safety concerns, and may impose reasonable time, place, and manner
8 conditions. A Pop-Up Permit may be renewed for an additional 60 days, subject to any required
9 Planning Department approvals.

10 (c) The Entertainment Commission may establish additional procedures, Temporary Permit
11 criteria, and Pop-Up Permit criteria to help carry out the goals of this Section 1060.24.3.

12
13 **SEC. 1060.29. ONE TIME EVENT PERMIT.**

14 (a) This Section 1060.29 provides a procedure for permitting a Person to conduct,
15 maintain, promote, or sponsor Entertainment on the premises specified in the One Time Event
16 Permit ~~for a limited number of one-day occurrences in a 12-month period~~, including operation
17 between 2:00 a.m. and 6:00 a.m. No Person shall conduct, maintain, promote or sponsor
18 Entertainment between 2:00 a.m. and 6:00 a.m. without a One Time Event Permit or an
19 Extended-Hours Premises Permit. One Time Event Permits may be issued for a premises for
20 which a Place of Entertainment Permit has been issued, but for which no Extended-Hours
21 Premises Permit has been issued, when the applicant proposes operating between 2:00 a.m.
22 and 6:00 a.m. Nevertheless, the One Time Event Permit is not intended to function as a
23 routine substitute for a Person’s securing either the Place of Entertainment Permit or the
24 Extended-Hours Permit when the Person’s course of conduct indicates that either or both of
25 those permits would be more appropriate to seek. For purposes of One Time Event Permits,

1 the word “premises” means the area or structure where the event for which a permit is sought
2 occurs, and includes outdoor areas.

3 (b) Except as otherwise provided in this Section 1060.29, the Director may issue One
4 Time Event Permits and applicants may appeal the Director’s denial of an application to the
5 Entertainment Commission.

6 (c) A Person may obtain a single One Time Event Permit authorizing events on
7 consecutive or non-consecutive days for the same premises, ~~provided that such events may not~~
8 ~~occur for more than a total of 12 days at the same premises within any 12-month period.~~ One Time
9 Event Permits may not authorize events on the same premises for consecutive 24-hour
10 periods without a six-hour break between the end time for the first day and the start time for
11 the next day. If a One Time Event Permit includes permission to operate between 2:00 and
12 6:00 a.m., the Permit may not authorize commencement of operations before noon for the
13 same premises later that calendar day.

14 (d) (1) There shall be no limit on the number of One Time Event Permits a Person may
15 obtain, ~~provided that no more than one permit per month is issued for the same premises.~~
16 ~~Notwithstanding this restriction,~~ One Time Event Permits may be issued for events that will
17 occur on consecutive or non-consecutive days on the same premises, ~~provided that such events~~
18 ~~may not occur for more than a total of 12 days on the same premises within any 12-month period.~~

19 (2) At any premises where events have occurred for a total of 12 or more days within the
20 previous 12-month period, upon receipt of a permit application for a One Time Event Permit, the
21 Entertainment Commission, or its Director as delegated by the Entertainment Commission, shall
22 determine whether to hold a hearing on the permit application to ensure that the legal standards for
23 granting the permit(s) are met, to determine what conditions, if any, may be appropriate to place on the
24 permit(s), and to ensure that the One Time Event Permit is not being used by the applicant to function
25 as a routine substitute for the applicant’s securing either the Place of Entertainment Permit or the

1 Extended-Hours Permit when the applicant’s course of conduct indicates that either or both of those
2 permits would be more appropriate to seek. The Entertainment Commission, or its Director as
3 delegated by the Entertainment Commission, may, in its discretion, determine that a hearing is not
4 required, if the available evidence indicates that the application is likely to satisfy all of the
5 requirements of this subsection (d).

6 * * * *

7
8 **SEC. 1060.29.2. ONE TIME OUTDOOR AMPLIFIED SOUND PERMIT.**

9 (a) General. This Section 1060.29.2 provides a procedure for permitting a Person to
10 conduct One Time Outdoor Amplified Sound on the premises specified in the One Time
11 Outdoor Amplified Sound Permit ~~for up to a total of 12 days in a 12-month period at the same~~
12 ~~premises. Any Person seeking to use outdoor amplified sound equipment on a more frequent basis at~~
13 ~~the same premises must either (1) apply for a Fixed Place Outdoor Amplified Sound Permit if~~
14 ~~Entertainment or Live Performance is not furnished or does not occur, or (2) if the Business has a~~
15 ~~Place of Entertainment Permit or Limited Live Performance Permit, apply to the Entertainment~~
16 ~~Commission for an amendment to its existing permit.~~ The One Time Outdoor Amplified Sound
17 Permit is not intended to function as a routine substitute for securing a Fixed Place Outdoor
18 Amplified Sound Permit when the Person or Business’s course of conduct indicates that that
19 permit would be more appropriate to seek.

20 * * * *

21 (d) Duration and Number of Permits.

22 (1) 24-Hour Duration. Each One Time Outdoor Amplified Sound Permit shall
23 issue for no longer than one 24-hour period. One Time Outdoor Amplified Sound Permits may
24 not be issued for the same premises for consecutive 24-hour periods without a six-hour break
25 between the end time for the first permit and the start time for the second permit.

1 (2) No More Than 12 Days Per Year For The Same Premises Without Additional
2 Review. There shall be no limit on the number of One Time Outdoor Amplified Sound Permits
3 a Person may obtain, ~~provided that no more than one permit per month may be issued for the same~~
4 ~~premises. Notwithstanding this restriction,~~ One Time Outdoor Amplified Sound Permits may be
5 issued for events that will occur on consecutive days on the same premises or on non-
6 consecutive days within a 10-day period on the same premises, ~~but events may not occur for~~
7 ~~more than a total of 12 days on the same premises within any 12-month period.~~ At any premises where
8 One Time Outdoor Amplified Sound Permits have been issued at least 12 times within the previous 12-
9 month period, upon receipt of a permit application for a One Time Outdoor Amplified Sound Permit,
10 the Entertainment Commission, or its Director as delegated by the Entertainment Commission, shall
11 determine whether to hold a hearing on the permit application to ensure that the legal standards for
12 granting the permit(s) are met, to determine what conditions, if any, may be appropriate to place on the
13 permit(s), and to ensure that the One Time Outdoor Amplified Sound Permit is not intended to function
14 as a routine substitute for a Person's securing a Fixed Place Outdoor Amplified Sound Permit, Place of
15 Entertainment Permit, or Limited Live Performance Permit as applicable. The Entertainment
16 Commission, or its Director as delegated by the Entertainment Commission, may, in its discretion,
17 determine that a hearing is not required, if the available evidence indicates that the application is likely
18 to satisfy all of the requirements of this subsection (d)(2).

19 * * * *

20 ~~**SEC. 1060.38.1. EXTENSION OF EVENING HOURS LIMIT FOR LIMITED LIVE**~~
21 ~~**PERFORMANCE PERMITS.**~~

22 (a) ~~Notwithstanding Section 1060(r)(3), and except as provided in Subsection (b), below, at any~~
23 ~~time after a year has elapsed since the granting of a Limited Live Performance Permit, the Director~~
24 ~~may, upon application of the Permittee, extend the hours during which Live Performances may be~~
25 ~~presented at the Limited Live Performance Locale to any time between 10:00 p.m., and 11:00 p.m.,~~

1 ~~inclusive, on the basis that there have been no significant public safety or public nuisance concerns at~~
2 ~~or near the establishment attributed to the operation of the Limited Live Performance Permit. If the~~
3 ~~Director denies the application for an extension of hours, the Permittee may appeal the Director's~~
4 ~~decision to the Entertainment Commission, and the process for notifying the Permittee of the Director's~~
5 ~~decision and providing an appeal right to the Entertainment Commission shall parallel to the extent~~
6 ~~applicable the notice and appeal process prescribed in Section 1060.20.2(b).~~

7 ~~(b) No extension may be granted as provided in Subsection (a), above, for Limited Live~~
8 ~~Performance Permits granted in the following areas: (1) the North Beach Neighborhood Commercial~~
9 ~~District as defined in Planning Code Section 722; (2) the Polk Street Neighborhood Commercial~~
10 ~~District as defined in Planning Code Section 723; (3) the north and south sides of Chestnut Street~~
11 ~~between the east side of Fillmore Street and the west side of Divisadero Street; and (4) the north side of~~
12 ~~Lombard Street, between Fillmore Street and Divisadero Street.~~

13 ~~(c) Notwithstanding Subsection (a), above, a Live Performance involving recorded music~~
14 ~~presented by a live disc jockey on the premises may not occur under a Limited Live Performance~~
15 ~~Permit after 10:00 p.m. Nothing in this Subsection (c) shall interfere with Place of Entertainment~~
16 ~~Permits or Extended Hours Permits granted for Entertainment involving a live disc jockey.~~

17 ~~(d) If, following the Director's granting, pursuant to Subsection (a), an extension of hours~~
18 ~~during which Live Performances may be presented at a Limited Live Performance Locale, there are~~
19 ~~significant public safety or public nuisance concerns at or near the establishment attributed to the~~
20 ~~operation of the Limited Live Performance Permit, the Director may reduce the hours during which~~
21 ~~Live Performances may be presented at the establishment to an earlier time, but no earlier than 10:00~~
22 ~~p.m. The process for notifying the Permittee of the Director's order and providing an appeal right to~~
23 ~~the Entertainment Commission shall parallel to the extent applicable the notice and appeal process~~
24 ~~prescribed in Section 1060.20.2(b).~~

1 ~~(e) This Section shall not limit the permitting, suspension, revocation, or other powers of the~~
2 ~~Director or Entertainment Commission.~~

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

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

15
16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: /s/
19 AUDREY PEARSON
20 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST

(Substituted, 4/6/2021)

[Planning, Business and Tax Regulations, Police Codes - Small Business Recovery Act]

Ordinance amending the Planning, Business and Tax Regulations, and Police Codes to simplify procedures and allow flexibility for neighborhood, cultural, and entertainment establishments by 1) expanding streamlined review and inspection procedures to principally permitted storefront uses citywide; 2) deleting separate definitions of “Cat Boarding,” “Gym,” “Trade Shop,” and “Services, Instructional” from the Planning Code; 3) allowing permitted conditional uses to continue after three years of abandonment; 4) allowing the continuation of longstanding places of entertainment; 5) allowing Outdoor Activity Areas on rooftops; 6) temporarily requiring a conditional use authorization for uses replacing Nighttime Entertainment uses; 7) allowing accessory catering uses in Restaurants; 8) allowing accessory dwelling units on the ground floor in Neighborhood Commercial, Chinatown Business, and Chinatown Visitor Districts; 9) allowing temporary outdoor entertainment, arts and recreation activities, 10) deleting certain conditional use finding requirements for Nighttime Entertainment use; 11) deleting conditional use findings related to formula retail concentrations in certain districts; 12) requiring expedited permit processing for commercial uses on the ground floor; 13) shortening the time for the Historic Preservation Commission to request review of minor alteration permits and certificates of appropriateness; 14) extending time for limited live performances from 10 p.m. to 11 p.m.; 15) allowing additional One-Time Entertainment Permits and One-Time Outdoor Amplified Sound Permits; 16) exempting single individual performances without amplification from permit requirements; and affirming the Planning Department’s determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Currently, section 32 of the Business and Tax Regulations Code requires streamlined review of principally permitted storefront uses in Neighborhood Commercial and Neighborhood Commercial Transit Districts.

Currently, the Planning Code:

- includes specific definitions for “Cat Boarding,” “Gym,” “Trade Shop,” and “Services, Instructional” (Planning Code § 102)
- provides that conditional uses that are discontinued or abandoned for three years can only be restored with a new conditional use authorization (§ 178)

- allows outdoor activity areas at the ground level (§ 202.2)
- allows Limited Restaurants to include accessory catering uses (§ 204.3)
- prohibits accessory dwelling units on the ground floor in Neighborhood Commercial, Chinatown Business, and Chinatown Visitor Districts (§ 207)
- requires specific conditional use findings for Eating and Drinking Uses, for Nighttime Entertainment, General Entertainment and other Entertainment uses, and for Formula Retail uses (related to concentrations of Formula Retail uses in certain districts) (§§ 303, and 303.1)
- allows expedited permit processing for conditional use authorization applications that comply with specific requirements (§ 303.2)
- requires neighborhood notice for certain building permit applications in residential, Neighborhood Commercial, Neighborhood Commercial Transit and in Eastern Neighborhoods Mixed Use Districts (§ 311)
- requires the Historic Preservation Commission to request review of minor alteration permits and certificates of appropriateness within 20 days (§§ 1006.2 and 1111.1)

Currently, under Article 15 of the Police Code, Limited Live Performances must conclude by 10 p.m., unless extended. Applicants may obtain no more than 12 One-Time Entertainment Permits and One-Time Outdoor Amplified Sound Permits in a 12-month period; and performances by single individuals with no amplification must obtain a permit.

Amendments to Current Law

This ordinance would amend section 32 of the Business and Tax Regulations Code to require streamlined review of principally permitted storefront uses citywide, not just in Neighborhood Commercial and Neighborhood Commercial Transit Districts.

In addition, the ordinance would amend the Planning Code to:

- delete the specific definitions and use categories for “Cat Boarding,” “Gym,” “Trade Shop,” and “Services, Instructional.” Instead, cat boarding and trade shops would be considered a General Retail Sales and Service use, and gyms and instructional services would be considered a Personal Service use. The ordinance would delete references to the definitions throughout the Planning Code, including in zoning district tables. (Planning Code § 102 and throughout)
- delete the requirement that conditional uses are abandoned after three years (§ 178)
- establish that places of entertainment that are deemed to be a Continuing Entertainment Operations Establishment by the Entertainment Commission may continue operation regardless of zoning (new § 193)
- allow outdoor activity areas on rooftops within the boundaries of the property (§ 202.2)
- for three years following adoption of the legislation, require uses that demolish or change a nighttime entertainment use obtain a conditional use permit (new § 202.11)
- allow Restaurants to include accessory catering uses (§ 204.3)

- authorize temporary uses in outdoor areas for Entertainment, Arts and Recreation Activities (new § 205.8)
- allow accessory dwelling units on the ground floor in the commercial space in Neighborhood Commercial, Chinatown Business, and Chinatown Visitor Districts as long as the commercial space maintains a depth of at least 25 feet (§ 207)
- allow temporary outdoor entertainment, arts and recreation activities (new § 205.8)
- delete requirements for specific conditional use findings for Eating and Drinking Uses; delete specific conditional use findings required for Nighttime Entertainment, General Entertainment and other entertainment Uses; delete certain findings requirements related to the concentration of formula retail uses (§§ 303, 303.1)
- expand the types of conditional use permits that can be expedited to include commercial uses on the first story, and the first and second story if the commercial use would operate on both stories (§ 303.2)
- remove the neighborhood notification requirement for changes of use in Eastern Neighborhood Mixed Use Districts (§ 311)
- reduce the time the Historic Preservation Commission must request review of minor alteration permits and certificates of appropriateness to 10 days (§§ 1006.2, 1111.1)

Finally, the ordinance amends Article 15 of the Police Code to allow limited live performances until 11 p.m., except in certain districts; to allow issuance of additional One-Time Entertainment Permits and One-Time Outdoor Amplified Sound Permits; to exempt single individual performances with no amplification from permit requirements; and to allow the Entertainment Commission to deem certain entertainment uses as a Continuing Entertainment Operations Establishment which allows continued operation without additional zoning reviews.

Background Information

These amendments implement the Small Business Recovery Act.

This substitute legislation adds temporary conditional use requirements for demolition or changes in use of a nighttime entertainment use.