

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

December 12, 2017

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

Dear Commissioners:

On November 28, 2017, Supervisor Peskin introduced the following substitute legislation:

File No. 170982

Ordinance amending the Planning Code to revise the definition of Formula Retail; 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 convenience, necessity, and welfare under Planning Code, Section 302.

The substitute 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

for By:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

c: John Rahaim, Director of Planning
Aaron Starr, Acting Manager of Legislative Affairs
Scott Sanchez, Zoning Administrator
Lisa Gibson, Acting Environmental Review Officer
AnMarie Rodgers, Senior Policy Advisor
Laura Lynch, Environmental Planning
Joy Navarrete, Environmental Planning

1 [Planning Code - Formula Retail Controls]
2

3 **Ordinance amending the Planning Code to revise the definition of Formula Retail; and**
4 **affirming the Planning Department's determination under the California Environmental**
5 **Quality Act, and making findings of consistency with the General Plan, and the eight**
6 **priority policies of Planning Code, Section 101.1, and findings of public convenience,**
7 **necessity, and welfare under Planning Code, Section 302.**

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

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

16 Section 1. Findings.

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

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

1 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
2 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
3 in Planning Commission Resolution No. _____, and the Board incorporates such reasons
4 herein by reference.

5
6 Section 2. The Planning Code is hereby amended by revising Section 303.1, to read
7 as follows:

8 **SEC. 303.1. FORMULA RETAIL USES.**

9 * * * *

10 (c) **Retail Sales or Service Activity or Retail Sales or Service**
11 **Establishment."** For the purposes of this Section 303.1, a retail sales or service activity or
12 retail sales or service establishment shall include the following uses whether functioning as a
13 principal or accessory use, as defined in Articles 1, 2, 7, and 8 of this Code:

- 14 - Bar, §102;
15 - Drive-up Facility, §§ 102, 890.30;
16 - Eating and Drinking Use, §102;
17 - Liquor Store, §102;
18 - Sales and Service, Other Retail, § 890.102, and Retail Sales and Service,
19 General;
20 - Restaurant, §102;
21 - Limited-Restaurant, §102;
22 - Sales and Service, Retail, §§ 102, 890.104, including but not limited to the
23 following specific uses: Adult Business, Animal Hospital, Bar, Cat Boarding, Chair and Foot Massage,
24 Tourist Oriented Gift Store, General Grocery, Specialty Grocery, Gym, Hotel, Jewelry Store, Kennel,
25 Liquor Store, Massage Establishment, Chair and Foot Massage, Mobile Food Facility, Mortuary

1 (Columbarium), Motel, Non-Auto Sales, Pharmacy, Restaurant, Limited Restaurant, General Retail
2 Sales and Service, Financial Services, Fringe Financial Services, Limited Financial Services, Health
3 Services (except for clinics licensed as community and free clinics as defined under California Health
4 and Safety Code Section 1204(a)(1) and clinics exempt from licensing under California Health and
5 Safety Code Section 1206(b)), Instructional Service, Personal Service, Retail Professional Service, Self-
6 Storage, Tobacco Paraphernalia Establishment, and Trade Shop;

7 - Service, Financial, §§ 102, 890.110;

8 - Movie Theater, §§ 102, 890.64;

9 - Amusement and Game Arcade, §§ 102, 890.4;

10 - Service, Limited Financial, except single automated teller machines at the street
11 front that meet the Commission's adopted Performance-Based Design Guidelines and
12 automated teller machines located within another use that are not visible from the street,
13 §102;

14 - Service, Fringe Financial, §§ 102, 890.113;

15 - Tobacco Paraphernalia Establishment, §§ 102, 890.123;

16 - Massage Establishment, §§ 102, 890.60;

17 - Service, Personal, §§ 102, 890.116;

18 - Service, Instructional, §102;

19 - Gym, §102;

20 - General Grocery, §102;

21 - Specialty Grocery, §102;

22 - Pharmacy, §102;

23 - Jewelry Store, §§ 102, 890.51;

24 - Tourist Oriented Gift Store, §§ 102, 890.39; and

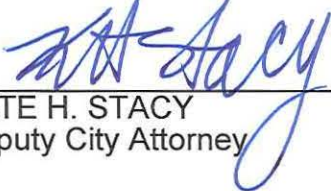
25 - Non-Auto Vehicle Sales or Rental, §§ 102, 890.69.

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

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

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

14
15 By:


16 KATE H. STACY
Deputy City Attorney

17 n:\legana\as2017\1700531\01233857.docx
18
19
20
21
22
23
24
25

REVISED LEGISLATIVE DIGEST
(Substituted, 11/28/2017)

[Planning Code - Formula Retail Controls]

Ordinance amending the Planning Code to revise the definition of Formula Retail; 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 convenience, necessity, and welfare under Planning Code, Section 302.

Existing Law

The formula retail provisions of Section 303.1 apply to retail sales and service, among other uses. The retail sales and service definition set forth in Planning Code Section 102 includes the following uses: Adult Business, Animal Hospital, Bar, Cat Boarding, Chair and Foot Massage, Tourist Oriented Gift Store, General Grocery, Specialty Grocery, Gym, Hotel, Jewelry Store, Kennel, Liquor Store, Massage Establishment, Chair and Foot Massage, Mobile Food Facility, Mortuary (Columbarium), Motel, Non-Auto Sales, Pharmacy, Restaurant, Limited Restaurant, General Retail Sales and Service, Financial Services, Fringe Financial Services, Limited Financial Services, Health Services, Instructional Service, Personal Service, Retail Professional Service, Self-Storage, Tobacco Paraphernalia Establishment, and Trade Shop. Because of other provisions in the Planning Code, the City has not considered all of these retail sales and service uses subject to existing formula retail controls.

Amendments to Current Law

The amendments specify that all of the uses listed under the category of "sales and service, retail" would be subject to existing formula retail controls. These uses include Adult Business, Animal Hospital, Bar, Cat Boarding, Chair and Foot Massage, Tourist Oriented Gift Store, General Grocery, Specialty Grocery, Gym, Hotel, Jewelry Store, Kennel, Liquor Store, Massage Establishment, Chair and Foot Massage, Mobile Food Facility, Mortuary (Columbarium), Motel, Non-Auto Sales, Pharmacy, Restaurant, Limited Restaurant, General Retail Sales and Service, Financial Services, Fringe Financial Services, Limited Financial Services, Health Services (except for clinics licensed as community and free clinics as defined under California Health and Safety Code Section 1204(a)(1) and clinics exempt from licensing under California Health and Safety Code Section 1206(b)), Instructional Service, Personal Service, Retail Professional Service, Self-Storage, Tobacco Paraphernalia Establishment, and Trade Shop.