

LEGISLATIVE DIGEST
(SUBSTITUTED 7/25/23)

[Planning Code - Citywide Expansion of Allowable Commercial, Restaurant, and Retail Uses]

Ordinance amending the Planning Code to 1) permit additional commercial, retail, and restaurant uses on the ground floor in certain neighborhood commercial districts (NCDs) and residential districts; 2) principally permit Flexible Retail on the ground floor in NCDs and Chinatown mixed use districts; 3) create Professional Services as a use category that may provide services to the public and businesses and delete Non-Retail Professional Service and Retail Professional Service use subcategories; 4) create regulations for music entertainment venues and non-profit theaters distinct from regulations for Bars; 5) allow Limited Corner Commercial Uses in certain residential districts; 6) conditionally permit Formula Retail and Restaurant uses in certain commercial and residential districts; 7) amend Section 311 to remove neighborhood notice requirements for changes of use in the Eastern Neighborhoods mixed use districts; 8) expand business types that qualify for the Planning Department priority review program; 9) clarify that multiple allowable uses may co-locate on one site; 10) clarify and modify various other use regulations and processes; 11) establish a process to legalize certain unpermitted outdoor activity areas including restaurant patios; 12) permit additional retail and non-retail uses in specified NCDs; and affirming the Planning Department’s determination under the California Environmental Quality Act, making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302

Existing Law

The Planning Code regulates various uses as principally permitted, conditionally permitted, or not permitted. In certain commercial districts, some commercial uses either are not permitted or require conditional use authorization (CUA).

Flexible Retail is allowed only in Neighborhood Commercial Districts (NCDs) in two geographic areas.

Professional Services, such as accounting, advertising, and insurance, are regulated either as Retail (generally open to the public) or Non-Retail (primarily serving other businesses).

Uses are regulated either as principal uses or accessory uses (minor or incidental uses associated with the principal use). If multiple uses are proposed at one site, but the additional uses are not minor enough to be deemed “accessory,” each use will be evaluated and regulated as a principal use. In this way, multiple uses may be permitted at one site, even though such combined uses are not explicitly authorized in the Planning Code.

The California Department of Alcoholic Beverage Control (ABC) recently created a new license for music venues, called Type 90, that has not yet been incorporated into the Planning Code. ABC license Type 64 allows alcohol sales at non-profit theaters.

A business with a patio must obtain Conditional Use Authorization if it cannot provide documentation that the patio was properly permitted when it was first established.

Planning Code Section 311 requires neighborhood notices for changes of use in several districts, including Eastern Neighborhoods Mixed Use Districts. Proposition H (2020’s Save Our Small Businesses Initiative) eliminated this notice requirement for many other districts.

Certain small and mid-sized businesses qualify for expedited processing under the Community Benefit Priority Processing Program (CB3P). Currently, uses that sell alcohol, such as Nighttime Entertainment and Bars, do not qualify for the program.

Amendments to Current Law

Overall, the amendments in this ordinance would allow more business types on the ground floor in commercial areas and at residential corner commercial buildings. The chart below summarizes these amendments. In addition, this ordinance would explicitly allow multiple principal uses to co-locate at one site, would not require Section 311 neighborhood notice for changes of use in Eastern Neighborhoods Mixed Use Districts, would include Bars and Nighttime Entertainment uses in the expedited CB3P processing program, and would require conditional use authorization for commercial mergers in the Mission Street Neighborhood Commercial District.

Use	District(s)	Current Code*	Proposed Control
Flexible Retail	All NCDs and Chinatown mixed use districts	Permitted only in NCDs in two specified zones	Permitted citywide
		NP, C, or P**	P
		Abandoned after 3 months of non-use	Abandoned after standard 3 years of non-use
Professional Services	All	Defined and regulated as “Retail” or “Non-Retail,” depending on whether services are primarily provided to the general public or to other businesses	Removes “Retail” and “Non-Retail” distinction. All Professional Services regulated the same

Use	District(s)	Current Code*	Proposed Control
	All NCDs and Chinatown mixed use districts	NP, C, or P	P
Restaurants	Taraval Street Restaurant Subdistrict; Chinatown mixed use districts; Lakeshore Plaza Special Use District (SUD)	C	P
	Haight Street NCD	NP	P
	Jackson Square SUD	C with limitations	C
	Mission Street NCTD	C, up to a cap of 167 eating and drinking uses	C, up to a cap of 197 eating and drinking uses
Limited Restaurants	Taraval Street Restaurant Subdistrict; Lakeshore Plaza SUD; North Beach NCD	C	P
	Jackson Square SUD	C with limitation	C
	Mission Street NCTD	P, up to a cap of 167 eating and drinking uses	P, up to a cap of 197 eating and drinking uses
Formula Retail Restaurants and Limited Restaurants	Mission Street Formula Retail Restaurant Subdistrict	NP	C

Use	District(s)	Current Code*	Proposed Control
Bars	Haight Street NCD; Union Street NCD; Pacific Avenue NCD; Sacramento Street NCD; 24th Street – Mission NCTD	NP	C
	Jackson Square SUD	C with limitation	C
	Mission Street NCTD	C, up to a cap of 167 eating and drinking uses	C, up to a cap of 197 eating and drinking uses
Liquor Stores	Haight Street Alcohol Restricted Use Subdistrict	NP	C
Alcohol Sales at Music Venues and Non-Profit Theaters	Mission Alcoholic Beverage SUD; North Beach SUD; Haight Street Alcohol Restricted Use Subdistrict	Not specifically listed, or only Type 64 allowed	Allowed with Type 90 or Type 64 ABC license
Limited Commercial Uses and Limited Corner Commercial Uses	Residential, House (RH); Residential, Mixed (RM-1, RM-2)	NP	P; may include patio space
Outdoor Activity Areas (Patios)	Citywide	New CUA required if business unable to show original permission	If patio has been in existence over 10 years, may be “legalized” administratively without CUA

Use	District(s)	Current Code*	Proposed Control
Design Professional	West Portal Avenue NCD; North Beach NCD	C	P
	North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict	NP	C
Financial Services	Lakeside Village NCD	NP	P
Miscellaneous	Various NCDs; Chinatown mixed use districts; Residential Transit Oriented Districts (RTOs); PDR-1-B District	Various uses in these districts would shift from NP to C, or from C to P. See ordinance for details.	

* All zoning controls listed refer to ground floor controls

** P – Principally Permitted
 C – Conditionally Permitted
 NP – Not Permitted