

## **LEGISLATIVE DIGEST**

[Planning Code - Formula Retail]

**Ordinance amending the Planning Code to reduce restrictions on Formula Retail uses by 1) modifying the definition of a Formula Retail use; 2) eliminating the Conditional Use Authorization requirement for Formula Retail Accessory Uses, Formula Retail Temporary Uses, and certain changes of use for Formula Retail uses; 3) eliminating the prohibition on changes of use for non-conforming Formula Retail uses; 4) eliminating the requirement for an economic impact study for specified large Formula Retail uses; 5) eliminating the restrictions regarding Formula Retail use concentration in the Upper Market Street Neighborhood Commercial District; 6) allowing one or more Formula Retail Restaurants or Limited Restaurants inside a General Grocery store under a single Conditional Use authorization; and 7) principally permitting Formula Retail uses in spaces larger than 10,000 square feet in the RC (Residential-Commercial) and RTO (Residential Transit Oriented) Districts; and 8) to eliminate use size limits for Retail Sales and Service uses, other than Gyms, in the Potrero Center Mixed-Use Special Use District; 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 Formula Retail uses, also known as chain stores. A use is defined as Formula Retail if it is a retail sales and service use with 11 or more other establishments worldwide. The Planning Code provides a list of uses included in the definition of Formula Retail, specifically: Bar; Drive-up Facility; Eating and Drinking Use; Liquor Store; Sales and Service, Other Retail and Retail Sales and Service, General; Restaurant; Limited-Restaurant; Retail Sales and Service; Movie Theater; Amusement Game Arcade; Financial Service; Limited Financial Service, except specified ATMs; Fringe Financial Service; Tobacco Paraphernalia Establishment; Massage Establishment; Personal Service; Instructional Service; Gym; General Grocery; Specialty Grocery; Pharmacy; Jewelry Store; Tourist Oriented Gift Store; Non-Auto Vehicle Sales or Rental; and Cannabis Retail.

Formula Retail uses may be principally permitted, conditionally permitted, or not permitted, as specified for each zoning district. Each individual Formula Retail use must obtain its own Conditional Use authorization, including any Formula Retail accessory uses. Formula Retail Temporary Uses are prohibited in Neighborhood Commercial Districts (NCDs). Formula Retail is conditionally permitted in the RC (Residential-Commercial) district; the RTO (Residential Transit-Oriented) district is silent regarding Formula Retail.

Generally, when a Formula Retail use pursues a change of use, the use cannot be intensified without new Conditional Use authorization. Intensification includes changing from one use to

another, any expansion of size, changing to an establishment that has more locations, or installing a commercial kitchen. Where the existing Formula Retail use is a nonconforming use, a change of use deemed an intensification is not permitted.

Specified large Formula Retail uses require an economic impact study. In the Upper Market Street NCD, there are restrictions regarding Formula Retail use concentration.

In the Potrero Center Mixed-Use Special Use District (SUD), new construction or expansion of Retail Sales and Service uses or Gyms over 25,000 square feet requires Conditional Use authorization, and Formula Retail uses are permitted.

#### Amendments to Current Law

This ordinance loosens some of the restrictions on Formula Retail uses. The definition of Formula Retail is amended to include uses with 11 or more other locations in the United States. The list of Formula Retail uses is modified to remove Financial Services and Limited Financial Services, and to update the list to conform to current defined uses in the Planning Code (removing Instructional Service; adding Laundromat, formerly categorized as General Retail Sales and Service; adding Video Store, categorized as General Retail Sales and Service).

Where a principal use is a Formula Retail use, any accessory Formula Retail uses will not require separate Conditional Use authorization. Additionally, a grocery store may include one or more restaurants on-site, up to 49% of the grocery store's space, without each restaurant requiring separate Conditional Use authorization. In the NCDs, Formula Retail Temporary Uses are either permitted, conditionally permitted, or prohibited, as specified for the underlying use in each zoning district; Conditional Use authorization is not required for the Formula Retail use characteristic. In the RC and RTO districts, Formula Retail is principally permitted in larger spaces and conditionally permitted in smaller spaces (over or under 10,000 square feet, respectively).

For changes of use, the criteria for intensification are revised such that a change from one use to another use or installing a commercial kitchen are no longer deemed intensification. Expansions are only deemed intensification if they are over 20%. A change to a Formula Retail use with more locations incorporates the revised Formula Retail definition (the establishment must have more locations in the United States); grocery stores and pharmacies are exempt from this intensification criteria. For nonconforming Formula Retail uses, changes of use that qualify as intensification are no longer prohibited.

An economic impact study is no longer required for certain large Formula Retail uses. In the Upper Market Street NCD, the restrictions regarding Formula Retail use concentration are eliminated.

In the Potrero Center Mixed-Use SUD, this ordinance eliminates the Conditional Use requirement for Retail Sales and Service uses over 25,000 square feet and retains the requirement for Gyms. The ordinance clarifies that Conditional Use authorization is not required solely because a use is a Formula Retail use; the underlying use may require Conditional Use authorization or may be prohibited.

#### Background Information

The City first enacted Formula Retail regulations in 2004 in Ordinance No. 62-04. In 2006, San Francisco voters passed Proposition G, codifying certain Formula Retail regulations, including requiring Conditional Use authorization for Formula Retail in the NCDs. Financial Service was added to the list of specifically enumerated Formula Retail uses in 2012 by Ordinance No. 106-12. In 2014, the City adopted ordinance No. 235-14, reorganizing most of the Formula Retail regulations into Section 303.1, adding Limited Financial Service to the list of enumerated Formula Retail uses, and adding additional restrictions.

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