

BOARD of SUPERVISORS



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March 3, 2020

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

Dear Commissioners:

On February 25, 2020, Supervisor Ronen introduced the following legislation:

File No. 200215

Ordinance amending the Planning Code to allow Arts Activities and Social Service or Philanthropic Facilities as a temporary use in vacant ground-floor commercial space; 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 adopting findings of public necessity, convenience, and general 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: Dan Sider, Interim 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
Georgia Powell, Planning Misc. Permits Routing

1 [Planning Code - Arts Activities and Social Service or Philanthropic Facilities as Temporary
2 Uses]

3 **Ordinance amending the Planning Code to allow Arts Activities and Social Service or**
4 **Philanthropic Facilities as a temporary use in vacant ground-floor commercial space;**
5 **affirming the Planning Department's determination under the California Environmental**
6 **Quality Act; making findings of consistency with the General Plan, and the eight**
7 **priority policies of Planning Code, Section 101.1; and adopting findings of public**
8 **necessity, convenience, and general welfare under Planning Code, Section 302.**

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

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

17 Section 1. Findings.

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

23 (b) On _____, the Planning Commission, in Resolution No. _____,
24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
25 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

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

7
8 Section 2. Article 2 of the Planning Code is hereby amended by revising Section 205
9 and adding Section 205.6, to read as follows:

10 **SEC. 205. TEMPORARY USES, GENERAL.**

11 * * * *

12 (e) Any temporary uses authorized pursuant to this Section 205 and Sections 205.1
13 through ~~205.6~~ ~~205.5~~ shall not be required to comply with any Planning Code requirements that
14 are not expressly applicable to such temporary uses under this Section 205 and Sections
15 205.1 through ~~205.6~~ ~~205.5~~, provided, however, any temporary uses authorized pursuant to this
16 Section 205 and Sections 205.1 through ~~205.6~~ ~~205.5~~ shall be subject to all applicable initiative
17 ordinances approved by the voters of the City and County of San Francisco.

18 * * * *

19 **SEC. 205.6. TEMPORARY USES: INTERIM ACTIVITIES IN VACANT GROUND-FLOOR**
20 **COMMERCIAL SPACES.**

21 (a) Interim Activity as a Temporary Use. Within all districts listed in Section 201 of this
22 Code except for Residential Districts, the Planning Director may authorize an Interim Activity as a
23 temporary use in a vacant ground-floor commercial space for a maximum of two years. The Planning
24 Director's initial authorization ("Initial Period") shall not exceed one year and may be extended by the
25 Director up to the two-year maximum pursuant to the provisions of subsection (i) below.

1 **(b) Definitions.** *For purposes of this Section 205.6, the following definitions shall apply:*

2 *“Interim Activity” means any Arts Activity or any Social Service or Philanthropic Facility, as*
3 *those terms are defined in Section 102 of this Code. An Office use for administrative purposes may be*
4 *allowed if it is incidental to the Interim Activity’s provision of services to the public.*

5 *“Vacant ground-floor commercial space” means a space with street frontage on the ground*
6 *floor that is zoned for a Non-Residential Use, as defined in Section 102 of this Code, and is vacant.*

7 **(c) Application.** *The property owner or the property owner’s authorized agent*
8 *(“Applicant,” in either case) shall submit an application for temporary use to the Planning*
9 *Department, on a form prepared by the Planning Department. The application shall be accompanied*
10 *by the applicable fees pursuant to Planning Code Section 350 and shall include an affidavit signed by*
11 *the Applicant and, if applicable, each tenant occupying any portion of the vacant ground-floor*
12 *commercial space for the Interim Activity or each tenant’s authorized agent, acknowledging that (1) the*
13 *use of the space for the Interim Activity is temporary and subject to the time limits set forth in this*
14 *Section 205.6, (2) the Applicant will pay any outstanding fees, invoices, or penalties owed to City*
15 *agencies, and (3) the Applicant is in compliance with all requirements of the Municipal Code, including*
16 *any requirements to abate any Code violations, including Building Code violations. The Applicant shall*
17 *not be required to pay additional fees set forth in Article 4 of the Planning Code as a prerequisite to*
18 *obtaining temporary use authorization pursuant to this Section 205.6.*

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

22 **(e) New Tenants.** *Additional or different tenants may commence occupancy within and use*
23 *the subject site without additional applications or fees, provided that each new tenant submits a*
24 *completed affidavit to the Department attesting to the truthfulness and correctness of the information in*

1 the previously submitted application and declaring that the new tenant will not discontinue, add to, or
2 modify the approved Interim Activity.

3 (f) **No Conversion, Change, Discontinuance, or Abandonment of Use.** The approval or
4 commencement of an Interim Activity as a temporary use as authorized under this Section 205.6 shall
5 not be considered a conversion, discontinuance, abandonment, or change of use for purposes of this
6 Code, notwithstanding Sections 182 and 183 of this Code. Any property for which the Interim Activity
7 is authorized shall retain its authorized land use(s). Such authorized land uses, including any
8 nonconforming uses, shall become operative upon the expiration, termination, or abandonment of such
9 temporary use authorization.

10 (g) **Fenestration, Transparency, and Visibility Requirements.** Construction proposed in
11 connection with the Interim Activity shall not cause noncompliance or exacerbate existing
12 noncompliance with respect to fenestration, transparency, or any other visibility requirement of Section
13 145.1 of this Code. Further, no film, adhesive, blinds, or other treatment may be applied to any
14 existing fenestration.

15 (h) **Information To Be Available To Public.** The Department shall make available to the
16 public in the Planning Department's main office and on its website a list of all applications approved
17 under this Section 205.6, along with applicable time frames and any additional information the
18 Planning Department deems useful for or relevant to the continued and successful activation of the
19 subject sites in the surrounding neighborhood.

20 (i) **Extension of Initial Period.** Upon the Planning Director's written determination that
21 permits for the vacant ground-floor commercial space are being and have been diligently pursued, and
22 that the Interim Activity has been consistent with public convenience, necessity, or the general welfare
23 of the City, the Planning Director is authorized to permit the Interim Activity to exceed the Initial
24 Period for an additional period of time not to exceed a total time of 24 months for the Interim Activity.
25 This extension shall require a separate determination of the Planning Director according to this

1 Section 205.6(i), and the authorization of the Interim Activity may not exceed a total duration of 24
2 months.

3 (j) Other Temporary Uses. Authorization of an Interim Activity pursuant to this Section 205.6
4 shall not preclude the authorization of any other temporary uses recognized in Sections 205.1 through
5 205.5.

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

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

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By:


22 JUDITH A. BOYAJIAN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Arts Activities and Social Service or Philanthropic Facilities as Temporary Uses]

Ordinance amending the Planning Code to allow Arts Activities and Social Service or Philanthropic Facilities as a temporary use in vacant ground-floor commercial space; 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 adopting findings of public necessity, convenience, and general welfare under Planning Code, Section 302.

Existing Law

Sections 205 through 205.5 authorize various types of temporary uses to operate for time limits that vary between 24 hours and four years with options for extension.

Amendments to Current Law

This ordinance would enact an additional form of temporary use which would allow Arts Activities and Social Service or Philanthropic Facility Uses as a temporary use in a vacant ground-floor commercial space. The initial period could be no longer than one year with a one-year extension available.

Arts Activities are defined in Section 102 of the Planning Code as a use that "includes performance, exhibition (except exhibition of films), rehearsal, production, post-production and some schools of any of the following: dance; music; dramatic art; film; video; graphic art; painting; drawing; sculpture; small-scale glassworks; ceramics; textiles; woodworking; photography; custom-made jewelry or apparel; and other visual, performance, and sound arts and craft." It excludes accredited Schools and Post-Secondary Educational Institutions and includes commercial arts and art-related business service uses, as described in the definition. A Social Service or Philanthropic Facility use is "an Institutional Community Use providing assistance of a charitable or public service nature, and not of a profit-making or commercial nature."

Background Information

Empty storefronts are pervasive throughout San Francisco and have a harmful effect on the health and well-being of the City's commercial corridors. At the same time, the City's nonprofit agencies and community-serving organizations are increasingly struggling with displacement, planned and unplanned transitions between facilities that disrupt operations, and a general lack of stability in the places that they operate. This ordinance provides a temporary use option which would enable nonprofit agencies providing arts, philanthropic, or social services and that are experiencing transitions in their facilities to operate out of unused vacant commercial storefront space for a period of up to two years.

This temporary use option provides multiple benefits. For the City and its neighborhoods, it helps to mitigate the presence of neighborhood blight; encourages economic activity along commercial corridors struggling with vacancies; promotes arts, cultural, and civic activities; and facilitates constructive, efficient, and community-affirming uses of unused or underused private property for the public good. For nonprofit agencies, it provides access to new spaces in which to operate on either a short-term or mid-term basis that can assist them during periods of transition between facilities. For property owners, it provides an efficient way of activating an otherwise unused storefront property that would allow owners to avoid costly fees for blight violations, fees for registering a vacant storefront under the City's Vacant and Abandoned Commercial Storefront program, or any new fees associated with the proposed vacancy tax on the March, 2020 ballot.

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