

REVISED LEGISLATIVE DIGEST
(Amended in Committee 10/30/2023)

[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) principally permit Retail Professional Services uses on all floors and conditionally permit Non-Retail Professional Services on the ground floor in specified NCDs; 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) amend Section 311 to remove neighborhood notice requirements for changes of use in the Eastern Neighborhoods mixed use districts; 7) expand business types that qualify for the Planning Department priority review program; 8) clarify that multiple allowable uses may co-locate on one site; 9) clarify and modify various other use regulations and processes; 10) permit additional retail and non-retail uses in specified NCDs; 11) eliminate the Mission Street Formula Retail Restaurant Subdistrict; and 12) exempt eligible projects proposing a change in use from all development impact fees, with the exception of inclusionary housing fees, for a five-year period; 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). Retail Professional Services are generally permitted on all floors. Non-Retail Professional Services are typically prohibited at the ground floor, permitted on the second floor, and prohibited on the third and higher floors.

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.

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 priority processing provisions of Planning Code Section 303.2. Currently, uses that sell alcohol, such as Nighttime Entertainment and Bars, do not qualify for priority processing.

Amendments to Current Law

Overall, the amendments in this ordinance would allow more business types on the ground floor in commercial areas. 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 allow Bars and Nighttime Entertainment uses to benefit from priority processing, 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 (except North Beach and Pacific Avenue) and Chinatown mixed use districts | Permitted only in NCDs in two specified zones | Permitted citywide |
| | | NP, C, or P** | P |
| Retail Professional Services | All NCDs and Chinatown Visitor Retail District | NP, C, or P | P |

| Use | District(s) | Current Code* | Proposed Control |
|--|--|--|--|
| Non-Retail Professional Services | Broadway Street, North Beach, and Pacific Avenue NCDs; Chinatown mixed use districts | NP | No change, still NP |
| | Polk Street NCD | NP | C on side streets, otherwise NP |
| | All other NCDs | NP | C |
| | | Where currently C or P | No change |
| Restaurants | Taraval Street Restaurant Subdistrict; Chinatown mixed use districts; Lakeshore Plaza Special Use District (SUD) | C | P |
| | Haight Street NCD | NP (C up to 3 restaurants) | P |
| | Mission Street NCTD | C, up to a cap of 167 eating and drinking uses | C, up to a cap of 179 eating and drinking uses |
| Limited Restaurants | Taraval Street Restaurant Subdistrict; Lakeshore Plaza SUD | C | P |
| | Mission Street NCTD | P, up to a cap of 167 eating and drinking uses | P, up to a cap of 179 eating and drinking uses |
| Formula Retail Restaurants and Limited Restaurants | Mission Street Formula Retail Restaurant Subdistrict | NP | Subdistrict deleted; effective control in the area will be C |

| Use | District(s) | Current Code* | Proposed Control |
|--|--|---|---|
| Bars | Haight Street NCD; Union Street NCD; Sacramento Street NCD; 24th Street – Mission NCTD | NP | C |
| | Mission Street NCTD | C, up to a cap of 167 eating and drinking uses | C, up to a cap of 179 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 |
| Financial Services | Lakeside Village NCD | NP | P |
| Limited Corner Commercial Uses | Residential, House (RH); Residential, Mixed (RM-1, RM-2) | NP | P; Formula Retail NP |
| Miscellaneous | Various NCDs; Chinatown Visitor Retail District; 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, unless otherwise indicated

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

Background

This legislative digest reflects amendments made at the Land Use and Transportation Committee on October 30, 2023. Those amendments:

- Waive development impact fees and requirements in Article 4, with the exception of inclusionary housing (Section 415), for a five-year period for projects proposing certain changes in use;
- Modify or eliminate the proposed zoning controls changes for Chinatown Mixed Use Districts; Broadway Street NCD; Haight Street NCD; North Beach NCD, North Beach SUD, and North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict; Pacific Avenue NCD; Polk Street NCD; Jackson Square SUD.
- Delete the Mission Street Formula Retail Restaurant Subdistrict.
- Eliminate all proposed changes for Outdoor Activity Areas and Limited Commercial Uses.
- Modify Priority Processing provisions of Section 303.2 to more closely align with CB3P Program and to exempt North Beach.
- Correct the proposed cap on eating and drinking establishments in Mission Street NCTD to 179.
- Revert to existing code language to retain a 90-day abandonment period for Flexible Retail.

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