

1 [Planning Code - Accessory Use Entertainment in Specified Western South of Market
2 Districts]

3 **Ordinance amending the Planning Code to allow accessory use entertainment (with**
4 **limited live performance permits) in the Western South of Market Mixed Use General**
5 **and Regional Commercial Districts; affirming the Planning Department's determination**
6 **under the California Environmental Quality Act; and making findings of consistency**
7 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

8
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 affirms
22 this determination.

23 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
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 Section 2. The Planning Code is hereby amended by revising Sections 703.2 and
2 803.3, to read as follows:

3 **SEC. 703.2. USES PERMITTED IN NEIGHBORHOOD COMMERCIAL DISTRICTS.**

4 A use is the specific purpose for which a property or building is used, occupied,
5 maintained, or leased. Whether or not a use is permitted in a specific district is set forth or
6 summarized and cross-referenced in Article 7 of this Code for each district class.

7 * * * *

8 (b) **Use Limitations.** The uses permitted in Neighborhood Commercial Districts are
9 either principal, conditional, accessory, or temporary uses as stated in this Section, and
10 include those uses set forth or summarized and cross-referenced in the zoning control
11 categories as listed in this Code for each district class.

12 (1) **Permitted Uses.** All permitted uses shall be conducted within an enclosed
13 building in Neighborhood Commercial Districts, unless otherwise specifically allowed in this
14 Code. Exceptions from this requirement are: uses which, when located outside of a building,
15 qualify as an outdoor activity area, as defined in Section 790.70 of this Code; accessory off-
16 street parking and loading and other uses listed below which function primarily as open-air
17 uses, or which may be appropriate if located on an open lot, outside a building, or within a
18 partially enclosed building, subject to other limitations of this Article 7 and other sections of
19 this Code.

| No. | Zoning Control Category |
|-----|----------------------------|
| 56. | Automobile Parking |
| 57. | Automotive Gas Station |
| 58. | Automotive Service Station |
| 60. | Automotive Wash |
| 61. | Automobile Sale or Rental |

| | |
|-----|--------------------------------------|
| 81. | Other Institutions, Large (selected) |
| 83. | Public Use (selected) |
| 95. | Community Residential Parking |

If there are two or more uses in a structure and none is classified below under Section 703.2(b)(1)(C) of this Code as accessory, then each of these uses will be considered separately as independent principal, conditional or temporary uses.

* * * *

(C) **Accessory Uses.** Except as prohibited in Section 728 and subject to the limitations set forth below and in Sections 204.1 (Accessory Uses for Dwelling Units in R and NC Districts), 204.4 (Dwelling Units Accessory to Other Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, a related minor use which is either necessary to the operation or enjoyment of a lawful principal use or conditional use, or is appropriate, incidental and subordinate to any such use, shall be permitted as an accessory use when located on the same lot. Any use which does not qualify as an accessory use shall be classified as a principal or conditional use, unless it qualifies as a temporary use under Sections 205 through 205.4 of this Code.

No use will be considered accessory to a permitted principal or conditional use which involves or requires any of the following:

(i) The use of more than 1/3 of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory off-street parking and loading and accessory wholesaling, manufacturing or processing of foods, goods, or commodities;

(ii) Any Bar or Restaurant, or any other retail establishment which serves liquor for consumption on-site;

1 (iii) Any Take-Out Food use, as defined in Section 790.122, except
2 for a Take-Out Food use which occupies 1/3 of the total floor area or up to 500 s/f whichever
3 is more restrictive in a general grocery or specialty grocery store. This Take-Out Food use
4 includes the area devoted to food preparation and service and excludes storage and waiting
5 areas;

6 (iv) Any Take-Out Food use, as defined in Section 790.122,
7 except for a Take-Out Food use operating as a minor and incidental use within a Restaurant
8 or Limited-Restaurant use;

9 (v) The wholesaling, manufacturing or processing of foods, goods,
10 or commodities on the premises of an establishment which does not also use or provide for
11 retail sale of such foods, goods or commodities at the same location where such wholesaling,
12 manufacturing or processing takes place.

13 (vi) Any retail liquor sales, as defined in Section 790.55, except for
14 beer, wine, and/or liquor sales for the consumption off the premises with a State of California
15 Alcoholic Beverage Control ("ABC") Board License type 20 (off-sale beer and wine) or type 21
16 (off-sale general) which occupy less than 15% of the gross square footage of the
17 establishment (including all areas devoted to the display and sale of alcoholic beverages) in a
18 general grocery store or specialty grocery store, or Limited-Restaurant use (ABC license type
19 20 only).

20 (vii) Medical Cannabis Dispensaries as defined in 790.141.

21 The foregoing rules shall not prohibit take-out food activity which operates in
22 conjunction with a Limited-Restaurant or a Restaurant. A Limited-Restaurant or a Restaurant,
23 by definition, includes take-out food as an accessory and necessary part of its operation.
24
25

1 (viii) Any other entertainment use, as defined in Section 790.38,
2 except for one that ~~both (1)~~ involves a Limited Live Performance Permit as set forth in Police
3 Code Section 1060 et seq. ~~and (2) is located outside of the RCD.~~

4 * * * *

5 **SEC. 803.3. USES PERMITTED IN EASTERN NEIGHBORHOODS MIXED USE**
6 **DISTRICTS AND SOUTH OF MARKET ~~USE~~ MIXED USE DISTRICTS.**

7 (a) **Use Categories.** A use is the specified purpose for which a property or building is
8 used, occupied, maintained, or leased. Whether or not a use is permitted in a specific Eastern
9 Neighborhood Mixed Use District and South of Market Mixed Use District is generally set
10 forth, summarized or cross-referenced in Sections 813 through 818 and 840 through 847 of
11 this Code for each district class.

12 (b) **Use Limitations.** Uses in Eastern Neighborhood Mixed Use Districts and South of
13 Market Mixed Use Districts are either permitted, conditional, accessory, temporary or are not
14 permitted.

15 (1) **Permitted Uses.** If there are two or more uses in a structure, any use not
16 classified below under Section 803.3(b)(1)(C) of this Code as accessory will be considered
17 separately as an independent permitted, conditional, temporary or not permitted use.

18 * * * *

19 (C) **Accessory Uses.** Subject to the limitations set forth below and in
20 Sections 204.1 (Accessory Uses for Dwelling Units in R and NC Districts), 204.2 (Accessory
21 Uses for Uses Other Than Dwellings in R Districts); 204.4 (Dwelling Units Accessory to Other
22 Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, an accessory use is
23 a related minor use which is either necessary to the operation or enjoyment of a lawful
24 principal use or conditional use, or is appropriate, incidental and subordinate to any such use,
25 and shall be permitted as an accessory use in an Eastern Neighborhoods Mixed Use District

1 and South of Market Mixed Use District. In order to accommodate a principal use which is
2 carried out by one business in multiple locations within the same general area, such
3 accessory use need not be located in the same structure or lot as its principal use provided
4 that (1) the accessory use is located within 1,000 feet of the principal use; and (2) the multiple
5 locations existed on April 6, 1990 (the effective date of this amendment). Accessory uses to
6 non-office uses (as defined in Section 890.70) may occupy space which is non-contiguous or
7 on a different story as the principal use so long as the accessory use is located in the same
8 building as the principal use and complies with all other restrictions applicable to such
9 accessory uses. Any use which does not qualify as an accessory use shall be classified as a
10 principal use.

11 No use will be considered accessory to a principal use which involves or requires any
12 of the following:

13 (i) The use of more than one-third of the total occupied floor area
14 which is occupied by both the accessory use and principal use to which it is accessory,
15 combined, except in the case of accessory off-street parking or loading which shall be subject
16 to the provisions of Sections 151, 156 and 157 of this Code;

17 (ii) A hotel, motel, inn, hostel, adult entertainment, massage
18 establishment, large fast food restaurant, or movie theater use in a RED, RED-MX, SPD,
19 RSD, SLR, SLI, SSO, DTR, MUG, WMUG, MUR, MUO, WMUO, SALI or UMU District;

20 (iii) Any take-out food use, except for a take-out food use which
21 occupies 100 square feet or less (including the area devoted to food preparation and service
22 and excluding storage and waiting areas) in a restaurant, bar, catering establishment, bakery,
23 retail grocery or specialty food store.

24 (iv) Any sign not conforming to the limitations of Section
25 607.2(f)(3).

1 (v) Medical Cannabis Dispensaries as defined in 890.133.

2 (vi) Any nighttime entertainment use, as defined in Section
3 102.17; provided, however, that a Limited Live Performance Permit as set forth in Police Code
4 Section 1060 et seq. is allowed in any District except for an RED, RED-MX, RSD, SLR, MUR,
5 ~~WMUG~~, or MUG District.

6 * * * *

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

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

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

22 By: _____
23 JUDITH A. BOYAJIAN
24 Deputy City Attorney

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