

1 [Planning – Excluding microcell equipment from the definition of accessory use.]

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3 **Ordinance amending Planning Code Sections 204, 204.1, 204.2, 204.3, 234.1, 703.2, and**  
4 **986 to exclude microcell installation equipment from the definition of accessory use,**  
5 **making environmental findings, making findings of consistency with the General Plan**  
6 **and priority policies of Planning Code Section 101.1, and making the legislation**  
7 **retroactive to February 13, 2007.**

8 Note: Additions are *single-underline italics Times New Roman*;  
9 deletions are *strikethrough italics Times New Roman*.  
10 Board amendment additions are double underlined.  
11 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. Findings. The Board of Supervisors of the City and County of San  
14 Francisco hereby finds and declares as follows:

15 (1) San Francisco has a proud tradition of safeguarding the unique character of its  
16 diverse neighborhoods and emphasizing community involvement in issues of neighborhood  
17 preservation.

18 (2) The advent of wireless technologies has caused the proliferation of outdoor  
19 communications equipment throughout the City for provision of wireless services to the public.  
20 Such equipment includes microcells, which are small cell units that provide additional  
21 coverage and capacity where there are high numbers of users within urban areas. The  
22 antennas for microcells are mounted at street level, typically on the external walls of existing  
23 structures, lampposts and other street fixtures.

24 (3) Microcell installations are often visible to the public and can detract from the  
25 character and dignity of buildings and surrounding neighborhoods.

1 (4) The City has received numerous complaints from neighborhood residents referring  
2 to microcells and similar equipment as being unsightly, industrial-looking, and constituting  
3 urban blight. Neighborhood residents report that the microcells negatively impact the  
4 character and distinctive qualities of their neighborhoods.

5 (5) The Planning Code does not provide a specific planning process for installation of  
6 microcells. As a result, microcells and similar equipment have been permitted or allowed as  
7 "accessory uses" that have minimal design review and public notice. Microcells are being  
8 permitted and installed without consideration for their detrimental impacts on neighborhood  
9 character.

10 (6) Many proposed microcells merely increase network capacity and are not needed to  
11 fill significant gaps in wireless coverage.

12 (7) The public welfare, public convenience, and general prosperity of the community  
13 require amending the Planning Code to ensure microcells do not negatively impact the  
14 character and cultural resources of the City's diverse neighborhoods.

15 Section 2. Environmental Findings, General Plan Findings, and Other Required  
16 Findings.

17 (a) The Planning Department has determined that the actions contemplated in this  
18 Ordinance are in compliance with the California Environmental Quality Act (California Public  
19 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the  
20 Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by  
21 reference.

22 (b) On \_\_\_\_\_, 2007, the Planning Commission, in Resolution No.  
23 \_\_\_\_\_ approved and recommended for adoption by the Board this legislation and  
24 adopted findings that it is consistent, on balance, with the City's General Plan and eight  
25 priority policies of Planning Code Section 101.1 The Board adopts these findings as its own.

1 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.  
2 \_\_\_\_\_, and is incorporated by reference herein.

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

7 Section 3. The San Francisco Planning Code is hereby amended by amending  
8 Sections 204, 204.1, 204.2, and 204.3 to read as follows:

9 **SEC. 204. ACCESSORY USES, GENERAL**

10 Subject to the limitations set forth in this Code, and especially as specified in Sections  
11 204.1 through 204.5, a related minor use which is either (a) necessary to the operation or  
12 enjoyment of a lawful principal use or conditional use, or (b) appropriate, incidental and  
13 subordinate to any such use, and (c) in the case of Internet Services Exchange as defined in  
14 Section 209.6(c) which use does not exceed 25,000 gross square feet of floor area or use  
15 more than two megawatts of back-up power generators, shall be permitted as an accessory  
16 use when located on the same lot; provided, however, that in the Outer Clement  
17 Neighborhood Commercial District the storage of materials for a commercial use shall be  
18 permitted as an accessory use if the storage occurred prior to 1985, if it is within 200 feet of  
19 the use to which it is accessory, if it is accessible to the principal permitted use without the  
20 use of a public sidewalk or other public right-of-way, and if the provision of storage would not  
21 conflict with the provisions of Section 145.1 relating to street frontage in N-C Districts.

22 Installation of a microcell shall not be an accessory use under the Planning Code. For  
23 purposes of this Section, a microcell shall be defined as a low-power cell unit through which radio  
24 links are established between the wireless system and a wireless unit with a coverage area significantly

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1 smaller than a typical cell unit. Installation of a microcell is subject to all applicable provisions of the  
2 Planning Code.

3 **SEC. 204.1. ACCESSORY USES FOR DWELLINGS IN R OR NC DISTRICTS**

4 No use shall be permitted as an accessory use to a dwelling unit in any R or NC  
5 District which involves or requires any of the following:

6 (a) Any construction features or alterations not residential in character;

7 (b) The use of more than ¼ of the total floor area of the dwelling unit, except in the  
8 case of accessory off-street parking and loading;

9 (c) The employment of any person not resident in the dwelling unit, other than a  
10 domestic servant, gardener, janitor or other person concerned in the operation or  
11 maintenance of the dwelling unit;

12 (d) Residential occupancy by persons other than those specified in the definition of  
13 family in this Code;

14 (e) In RH-1(D), RH-1 and RH-1(S) Districts, the provision of any room for a roomer or  
15 boarder with access other than from within the dwelling unit;

16 (f) Addition of a building manager's unit, unless such unit meets all the normal  
17 requirements of this Code for dwelling units;

18 (g) The maintenance of a stock in trade, or the use of show windows or window  
19 displays or advertising to attract customers or clients; or

20 (h) The conduct of a business office open to the public.

21 (i) Installation of a microcell as defined in Section 204 of this Code.

22 Provided, however, that Subsection (h) of this Section shall not exclude the  
23 maintenance within a dwelling unit of the office of a professional person who resides therein, if  
24 accessible only from within the dwelling unit; and provided, further, that Subsection (g) shall  
25 not exclude the display of signs permitted by Article 6 of this Code.

1           **SEC. 204.2. ACCESSORY USES FOR USES OTHER THAN DWELLINGS IN R**  
2 **DISTRICTS**

3           No use shall be permitted as an accessory use to a use other than a dwelling in any R  
4 District which involves or requires any of the following:

5           (a) The use of more than ¼ of the total floor area occupied by such use and the  
6 principal or conditional use to which it is accessory, except in the case of accessory off-street  
7 parking and loading;

8           (b) The use of show windows or window displays or advertising to attract customers or  
9 clients, except for an identifying sign and regulated in Article 6 of this Code; or

10          (c) The conduct of any activity of a profit-making or commercial nature, except as an  
11 integral part of the permitted principal or conditional use where such activity is expressly  
12 permitted by Sections 209.1 through 209.9 of this Code.

13          (d) Installation of a microcell, as defined in Section 204 of this Code.

14           **SEC. 204.3. ACCESSORY USES IN C AND M DISTRICTS.**

15          (a) No use shall be permitted as an accessory use to a lawful principal or conditional  
16 use in any C-1 or C-2 District which involves or requires any of the following:

17           (1) The total employment for such accessory use of more than five persons in a  
18 C-1 District, or more than 10 persons in a C-2 District;

19           (2) The use of any single machine of more than one horsepower in a C-1  
20 District, or more than 2½ horsepower in a C-2 District;

21           (3) The use of machines in any one establishment in an aggregate of more than  
22 five horsepower in a C-1 District, or more than 10 horsepower in a C-2 District;

23           (4) The use of more than ¼ of the total floor area occupied by such use and the  
24 principal or conditional use to which it is accessory, except in the case of accessory off-street  
25 parking or loading; or

1 (5) The production of goods not intended primarily for retail sale or use on the  
2 premises.

3 (b) No use shall be permitted as an accessory use to a lawful principal or conditional  
4 use in any C-3 District which involves or requires the use of any single machine of more than  
5 five horsepower; or the use of more than ¼ of the total floor area occupied by such use and  
6 the principal or conditional use to which it is accessory, except in the case of accessory off-  
7 street parking and loading. These limitations shall not apply to equipment or machines  
8 pertaining integrally to the lawful principal use itself.

9 (c) Notwithstanding the provisions of Sections 227(h) and (i) and 260(b)(2)(l) and (M)  
10 of this Code, an accessory use to a lawful principal or conditional use in any C or M District  
11 which involves or requires the installation of a tower or antenna solely for the reception of  
12 radio and television broadcasts for the exclusive benefit of the residents or occupants in the  
13 building on which the antenna is placed shall be permitted without regard to the height of such  
14 tower or antenna and without regard to the proximity of such tower or antenna to any R  
15 District.

16 (d) Installation of a microcell, as defined in Section 204 of this Code, shall not be an  
17 accessory use under this Section.

18 Section 4. The San Francisco Planning Code is hereby amended by amending Section  
19 234.1 to read as follows:

20 **SEC. 234.1. PRINCIPAL USES PERMITTED, P DISTRICTS**

21 (a) Structures and uses of governmental agencies not subject to regulation by this  
22 Code.

23 (b) Public structures and uses of the City and County of San Francisco, and of other  
24 governmental agencies that are subject to regulation by this Code, including accessory  
25 nonpublic uses, when in conformity with the Master Plan and the provisions of other

1 applicable codes, laws, ordinances and regulations; provided, however, that on any lot in a P  
2 District, which lot is within ¼ mile of the nearest NC-1 or Individual Area Neighborhood  
3 Commercial District or Restricted Use Subdistrict described in Article 7 of this Code, no  
4 accessory nonpublic use shall be permitted, unless such use or feature complies with the  
5 controls which are applicable in any NC-1 or Individual Area Neighborhood Commercial  
6 District located within ¼ mile of the lot, excluding the provisions of zoning category .82, as  
7 defined in Section 790.80 of this Code.

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

9 A use is the specific purpose for which a property or building is used, occupied,  
10 maintained, or leased. Whether or not a use is permitted in a specific district is set forth or  
11 summarized and cross-referenced in Sections 710.1 through 730.95 of this Code for each  
12 district class.

13 (a) Use Categories. The uses, functions, or activities, which are permitted in each  
14 Neighborhood Commercial District class include those listed below by zoning control category  
15 and number and cross-referenced to the Code Section containing the definition.

16	No.	Zoning Control Categories for Uses	Section Number of Use Definition
17	.24	Outdoor Activity Area	§ 790.70
18	.25	Drive-up Facility	§ 790.30
19	.26	Walk-up Facility	§ 790.140
20	.27	Hours of Operation	§ 790.48
21	.38	Residential Conversion	§ 790.84
22	.39	Residential Demolition	§ 790.86
23	.40	Other Retail Sales and Services	§ 790.102
24	.41	Bar	§ 790.22
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1	.42	Full-service Restaurant	§ 790.92
2	.43	Large Fast-Food Restaurant	§ 790.90
3	.44	Small Self-Service Restaurant	§ 790.91
4	.45	Liquor Store	§ 790.55
5	.46	Movie Theater	§ 790.64
6	.47	Adult Entertainment	§ 790.36
7	.48	Other Entertainment	§ 790.38
8	.49	Financial Service	§ 790.110
9	.50	Limited Financial Service	§ 790.112
10	.51	Medical Service	§ 790.114
11	.52	Personal Service	§ 790.116
12	.53	Business or Professional Service	§ 790.108
13	.54	Massage Establishment	§ 790.60
14	.55	Tourist Hotel	§ 790.46
15	.56	Automobile Parking	§ 790.8
16	.57	Automotive Gas Station	§ 790.14
17	.58	Automotive Service Station	§ 790.17
18	.59	Automotive Repair	§ 790.15
19	.60	Automotive Wash	§ 790.18
20	.61	Automobile Sale or Rental	§ 790.12
21	.62	Animal Hospital	§ 790.6
22	.63	Ambulance Service	§ 790.2
23	.64	Mortuary	§ 790.62
24	.65	Trade Shop	§ 790.124
25	.66	Storage	§ 790.117



- 1           .67   Video Store   § 790.135
- 2           .70   Administrative Service   § 790.106
- 3           .80   Hospital or Medical Center § 790.44
- 4           .81   Other Institutions, Large   § 790.50
- 5           .82   Other Institutions, Small   § 790.51
- 6           .83   Public Use   § 790.80
- 7           .90   Residential Use   § 790.88
- 8           .95   Community Residential Parking   § 790.10

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10           (b) Use Limitations. The uses permitted in Neighborhood Commercial Districts are  
 11 either principal, conditional, accessory, or temporary uses as stated in this Section, and  
 12 include those uses set forth or summarized and cross-referenced in the zoning control  
 13 categories as listed in Paragraph (a) in Sections 710.1 through 729.95 of this Code for each  
 14 district class.

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

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- 24           No.    Zoning Control Category
- 25           .56    Automobile Parking

- 1           .57    Automotive Gas Station
- 2           .58    Automotive Service Station
- 3           .60    Automotive Wash
- 4           .61    Automobile Sale or Rental
- 5           .81    Other Institutions, Large (selected)
- 6           .83    Public Use (selected)
- 7           .95    Community Residential Parking

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

12           (A) Principal Uses. Principal uses are permitted as of right in a Neighborhood  
13 Commercial District, when so indicated in Sections 710.1 through 729.95 of this Code for  
14 each district class.

15           (B) Conditional Uses. Conditional uses are permitted in a Neighborhood  
16 Commercial District when authorized by the Planning Commission; whether a use is  
17 conditional in a given district is indicated in Sections 710.10 through 729.95. Conditional uses  
18 are subject to the provisions set forth in Sections 178, 179, 303, and 316 through 316.8 of this  
19 Code.

20           (i) An establishment which sells beer or wine with motor vehicle fuel is a  
21 conditional use, and shall be governed by Section 229.

22           (ii) Notwithstanding any other provision of this Article, a change in use or  
23 demolition of a movie theater use, as set forth in Section 790.64, shall require conditional use  
24 authorization. This Subsection shall not authorize a change in use if the new use or uses are  
25 otherwise prohibited.

1 (C) Accessory Uses. Except as prohibited in Section 728 and subject to the  
2 limitations set forth below and in Sections 204.1 (Accessory Uses for Dwelling Units in R and  
3 NC Districts), 204.4 (Dwelling Units Accessory to Other Uses), and 204.5 (Parking and  
4 Loading as Accessory Uses) of this Code, a related minor use which is either necessary to the  
5 operation or enjoyment of a lawful principal use or conditional use, or is appropriate, incidental  
6 and subordinate to any such use, shall be permitted as an accessory use when located on the  
7 same lot. Any use which does not qualify as an accessory use shall be classified as a  
8 principal or conditional use, unless it qualifies as a temporary use under Sections 205 through  
9 205.2 of this Code.

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

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

15 (ii) Any bar, restaurant, other entertainment, or any retail establishment which  
16 serves liquor for consumption on-site;

17 (iii) Any take-out food use, as defined in Section 790.122, except for a take-out  
18 food use which occupies 100 square feet or less (including the area devoted to food  
19 preparation and service and excluding storage and waiting areas) in a general grocery or  
20 specialty grocery store;

21 (iv) Any take-out food use, as defined in Section 790.122, except for a take-out  
22 food use operating as a minor and incidental use within a full-service restaurant;

23 (v) The wholesaling, manufacturing or processing of foods, goods, or  
24 commodities on the premises of an establishment which does not also use or provide for  
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1 primarily retail sale of such foods, goods or commodities at the same location where such  
2 wholesaling, manufacturing or processing takes place.

3 (vi) Installation of a microcell as defined in Section 204 of this Code.

4 The foregoing rules shall not prohibit take-out food activity which operates in  
5 conjunction with a fast-food restaurant or a self-service restaurant. A fast-food restaurant or a  
6 self-service restaurant, by definition, includes take-out food as an accessory and necessary  
7 part of its operation.

8 (D) Temporary Uses. Temporary uses are permitted uses, subject to the  
9 provisions set forth in Section 205 of this Code.

10 (2) Not Permitted Uses.

11 (A) Uses which are not specifically listed in this Article are not permitted unless  
12 they qualify as a nonconforming use pursuant to Sections 180 through 186.1 of this Code or  
13 are determined by the Zoning Administrator to be permitted uses in accordance with Section  
14 307(a) of this Code.

15 (B) No use, even though listed as a permitted use, shall be permitted in a  
16 Neighborhood Commercial District which, by reason of its nature or manner of operation,  
17 creates conditions that are hazardous, noxious, or offensive through the emission of odor,  
18 fumes, smoke, cinders, dust, gas, vibration, glare, refuse, water-carried waste, or excessive  
19 noise.

20 (C) The establishment of a use that sells alcoholic beverages, other than beer  
21 and wine, concurrent with motor vehicle fuel is prohibited, and shall be governed by Section  
22 229.

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1 Section 5. The San Francisco Planning Code is hereby amended by amending Section  
2 986 to read as follows:

3 **SEC. 986. RULES REGARDING WHICH USES ARE ACCESSORY USES**

4 No use in Mission Bay Use Districts will be considered accessory to a principal  
5 or conditional use which involves or requires any of the following:

6 1. An amount which exceeds the limitations set forth in Sections 204.1 (applicable in  
7 MB-R and MB-NC Districts).

8 2. An amount which exceeds the limitations on parking and loading as provided in  
9 Sections 960 through 967.

10 3. The use of more than one third of the total floor area occupied by both the  
11 accessory use and the principal or conditional use to which it is accessory, combined, except  
12 in the case of accessory off-street parking and loading.

13 4. Any bar, restaurant, other entertainment, or any retail establishment which serves  
14 liquor for consumption on-site;

15 5. Any take-out food use, as defined in Section 790.122, except for: (a) a take-out food  
16 use which occupies 100 square feet or less (including the area devoted to food preparation  
17 and service and excluding storage and waiting areas) in a retail grocery or specialty food  
18 store; (b) a take out food use operating as a minor and incidental use within a full service  
19 restaurant; or (c) a take out food use which is, by definition, part of the operation of a fast food  
20 or self service restaurant.

21 6. The wholesaling, manufacturing or processing of foods, goods, or commodities on  
22 the premises of an establishment which does not also provide for primarily retail sale of such  
23 foods, goods or commodities at the same location where such wholesaling, manufacturing or  
24 processing takes place.

25 7. Installation of a microcell as defined in Section 204 of this Code.

1           Section 6. This Section shall be uncodified. The terms of this legislation shall be  
2 retroactive to February 13, 2007, the introduction date of this legislation.

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4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: \_\_\_\_\_  
7       John D. Malamut  
8       Deputy City Attorney