

1 [Planning Code - Arts Activities, and Social Service or Philanthropic Facilities, and COVID-19
2 Recovery Activities as Temporary Uses; Fee Waiver for COVID-19 Recovery Activities

3 **Ordinance amending the Planning Code to allow Arts Activities, and Social Service or**
4 **Philanthropic Facilities, and COVID-19 Recovery Activities as a temporary use in**
5 **vacant ground-floor commercial space; affirming the Planning Department’s**
6 **determination under the California Environmental Quality Act; making findings of**
7 **consistency with the General Plan and the eight priority policies of Planning Code,**
8 **Section 101.1; and adopting findings of public necessity, convenience, and general**
9 **welfare under Planning Code, Section 302.**

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

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
22 Supervisors in File No. 200215 and is incorporated herein by reference. The Board affirms
23 this determination.

24 (b) On June 25, 2020, the Planning Commission, in Resolution No. 20750, adopted
25 findings that the actions contemplated in this ordinance are consistent, on balance, with the
City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. 200215, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
4 Planning Code amendment will serve the public necessity, convenience, and welfare for the
5 reasons set forth in Planning Commission Resolution No. 20750, and the Board incorporates
6 such reasons herein by reference.

7
8 Section 2. Legislative Purpose and Intent.

9 (a) Empty storefronts are currently pervasive throughout San Francisco, which is
10 having a harmful effect on the health and well-being of the City’s commercial corridors.
11 Meanwhile, arts organizations and community-serving agencies are increasingly struggling
12 with displacement, planned and unplanned transitions between facilities that disrupt
13 operations, and a general lack of stability in the places where they operate.

14 (b) Low-barrier planning permits such as temporary use authorizations that will
15 enable arts and community service organizations to operate out of unused or underused
16 vacant storefront properties will allow these vital services to remain and thrive in San
17 Francisco. In turn, their presence will help to mitigate the neighborhood blight caused by
18 vacant storefronts, encourage economic activity along commercial corridors struggling with
19 vacancies, and promote arts, cultural and civic activities in San Francisco.

20 (c) Allowing art and community service activities to operate as temporary uses in
21 vacant storefront properties is intended to help preserve and promote the cultural,
22 socioeconomic, and historical context of the surrounding neighborhood, especially within
23 vulnerable communities.

24 ///

25 ///

1 Section 3 2. Article 2 of the Planning Code is hereby amended by revising Section 205
2 and adding Section 205.7, to read as follows:

3
4 **SEC. 205. TEMPORARY USES, GENERAL.**

5 (a) The temporary uses listed in Sections 205.1 through 205.7 ~~205.5~~, where not
6 otherwise permitted in the district, may be authorized as provided therein and in this Section
7 205, up to the time limits indicated. Further time for such uses may be authorized only by
8 action upon a new application, subject to all the requirements for the original application,
9 unless otherwise indicated in Sections 205.1 through 205.7 ~~205.5~~.

10 * * * *

11 (d) The time periods referenced in Sections 205.1 through 205.3 and Sections
12 205.5 through 205.7 are consecutive hours or consecutive calendar days; they are not the
13 total number of hours or days that the use is in operation. Therefore, a 24-hour authorization
14 that begins at 6:00 a.m. expires at 6:00 a.m. the following day, even if the use was in
15 operation only eight hours of that 24-hour period. Similarly, a 60-day authorization expires
16 after 60 calendar days even though the use may only have been open for business three
17 days per week during that 60-day period. Hours or days of unused authorization cannot be
18 stored or credited.

19 (e) Any temporary uses authorized pursuant to this Section 205 and Sections 205.1
20 through 205.7 ~~205.6 205.5~~ shall not be required to comply with any Planning Code
21 requirements that are not expressly applicable to such temporary uses under this Section 205
22 and Sections 205.1 through 205.7 ~~205.6 205.5~~, provided, however, any temporary uses
23 authorized pursuant to this Section 205 and Sections 205.1 through 205.7 ~~205.6 205.5~~ shall
24 be subject to all applicable initiative ordinances approved by the voters of the City and County
25 of San Francisco.

1 (f) The decision of the Planning Director to authorize or deny authorization of any
2 temporary use pursuant to this Section 205 and Sections 205.1 through ~~205.7~~ 205.5 may be
3 appealed to the Board of Appeals within 15 days after the date of the decision by filing a
4 written notice of appeal with that body.

5 **SEC. 205.7 ~~205.6.~~ TEMPORARY USES: INTERIM ACTIVITIES IN VACANT GROUND-**
6 **FLOOR COMMERCIAL SPACES.**

7 (a) **Arts Activities, Social Service or Philanthropic Facilities, and COVID-19**
8 **Relief and Recovery uses; Authorization ~~Interim Activity~~ as a Temporary Uses.** *Within all*
9 *districts listed in Section 201 of this Code except for Residential Districts, the Planning Director may*
10 *authorize an Arts Activity or Social Service or Philanthropic Facility use, as those uses are*
11 *defined in Section 102, or any COVID-19 Relief and Recovery use as defined in subsection*
12 *(b) an Interim Activity as a temporary use in a vacant ground-floor commercial space for a maximum*
13 *of four ~~two~~ years. The temporary uses may be provided, in whole or in part, either on site or off*
14 *site. Such uses may also conduct their administrative activities on site as a sole Principal Use.*

15 *The Planning Director's initial authorization ("Initial Period") shall not exceed ~~two one~~ years*
16 *and may be extended by the Director up to the ~~two-four~~ year maximum pursuant to the provisions of*
17 *subsection (i) below. I*

18 (b) **Definitions.** *For purposes of this Section 205.6, the following definitions shall apply:*
19 **"COVID-19 Relief and Recovery use" means any use providing direct services in**
20 **housing, employment, health, education and training, legal assistance, public benefits,**
21 **enrollment and financial assistance preparing and distributing food, water and other essential**
22 **items, establishing testing facilities, or providing access to restroom or handwashing facilities,**
23 **or performing any other service that the Department determines will aid COVID-19 relief and**
24 **recovery efforts.**

25 ///

1 “Interim Activity” means any Arts Activity or any Social Service or Philanthropic Facility,
2 as those terms are defined in Section 102 of this Code. An Office use for administrative
3 purposes may be allowed if it is incidental to the Interim Activity’s provision of services to the
4 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~~ temporary use or each tenant’s authorized agent,
13 acknowledging that (1) the use of the space ~~for the Interim Activity~~ is temporary and subject to the
14 time limits set forth in this Section 205.6, (2) the Applicant will pay any outstanding fees, invoices, or
15 penalties owed to City agencies, and (3) the Applicant is in compliance with all requirements of the
16 Municipal Code, including any requirements to abate any Code violations, including Building Code
17 violations. The Applicant shall not be required to pay additional fees set forth in Article 4 of the
18 Planning Code as a prerequisite to obtaining temporary use authorization pursuant to this Section
19 205.7 ~~205.6.~~

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

23 (e) **New Tenants.** Additional or different tenants may commence occupancy within and use
24 the subject site without additional applications or fees, provided that each new tenant submits a
25 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 ~~205.7~~
5 ~~205.6~~ shall not be considered a conversion, discontinuance, abandonment, or change of use for
6 purposes of this Code, notwithstanding Sections 182 and 183 of this Code. Any property for which the
7 ~~Interim Activity~~ temporary use is authorized shall retain its authorized land use(s). Such authorized
8 land uses, including any nonconforming uses, shall become operative upon the expiration, termination,
9 or abandonment of such temporary use authorization.

10 (g) **Fenestration, Transparency, and Visibility Requirements.** Construction proposed in
11 connection with the ~~Interim Activity~~ temporary use shall not cause noncompliance or exacerbate
12 existing noncompliance with respect to fenestration, transparency, or any other visibility requirement
13 of Section 145.1 of this Code. Further, no film, adhesive, blinds, or other treatment may be applied to
14 any 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~~ temporary use has been consistent with public convenience, necessity, or the
23 general welfare of the City, the Planning Director is authorized to permit the ~~Interim Activity~~
24 temporary use to exceed the Initial Period for an additional period of time not to exceed a total time
25 of 24 months ~~for the Interim Activity~~. This extension shall require a separate determination of the

1 Planning Director according to this Section 205.7(i) 205.6(i), and the authorization of the temporary
2 use Interim Activity may not exceed a total duration of 48 24 months.

3 (j) Other Temporary Uses. Authorization of an Interim Activity a temporary use
4 pursuant to this Section 205.7 205.6 shall not preclude the authorization of any other temporary uses
5 recognized in Sections 205.1 through 205.6 205.5.

6 (k) Additional Permits. Authorization of a temporary use under this Section 205.7
7 does not waive the requirement to obtain any additional permit(s) that may be required by
8 other City Codes, including but not limited to permits required by the Health Code or Building
9 Code.

10 (l) Fee Waiver for Uses that Propose a COVID-19 Recovery and Relief
11 Activity. If an applicant for approval of a temporary use under this Section 205.6 proposes a
12 COVID-19 Recovery and Relief use, as defined in subsection (b) above, the Planning
13 Department fee for reviewing the application shall be waived.

14
15 Section 4 3. Effective Date. This ordinance shall become effective 30 days after
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
18 of Supervisors overrides the Mayor’s veto of the ordinance

19
20 Section 5 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
21 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
22 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
23 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

24 ///

25 ///

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3

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

6 By: /s/ JUDITH A. BOYAJIAN
7 JUDITH A. BOYAJIAN
8 Deputy City Attorney

9 n:\legana\as2020\2000288\01463337.docx

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25