

1 [Planning Code - Hours of Operation for Limited Nonconforming Uses]

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3 **Ordinance amending the Planning Code to allow limited nonconforming uses in**
 4 **specified zoning districts to operate between the hours of 10:00 p.m. and 12:00 a.m.**
 5 **with Conditional Use authorization; affirming the Planning Department's determination**
 6 **under the California Environmental Quality Act; making findings of consistency with**
 7 **the General Plan, and the eight priority policies of Planning Code, Section 101.1; and**
 8 **adopting findings of public convenience, necessity, and welfare under Planning Code,**
 9 **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.

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

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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. 180556 and is incorporated herein by reference. The Board affirms
 22 this determination.

23 (b) On April 19, 2018, the Planning Commission, in Resolution No. 20154, 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

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. 180556, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code, Section 302, the Board of Supervisors finds that this
4 ordinance will serve the public necessity, convenience, and welfare for the reasons stated in
5 Planning Commission Resolution No. 20154 and the Board adopts said reasons herein by
6 reference.

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8 Section 2. The Planning Code is hereby amended by revising Section 186, to read as
9 follows:

10 **SEC. 186. EXEMPTION OF LIMITED COMMERCIAL AND INDUSTRIAL**
11 **NONCONFORMING USES IN RH, RM, RTO, AND RED DISTRICTS.**

12 The purpose of this Section is to provide for the further continuance in RH, RM, RTO,
13 and RED Districts of nonconforming uses of a limited commercial and industrial character, as
14 herein described, which are beneficial to, or can be accommodated within, the residential
15 areas in which they are located. It is hereby found and declared that, despite the general
16 incompatibility of nonconforming uses with the purposes of this Code, and with other nearby
17 uses, these limited commercial uses may be tolerated in residential areas, and tend to provide
18 convenience goods and services on a retail basis to meet the frequent and recurring needs of
19 neighborhood residents within a short distance of their homes or, within the South of Market
20 RED Districts, tend to provide jobs and continuation of small scale service and light industrial
21 activities. These uses tend to be small in scale, to serve primarily a walk-in trade, and cause a
22 minimum of interference with nearby streets and properties. Accordingly, this Section
23 recognizes the public advantages of these uses and establishes conditions for their continued
24 operation.

25 * * * *

1 (b) **Conditions on Limited Nonconforming Uses.** The limited nonconforming
2 uses described above shall meet the following conditions:

3 (1) The building shall be maintained in a sound and attractive condition,
4 consistent with the general appearance of the neighborhood;

5 (2) Any signs on the property shall be made to comply with the requirements of
6 Article 6 of this Code applying to nonconforming uses;

7 (3) The hours during which the use is open to the public shall be limited to the
8 period between 6:00 a.m. and 10:00 p.m., however, the Planning Commission may extend the
9 hours of operation to 12:00 a.m. through Conditional Use authorization, as outlined in Section 303 of
10 this Code;

11 (4) Public sidewalk space may be occupied in connection with the use provided
12 that it is only occupied with tables and chairs as permitted by this Municipal Code;

13 (5) Truck loading shall be limited in such a way as to avoid undue interference
14 with sidewalks, or with crosswalks, bus stops, hydrants and other public features;

15 (6) Noise, odors and other nuisance factors shall be adequately controlled; and

16 (7) All other applicable provisions of this Code shall be complied with.

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

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24 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
25 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
3 additions, and Board amendment deletions in accordance with the “Note” that appears under
4 the official title of the ordinance.

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6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: _____
9 JUDITH A. BOYAJIAN
Deputy City Attorney

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