

[Planning Code; Administrative Code - Legacy Businesses in Neighborhood Commercial Districts]

Ordinance amending the Planning Code to define Legacy Business and to require conditional use authorization prior to replacing a Legacy Business with a new non-residential use in certain Neighborhood Commercial, Named Neighborhood Commercial, and Neighborhood Commercial Transit Districts, and in the Chinatown Mixed Use Districts; amending the Administrative Code to allow a business that has been operating for 15 years to qualify as a Legacy Business; 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 adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

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

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

Section 1. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 250808 and is incorporated herein by reference. The Board affirms

1 this determination.

2 (b) On _____, the Planning Commission, in Resolution No. _____, adopted
3 findings that the actions contemplated in this ordinance are consistent, on balance, with the
4 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
5 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
6 Board of Supervisors in File No. _____, and is incorporated herein by reference.

7 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
8 amendments will serve the public necessity, convenience, and welfare for the reasons set
9 forth in Planning Commission Resolution No. _____, and the Board adopts such
10 reasons as its own. A copy of said resolution is on file with the Clerk of the Board of
11 Supervisors in File No. _____ and is incorporated herein by reference.

12 (b) The Board finds that the actions contemplated in this ordinance are consistent, on
13 balance, with the City's General Plan as follows:

14 **Commerce and Industry Element Objective 1: Manage Economic Growth and**
15 **Change to Ensure Enhancement of the Total City Living and Working Environment.**

16 **Policy 1.1: Encourage development which provides substantial net benefits and**
17 **minimizes undesirable consequences. Discourage development which has substantial**
18 **undesirable consequences that cannot be mitigated.**

19 By requiring a conditional use authorization for a change of use when new use
20 replaces a Legacy Business, this ordinance encourages continuous public engagement and
21 allows the public and the Planning Commission to encourages development with substantial
22 net benefits. By exempting small businesses from the conditional use requirement, the
23 ordinance balances the need to retain Legacy Businesses and not negatively impact small
24 businesses.

25 **Commerce and Industry Element Objective 2: Maintain and Enhance a**

1 Sound and Diverse Economic Base and Fiscal Structure for the City.

2 **Policy 2.1:** Seek to retain existing commercial and industrial activity and to
3 attract new such activity to the city.

4 Legacy Businesses are considered by the Historical Preservation Commission
5 and Small Business Commission as contributors to a neighborhood's history and/or the
6 identity of the neighborhood or community. Legacy Businesses are worthy of protection due to
7 their unique blend of location, economic activity, and influence on a neighborhood's social
8 history. These unique businesses differentiate San Francisco from other locations and make
9 San Francisco a favored place for other types of firms. Locating in a neighborhood with a
10 Legacy Businesses can be a decisive factor in other business' determination whether to
11 locate in San Francisco or a neighboring jurisdiction.

12 **Policy 2.3:** Maintain favorable social and cultural climate in the city in order to
13 enhance its attractiveness as a firm location.

14 As stated in the Office of Small Business's Annual Report 24-25, Legacy
15 Businesses "are valuable cultural assets to the city," which is one of the intangible aspects of
16 the City that holds economic value and increases the City's comparative advantage over
17 neighboring jurisdictions. Supporting Legacy Businesses as a cultural element that contributes
18 to the desirability of firms to locate in and do business in San Francisco and will help maintain
19 the City's economic vitality.

20 **Commerce and Industry Element Objective 3:** Provide Expanded
21 Employment Opportunities for City Residents, Particularly the Unemployed and Economically
22 Disadvantaged.

23 **Policy 3.1** Promote the attraction, retention, and expansion of commercial and
24 industrial firms which provide employment improvement opportunities for unskilled and semi-
25 skilled workers.

1 According to the Policy 3.1, “One employment sector that often serves to be a
2 source of employment opportunity to minorities and low-skilled workers is the small business
3 sector. However, small newly formed businesses suffer from a high percentage of business
4 failures.” Therefore, protection of Legacy Businesses, which are often small businesses, by
5 requiring a conditional use authorization to replace a commercial space occupied by a Legacy
6 Business will support employment opportunities for minorities and low-skilled workers.
7 Likewise, exempting small businesses from the conditional use requirement will enhance the
8 ability for small businesses to locate within the City.

9 (c) The Board finds that the actions contemplated in this ordinance are consistent, on
10 balance, with the eight priority policies of Planning Code Section 101.1 for the following
11 reasons:

12 1) That existing neighborhood-serving retail uses be preserved and
13 enhanced and future opportunities for resident employment in and ownership of such
14 businesses enhanced.

15 The proposed ordinance does not change or ban neighborhood-serving retail
16 uses. The proposed ordinance, however, will preserve and enhance future opportunities for
17 resident employment and the ownership of such businesses.

18 2) That existing housing and neighborhood character be conserved and
19 protected in order to preserve the cultural and economic diversity of our
20 neighborhoods.

21 The proposed ordinance will contribute to the conservation and protection of
22 neighborhood character by protecting Legacy Businesses, which are deemed by the Historical
23 Preservation Commission to contribute to a neighborhood's history and/or the identity of the
24 neighborhood or community.

25 3) That the City's supply of affordable housing be preserved and

1 **enhanced.**

2 The proposed ordinance will have no effect on affordable housing because
3 residential uses are exempted from the conditional use requirement.

4 **4) That commuter traffic not impede Muni transit service or overburden**
5 **our streets or neighborhood parking.**

6 The proposed ordinance will have no effect on neighborhood traffic or parking.

7 **5) That a diverse economic base be maintained by protecting our**
8 **industrial and service sectors from displacement due to commercial office**
9 **development, and that future opportunities for resident employment and ownership in**
10 **these sectors be enhanced.**

11 The proposed ordinance will maintain a diverse economic base by protecting
12 industrial and service sectors from displacement by providing protection of neighborhood-
13 serving businesses, especially if they are Legacy Businesses.

14 **6) That the City achieve the greatest possible preparedness to protect**
15 **against injury and loss of life in an earthquake.**

16 The proposed ordinance will have no effect on earthquake preparedness.

17 **7) That landmarks and historic buildings be preserved.**

18 The proposed ordinance does not change existing protection of landmarks or
19 historic buildings.

20 **8) That our parks and open space and their access to sunlight and vistas**
21 **be protected from development.**

22 The proposed ordinance will have no effect on parks and open space.

23 (d) Pursuant to Planning Code Section 302, the Board finds that these Planning Code
24 amendments will serve the public necessity, convenience, and welfare for the reasons set
25 forth in Section 2, below, and because Legacy Businesses, by virtue of their long-term

1 presence in their communities, contribute to the unique character, history, identity, and
2 vibrancy of San Francisco neighborhoods. Requiring a conditional use authorization when a
3 commercial space was occupied by a Legacy Business will help protect these valuable
4 cultural assets. At the same time, exempting small businesses from the requirement to obtain
5 conditional use authorization will reduce barriers for new small businesses. Legacy
6 Businesses that have operated in San Francisco for more than 15 years but less than 30
7 years are also worthy of protection.

8 9 Section 2. General Findings.

10 (a) San Francisco created the Legacy Business Registry in order to preserve and
11 support longstanding, community-serving businesses that so often serve as valuable cultural
12 assets.

13 (b) A “Legacy Business” is a business that has been nominated by the Board of
14 Supervisors or the Mayor and publicly evaluated by the Small Business Commission and the
15 Historic Preservation Commission. It must have operated in the City for 30 years or more,
16 and contributed to the history and/or the identity of a particular neighborhood or community. A
17 Legacy Business must be committed to maintaining the physical features or traditions that
18 define the business, including craft, culinary, or art forms. Businesses operating for 20 years
19 or more may also qualify as a Legacy Business if the business is at a significant risk of
20 displacement.

21 (c) Legacy Businesses, by virtue of their long-term presence in their communities,
22 contribute to the unique character, history, identity, and vibrancy of San Francisco
23 neighborhoods. However, businesses operating for 15 years or more can also contribute to
24 the unique character, history, identity, and vibrancy of their neighborhoods. Acknowledging
25 long-term success by designating a business as a Legacy Business helps to stabilize and

1 preserve the economic viability of neighborhood commercial corridors.

2 (d) Legacy Businesses serve as valuable cultural assets, are often the bedrock of local
3 neighborhoods, and in some cases draw tourists from around the world.

4 (e) Small businesses are the backbone of neighborhood commercial and cultural
5 districts. Small businesses fuel the local economy by creating jobs, fostering innovation, and
6 contributing to the City's unique culture and community character. Small businesses put
7 money back into the community and foster local spending. They offer pathways to economic
8 security for many diverse entrepreneurs and enrich the urban experience by providing
9 personalized, direct customer service.

10 (ef) Numerous recent changes to state law granting planning waivers, streamlining
11 approvals, and creating rezoning mandates may encourage the redevelopment of structures
12 in neighborhood commercial districts, thereby putting the long-term economic viability of all
13 neighborhood serving businesses, and especially Legacy Businesses and small businesses,
14 at risk.

15 (g) Moving a Legacy Business from one location to another due to the demolition of a
16 commercial space can be a complex and expensive undertaking. Businesses must find new
17 space that is adequate for their needs, and the new space may require additional licenses and
18 permits involving numerous local agencies. The City has established several programs that
19 waive certain license, registration, and permit fees for new and expanding small businesses.
20 The City should explore implementing and imposing an impact fee that matches the relocation
21 requirements for small businesses imposed by Government Code section 65912.100 et seq.
22 the Affordable Housing and High Road Jobs Act of 2022, on new development that displaces
23 Legacy Businesses to lessen the burden of relocation expenses on such businesses.

24
25 Section 3. Chapter 2A, Article 16 of the Administrative Code is hereby amended by

1 revising Section 2A.242, to read as follows:

2
3 **SEC. 2A.242. LEGACY BUSINESS REGISTRY.**

4 * * * *

5 (b) For purposes of this Section 2A.242, "Legacy Business" means a business that
6 has been nominated by a member of the Board of Supervisors or the Mayor in accordance
7 with subsection (c) below, and that the Small Business Commission, after a noticed hearing,
8 determines meets each of the following criteria:

9 (1) The business has operated in San Francisco for 30 or more years, with no
10 break in San Francisco operations exceeding two years. The business may have operated in
11 more than one location. If the business has operated in San Francisco for more than ~~20~~ 15
12 years but less than 30 years it may still satisfy this subsection (b)(1) if the Small Business
13 Commission finds that the business has significantly contributed to the history or identity of a
14 particular neighborhood or community and, if not included in the Registry, the business would
15 face a significant risk of displacement.

16 (2) The business has contributed to the neighborhood's history and/or the
17 identity of a particular neighborhood or community. Prior to the hearing, the Small Business
18 Commission, or the Executive Director of the Office of Small Business on its behalf, shall
19 request an advisory recommendation from the Historic Preservation Commission as to
20 whether the business meets the requirement in this subsection (b)(2). If the Historic
21 Preservation Commission does not provide an advisory recommendation within 30 days of
22 receipt of the request, the Small Business Commission shall treat such nonresponse as an
23 advisory recommendation that the business meets the requirement in this subsection (b)(2).

24 (3) The business is committed to maintaining the physical features or traditions
25 that define the business, including craft, culinary, or art forms.

1 If the Small Business Commission makes all three findings, it shall include the business
2 in the Registry as a Legacy Business.

3
4 Section 4. Article 1 of the Planning Code is hereby amended by revising Section 102
5 to read as follows:

6
7 **Sec. 102. DEFINITIONS**

8 * * * *

9 **Laundromat.** A Retail Sales and Service Use that is used for the purpose of washing,
10 drying, dry cleaning, starching, or ironing, for the general public, wearing apparel, household
11 linens, or other washable fabrics, or a place used or maintained for the storage, collection, or
12 delivery of such articles for such service. A Laundromat use shall include any place, whether
13 self-service or otherwise, maintained for the general public for the purpose of washing and
14 drying wearing apparel, household linens, or other washable fabrics, by coin-operated, or
15 card-operated laundry machinery.

16
17 **Legacy Business.** A Use Characteristic that applies to Non-Residential uses listed on
18 the Legacy Business Registry pursuant to Administrative Code 2A.242.

19
20 **Length (of a Building or Structure).** See Plan Dimensions.

21
22 Section ~~3~~ 5. Article 7 of the Planning Code is hereby amended by adding Section
23 703.5, to read as follows:

24
25 **SEC. 703.5. CONDITIONAL USE AUTHORIZATION REQUIRED FOR CHANGE IN**

1 **USE OF COMMERCIAL USE OCCUPIED BY A LEGACY BUSINESS IN SPECIFIED**
2 **NEIGHBORHOOD COMMERCIAL DISTRICTS.**

3 *(a) Notwithstanding any other provision of this Article 7, any new Non-Residential Use shall*
4 *require a Conditional Use authorization pursuant to Section 303 where the immediate prior use was a*
5 *Commercial Use occupied by a Legacy Business, ~~as defined in Administrative Code Section~~*
6 *~~2A.242(b).~~*

7 *(b) Subsection (a) of this Section 703.5 shall not apply where: (1) the subject Commercial*
8 *space has had no occupant and has not been open to the public in the three years prior to the date the*
9 *application for the new Use is filed; ~~or~~ (2) the Legacy Business has removed itself or has been*
10 *otherwise removed from the Legacy Business Registry; or (3) the new Non-Residential Use is a*
11 *Legacy Business, or qualifies as a Small Business Enterprise, as defined in Business and Tax*
12 *Code Section 954.1.*

13 *(c) This Section 703.5 shall apply only to the Neighborhood Commercial Districts in the*
14 *following sections: Sections 710, 711, 712, 714, 715, 716, 717, 718, 719, 720, 721, 722, 724, 725, 727,*
15 *728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 750,*
16 *751, 752, 753, 755, 756, 757, 759, 760, 761, 762, 763, and 764.*

17
18 Section 46. Article 8 of the Planning Code is hereby amended by revising Section
19 803.2 to read as follows:
20

21 **SEC. 803.2. USES PERMITTED IN CHINATOWN MIXED USE DISTRICTS.**

22 * * * *

23 **(g) Other Chinatown Mixed Use District Provisions.**

24 * * * *

25 *(2) Legacy Businesses. Notwithstanding any other provision of this Article 8, any new*

1 Non-Residential Use in the Chinatown Mixed Use Districts shall require a Conditional Use
2 authorization pursuant to Section 303 where the immediate prior use was a Commercial Use occupied
3 by a Legacy Business, as defined in Administrative Code Section 2A.242(b). This provision shall
4 not apply where: (A) the subject non-residential space has had no occupant and has not been open to
5 the public for three or more years from the date the application for the new use is filed; or (B) the
6 Legacy Business has removed itself or has been otherwise removed from the Legacy Business Register;
7 or (C) the new Non-Residential Use is a Legacy Business or qualifies as a Small Business
8 Enterprise, as defined in Business and Tax Code Section 954.1.
9

10 Section 57. Effective Date. This ordinance shall become effective 30 days after
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
13 of Supervisors overrides the Mayor's veto of the ordinance.
14

15 Section 68. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
19 additions, and Board amendment deletions in accordance with the "Note" that appears under
20 the official title of the ordinance.
21

22 APPROVED AS TO FORM:
23 DAVID CHIU, City Attorney

24 By: /s/
Audrey Williams Pearson
Deputy City Attorney

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