

[Zoning - Temporary Uses and Mobile Food Facilities]

**Ordinance amending the San Francisco Planning Code by adding Section 102.31 to define a Mobile Food Facility, amending Section 205 and adding Section 205.4 to establish a new category of temporary uses, and amending Sections 212, 790.91, 790.93, and 890.90 to clarify that Mobile Food Facilities need not be conducted within enclosed buildings; adopting findings, including environmental findings and findings of consistency with the General Plan and Planning Code Section 101.1.**

NOTE: Additions are *single-underline italics Times New Roman*;  
deletions are ~~*strike-through italics Times New Roman*~~.  
Board amendment additions are double-underlined;  
Board amendment deletions are ~~strike-through normal~~.

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

Section 1. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

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

(b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. \_\_\_\_\_ and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. \_\_\_\_\_ is on file with the Board of Supervisors in File No. \_\_\_\_\_.

(c) This Board finds that these Planning Code amendments are consistent with the General Plan and with the priority policies of Planning Code Section 101.1 for the reasons set

1     forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board hereby incorporates such  
2     reasons herein by reference.

3             (d) Mobile Food Facilities are defined in Section 113831 of the California Health and  
4     Safety as “any vehicle used in conjunction with a commissary or other permanent food facility  
5     upon which food is sold or distributed at retail.” When such uses are located outside of San  
6     Francisco’s public rights-of-way, permitting authority rests with the Department of Public  
7     Health which consults the Planning Department to ensure that all such applications are  
8     consistent with the Planning Code. Examples of Mobile Food Facilities include pushcart  
9     vendors, trailer-based vendors, and catering trucks which sell a range of ready-to-eat food.

10            (e) Often termed “street-food,” the wide range of fare provided by Mobile Food  
11     Facilities is typically offered at low or moderate prices and in many cases represents novel or  
12     innovative cuisine. When located and operated appropriately, Mobile Food Facilities add  
13     vitality to the street, contribute to the richness of San Francisco’s culinary and cultural  
14     offerings, and provide economic opportunities especially for small business-persons.

15            (f) The Planning Code addresses land uses which are either discrete temporary uses  
16     or fixed, non-mobile, permanent uses. No regulations yet exist for uses such as Mobile Food  
17     Facilities which, while occasional, occur in an ongoing fashion with some routine or regularity.

18            (g) These ‘intermittent activities’ include outdoor uses such as Mobile Food Facilities,  
19     farmers markets, and open-air craft markets which are neither permanent nor entirely  
20     temporary. The 60-day or 24-hour limits contemplated as part of the Planning Code’s  
21     temporary use provisions in Section 205 et. seq. do not acknowledge the enduring presence  
22     of these intermittent uses.

23            (h) In most Commercial, Industrial, and Production, Distribution, and Repair Districts,  
24     such uses can typically be permitted as permanent uses without extensive, lengthy, or  
25     burdensome permitting requirements. However, within Neighborhood Commercial and certain

1 Mixed Use Districts, such uses – despite their limited nature – are considered permanent land  
2 uses and are subject to detailed and complex permit review. This review is of the same scope  
3 as that which apply to larger, permanent, “bricks-and-mortar” establishments.

4 (i) The nature of some Mobile Food Facilities – particularly those with an extended  
5 presence at a given location - is such that they would continue to be considered permanent  
6 uses. It has been suggested that portions of the Planning Code that require certain uses to be  
7 conducted within enclosed buildings are ambiguous with respect to Mobile Food Facilities.

8 Section 2. The San Francisco Planning Code is hereby amended by adding Section  
9 102.31 to read as follows:

10 SEC. 102.31. MOBILE FOOD FACILITY. Any vehicle, trailer, cart, or similar apparatus that  
11 is used primarily to dispense ready-to-eat food and/or beverages, either pre-packaged or prepared on  
12 the premises, on a retail basis. A Mobile Food Facility demonstrates all of the following  
13 characteristics: (1) it is readily moveable either through internal propulsion, such as a motorized  
14 catering truck, or through external propulsion, such as a food-cart equipped with wheels and a towing  
15 hitch or handles; (2) any food which is prepared on the Facility is sold exclusively at the Facility; and  
16 (3) it is subject to regulation by the San Francisco Department of Public Health under Chapter 10 of  
17 the California Retail Food Code, California Health and Safety Code Sections 114249 et seq.

18 Section 3. The San Francisco Planning Code is hereby amended by amending Section  
19 205 and adding Section 205.4 to read as follows:

20 SEC. 205. - TEMPORARY USES, GENERAL.

21 (a) The temporary uses listed in Sections 205.1 through ~~205.3~~ 205.4, where not  
22 otherwise permitted in the district, may be authorized as provided herein, up to the time limits  
23 indicated. Further time for such uses may be authorized only by action upon a new  
24 application, subject to all the requirements for the original application, unless otherwise  
25 indicated in Sections 205.1 through ~~205.3~~ 205.4.

1 (b) Action upon such uses shall be by the Planning Commission, subject to all the  
2 requirements for conditional uses in Sections 303 and 306 through 306.5 of this Code; except  
3 that uses listed in Section 205.1, uses listed in Section 205.2 if located in a PDR, C, or M  
4 District, ~~and~~ uses listed in Section 205.3 within the South of Market Mixed Use Districts and  
5 Eastern Neighborhoods Mixed Use Districts, and uses listed in Section 205.4 may be authorized  
6 by the Zoning Administrator without a public hearing.

7 (c) Wherever a use exists at the effective date of this Code or of an amendment  
8 thereto under which such use is classified as a temporary use, or wherever a use is being  
9 conducted under a temporary use authorization given prior to such a date, such use may be  
10 continued for the maximum term specified therefore, calculated from said effective date or  
11 date of authorization. No such use shall continue thereafter unless a temporary use  
12 authorization shall have been sought and obtained under a new application. Continuance of a  
13 temporary use beyond the date of expiration of the period authorized therefore, or failure to  
14 remove a structure for such temporary use within 10 days thereafter, shall constitute a  
15 violation of this Code.

16 SEC. 205.4. - TEMPORARY USES: INTERMITTENT ACTIVITIES. An intermittent activity is  
17 an outdoor use which, while occasional, occurs with some routine or regularity. Intermittent activities  
18 include but are not limited to the following uses, when meeting the criteria of this Section: Mobile Food  
19 Facilities, farmers markets, and open-air craft markets. Such uses typically require additional  
20 authorization(s) from other City Departments. An intermittent activity may be authorized as a  
21 temporary use for a period not to exceed one year as specifically set forth below.

22 (a) Within Neighborhood Commercial, Mixed Use, C, M, and PDR Districts, an intermittent  
23 activity must meet all of the following conditions:

24 (1) It shall not be located within a building as defined in Section 102.3 of this Code; and  
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1 (2) It shall not be located on the property for more than three calendar days in any seven-day  
2 period regardless of whether the activity is open to the public; and

3 (3) It shall only be open for business during the hours of operation permitted as a principal use  
4 for the District in which it is located, if any; and

5 (4) If located in a District which is subject to neighborhood notification as set forth in Section  
6 312 of this Code, notification pursuant to Section 312 shall be required only if:

7 (A) The total vending space, as defined below, is more than 225 square feet, or

8 (B) Any portion of the vending space is located within 50 feet of an R District.

9 (b) Within P Districts, an intermittent activity must meet all of the following conditions:

10 (1) It shall not be located within a building as defined in Section 102.3 of this Code; and

11 (2) It shall not be located on the property for more than six calendar days in any seven-day  
12 period regardless of whether the activity is open to the public; and

13 (3) No portion of the vending space shall be located within 50 feet of an R District.

14 (c) For the purposes of this Section 205.4, the following provisions shall apply:

15 (1) 'Vending space' shall be defined as the entire area within a single rectangular perimeter  
16 formed by extending lines around the extreme limits of all carts, vehicles, tables, chairs, or other  
17 equipment associated with all intermittent activities located on the parcel.

18 (2) Distances to Residential Districts shall be measured from the extreme perimeter of any  
19 vending space to the nearest property line of any parcel which is partially or wholly zoned Residential.

20 (3) The time periods referenced in this Section are complete calendar days which need not be  
21 consecutive. Therefore, an intermittent use may be located on a given property between the hours of  
22 12:00 a.m. and 11:59 p.m. on a particular calendar day and any subsequent days, immediately  
23 following or not immediately following, up to the limits set forth above. Days of unused authorization  
24 cannot be stored or credited, while any portion of a day shall count as a full day.

Section 4. The San Francisco Planning Code is hereby amended by amending Section 212 to read as follows:

SEC. 212. - ADDITIONAL REQUIREMENTS FOR USES IN CERTAIN C AND M DISTRICTS.

In the following C and M Districts, the permitted uses indicated in Sections 215 through 227 shall be subject to the additional requirements contained in this Section 212.

(a) In C-1 and C-2 Districts, all permitted uses, and all storage, servicing, fabricating, processing or repair uses accessory thereto, shall be conducted within enclosed buildings, with the exceptions of:

~~(1) Those uses indicated by an asterisk (\*) in the column for the district, and with the exception, also, of the following accessory uses where permitted:~~

~~(2) Accessory off-street parking and loading areas~~ where permitted;

~~(3) Accessory outdoor dining areas~~ where permitted;

~~(4) Accessory recreation areas;~~ where permitted; or

~~(5) Mobile Food Facilities as defined in Section 102.31.~~

(b) In C-1, C-3-O, C-3-R and C-3-G Districts, no permitted use shall include an establishment of the "drive-in" type, serving customers waiting in parked motor vehicles, with the exception of automobile service stations and automobile washes where permitted.

(c) In the C-3-R District, along any block frontage that is entirely within such district or partly in such district and partly in the C-3-O District, where such block frontage faces a street 40 feet or more in width, the following requirements shall apply to assure continuity of retail and consumer service uses:

(1) Only those permitted uses listed in Sections 218 and 227 shall be located facing such street in the ground story of any building. At least ½ the total width of any new or

1 reconstructed building, parallel to and facing such street, shall be devoted at the ground story  
2 to entrances, show windows or other displays of such uses.

3 (2) All other permitted uses shall be located either on stories above or below the  
4 ground story or at a distance of not less than 20 feet behind the front of the building at the  
5 ground story. No more than 1/3 the width of any lot, parallel to and facing such street, shall be  
6 devoted to entrances to such other permitted uses.

7 (d) No use listed as permitted in any C District or M-1 District shall include any use that  
8 is hazardous, noxious or offensive for reasons described in Section 202(c) of this Code.

9 (e) In C-3 Districts, all demolitions of residential buildings and all conversions to  
10 nonresidential use of residential uses above the ground floor shall be permitted only if  
11 authorized as a conditional use under Section 303 of this Code, unless the Superintendent of  
12 the Bureau of Building Inspection or the Chief of the Bureau of Fire Prevention and Public  
13 Safety determines that the building is unsafe or dangerous and that demolition is the only  
14 feasible means to secure the public safety. When considering whether to grant a conditional  
15 use permit for the demolition or conversion, in lieu of the criteria set forth in Planning Code  
16 Section 303, consideration shall be given to the adverse impact on the public health, safety  
17 and general welfare of the loss of housing stock in the district and to any unreasonable  
18 hardship to the applicant if the permit is denied.

19 Section 5. The San Francisco Planning Code is hereby amended by amending Section  
20 790.91 and 790.3 to read as follows:

21 SEC. 790.91. - RESTAURANT, SMALL SELF-SERVICE.

22 (a) A retail eating or eating and drinking use which provides ready-to-eat food for  
23 consumption on and off the premises and which may or may not provide seating. Such use  
24 exhibits the following characteristics:

25 (1) Contains fewer than 50 seats and less than 1,000 square feet of gross floor area;

1 (2) A limited menu of ready-to-eat food prepared in advance of customer orders, or  
2 food which is able to be quickly prepared for consumption on or off the premises;

3 (3) Food served in disposable wrappers or containers;

4 (4) Food is ordered and served at customer service counter;

5 (5) Food is paid for prior to consumption;

6 (6) Public food service area, including queuing areas and service counters without  
7 fixed seats, which counters are designed specifically for the sale and distribution of food and  
8 beverages;

9 (7) Food available upon a short waiting time.

10 It does not include retail grocery stores with accessory take-out food activity, as  
11 described in Section 703.2(b)(1)(C) of this Code, self-service specialty food use, as described  
12 in Section 790.93 of this Code, or retail uses which sell prepackaged or bulk ready-to-eat  
13 foods with no-site food preparation area, such as confectionery or produce stores. When a  
14 fast-food restaurant operates within and in conjunction with another retail use, such as a retail  
15 grocery store, the area of the fast-food restaurant use shall be measured to include the area  
16 devoted to food preparation and service, seating and separate public food service counters,  
17 excluding fish, poultry and meat counters.

18 (b) It may provide off-site beer, wine and/or liquor sales for consumption off the  
19 premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the  
20 premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with  
21 ABC licenses 47 or 48) or does not admit minors (with ABC licenses 42 or 61), then it shall  
22 also be considered a bar, as defined in Section 790.22 of this Code.

23 (c) It shall be conducted in accordance with the following conditions:

24 (1) All debris boxes shall be kept in enclosed structures.



1 (2) The operator shall be responsible for cleaning the sidewalk within a one-block  
2 radius daily to maintain the sidewalk free of paper or other litter during its business hours, in  
3 accordance with Article 1, Section 34 of the San Francisco Police Code.

4 (3) Noise and odors shall be contained within the premises so as not to be a nuisance  
5 to nearby residents or neighbors.

6 (d) It shall not be required to operate within an enclosed building pursuant to Section  
7 703.2(b)(1) so long as it is also a Mobile Food Facility as defined in Section 102.31. Any associated  
8 outdoor seating and/or dining area is subject to regulation as an Outdoor Activity Area as set forth  
9 elsewhere in this Code.

10 SEC. 790.93. - SPECIALTY FOOD, SELF-SERVICE.

11 (a) A retail use whose primary function is to prepare and provide ready-to-eat specialty  
12 foods to a high volume of customers who carry out the food for off-premises consumption.  
13 Such use exhibits each of the following characteristics: (1) Contains a service counter  
14 designed specifically for the sale and distribution of food that has been prepared on site; (2)  
15 Food is paid for prior to consumption; (3) Typically open for retail sales on weekdays during  
16 daytime hours; and (4) May contain no more than 10 seats including sidewalk seating. It often  
17 includes wholesaling, manufacturing, or processing of foods, goods, or commodities on the  
18 premises as an accessory use as set forth in Section 703.2(b)(1)(C)(v).

19 (b) It includes, but is not limited to, specialty foods provided by bakeries, delicatessens,  
20 and confectioneries meeting each of the above characteristics, but it is distinct from small a  
21 self-service restaurant use as defined in Section 790.91, a large fast-food restaurant use as  
22 defined in Section 790.90 or a retail coffee store as defined in 790.102(n). It does not include  
23 general or specialty grocery stores with accessory take-out food activity as described in  
24 Section 703.2(b)(1)(C) or retail uses which sell prepackaged or bulk ready-to-eat-foods with  
25 no on-site food preparation area.

1 (c) It shall not provide on-site beer and/or wine sales for consumption on the premises,  
2 but may provide beer and/or wine sales for consumption off the premises with a California  
3 Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) within the  
4 accessory use limits as set forth in Section 703.2(b)(1)(C)(vi).

5 (d) It shall not be required to operate within an enclosed building pursuant to Section  
6 703.2(b)(1) so long as it is also a Mobile Food Facility as defined in Section 102.31. Any associated  
7 outdoor seating and/or dining area is subject to regulation as an Outdoor Activity Area as set forth  
8 elsewhere in this Code.

9 Section 6. The San Francisco Planning Code is hereby amended by amending Section  
10 890.90 to read as follows:

11 SEC. 890.90. - RESTAURANT, FAST-FOOD (SMALL).

12 (a) A retail eating or eating and drinking use which provides quick food service for  
13 consumption on and off the premises and which exhibits the following characteristics:

- 14 (1) Contains fewer than 50 seats and less than 1,500 square feet of gross floor area;  
15 (2) A limited menu of ready-to-eat food prepared in advance of customer orders, or  
16 food which is able to be quickly prepared for consumption on or off the premises;  
17 (3) Food served in disposable wrappers or containers;  
18 (4) Food is ordered and served at customer service counter;  
19 (5) Food is paid for prior to consumption;  
20 (6) Food available upon a short waiting time.

21 It includes but is not limited to delicatessens, ice cream and cookie stores, sandwich  
22 shops, and bakeries. It does not apply to retail general or specialty grocery or confectionery  
23 stores. When a fast-food restaurant operates within and in conjunction with another retail use,  
24 such as a retail grocery store, the area of the fast-food restaurant shall be measured to  
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1 include the area devoted to food preparation and service, seating and separate public food  
2 service counters excluding fish, poultry and meat counters.

3 (b) It may provide on-site beer and/or wine sales for drinking on the premises (with  
4 ABC licenses 40 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47  
5 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered  
6 a bar, as defined in Section 890.22 of this Code.

7 (c) It shall not be required to operate within an enclosed building pursuant to Section  
8 803.2(b)(1) so long as it is also a Mobile Food Facility as defined in Section 102.31. Any associated  
9 outdoor seating and/or dining area is subject to regulation as an Outdoor Activity Area as set forth  
10 elsewhere in this Code.

11 (~~e~~d) It shall be conducted in accordance with the following conditions:

12 (1) All debris boxes shall be kept in enclosed structures.

13 (2) The operator shall be responsible for cleaning the sidewalk within a one-block  
14 radius daily to maintain the sidewalk free of paper or other litter during its business hours, in  
15 accordance with Article 1, Section 34 of the San Francisco Police Code.

16 (3) Noise and odors shall be contained within the premises so as not to be a nuisance  
17 to nearby residents or neighbors.

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20 APPROVED AS TO FORM:  
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22 By:

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