

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
**Small Business Commission, City Hall, Room 448**

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: June 1, 2021

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 210600**

**Ordinance amending the Planning Code to 1) allow neighborhood-serving Social Service and Philanthropic Facility uses in Chinatown Mixed Use Districts with conditional use authorization; 2) change the provision for abandonment of a use that exceeds a use size maximum in Chinatown Mixed Use Districts; 3) change the use size limit and use size maximum in the Chinatown Community Business District; 4) exempt Institutional Community uses and Legacy Business Restaurants in Chinatown Mixed Use Districts from use size limits; 5) allow lot mergers under certain conditions in the Polk Street Neighborhood Commercial District; and 6) exclude the portion of Powell Street south of Union Street from the North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and general welfare findings pursuant to Planning Code, Section 302.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

\_\_\_\_\_ **No Comment**

\_\_\_\_\_ **Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

1 [Planning Code - Small Business Zoning Controls in Chinatown and North Beach and on Polk  
2 Street]

3 **Ordinance amending the Planning Code to 1) allow neighborhood-serving Social**  
4 **Service and Philanthropic Facility uses in Chinatown Mixed Use Districts with**  
5 **conditional use authorization; 2) change the provision for abandonment of a use that**  
6 **exceeds a use size maximum in Chinatown Mixed Use Districts; 3) change the use size**  
7 **limit and use size maximum in the Chinatown Community Business District; 4) exempt**  
8 **Institutional Community uses and Legacy Business Restaurants in Chinatown Mixed**  
9 **Use Districts from use size limits; 5) allow lot mergers under certain conditions in the**  
10 **Polk Street Neighborhood Commercial District; and 6) exclude the portion of Powell**  
11 **Street south of Union Street from the North Beach Financial Service, Limited Financial**  
12 **Service, and Business or Professional Service Subdistrict; affirming the Planning**  
13 **Department’s determination under the California Environmental Quality Act; and**  
14 **making findings of consistency with the General Plan, and the eight priority policies of**  
15 **Planning Code, Section 101.1, and public necessity, convenience, and general welfare**  
16 **findings pursuant to Planning Code, Section 302.**

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

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

23 Section 1. Land Use and Environmental Findings.

24 (a) The Planning Department has determined that the actions contemplated in this  
25 ordinance comply with the California Environmental Quality Act (California Public Resources

1 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
2 Supervisors in File No. \_\_\_\_ and is incorporated herein by reference. The Board affirms this  
3 determination.

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

9 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
10 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in  
11 Planning Commission Resolution No. \_\_\_\_\_, recommending approval of the proposed  
12 designation, which is incorporated herein by reference.

13

14 Section 2. General Findings.

15 (a) Legacy Businesses, by virtue of their long-term presence in their communities,  
16 contribute to the unique character and vibrancy of San Francisco neighborhoods. Enhancing  
17 their long-term viability helps to stabilize commercial corridors.

18 (b) Within existing limits on use size, allowing Legacy Businesses to expand their  
19 footprints within the Polk Street Neighborhood Commercial District to enhance revenue  
20 streams supports the long-term viability of these unique, neighborhood-defining small  
21 business anchors, with little or no impact to the fine-grained nature of the Polk Street  
22 commercial corridor.

23

24 Section 3. The Planning Code is hereby amended by revising Sections 121.4, 723,  
25 and 781.6, to read as follows:

**SEC. 121.4. NON-RESIDENTIAL USE SIZE LIMITS IN MIXED USE DISTRICTS.**

In order to protect and maintain small scale use within an historically significant area and to conserve neighborhood-serving uses in Chinatown, Commercial Uses which exceed the use size limits up to the maximum limits stated in the table below shall be permitted only as Conditional Uses subject to the provisions set forth in Section 303 of this Code. The use area shall be measured as the Gross Floor Area for each individual commercial use. Individual Commercial Uses above the use size maximum below shall not be permitted, *except that a Social Service or Philanthropic Facility that primarily serves the Chinatown neighborhood may be permitted as a Conditional Use.* Further, any ~~space-use~~ that exceeds the use size maximum below shall be deemed abandoned with any change of use or if no business has been operational for a period of ~~three years~~ *eighteen months* or more, ~~except the a use exceeding the maximum~~ use size maximum shall not be deemed abandoned if (1) the change of use is for a Restaurant that is a Legacy Business or for an Institutional Use, ~~or; if~~ (2) a Restaurant that is a Legacy Business or an Institutional Use occupies the non-conforming space after such ~~three year~~ *eighteen-month* period; or (3) upon conditional use authorization, a Social Service or Philanthropic Facility that primarily serves the Chinatown neighborhood occupies the non-conforming space.

District	Use Size Maximum	Use Size Limit
Chinatown Visitor	5,000 sq. ft.	2,500 sq. ft.
Chinatown Residential Neighborhood Commercial	4,000 sq. ft.	2,500 sq. ft.
Chinatown Community Business	<del>No Maximum</del> <u>5,000 sq. ft.</u>	<del>5,000</del> <u>2,500</u> sq. ft.

1 In the Chinatown Visitor Retail, Chinatown Residential Neighborhood Commercial, and  
2 Chinatown Community Districts, the use size limit shall not apply to a Restaurant that is a Legacy  
3 Business or to an Institutional Community Use.

4  
5 **SEC. 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

6 \* \* \* \*

7 **(b) Controls.**

8 \* \* \* \*

9 (3) **Merger of Storefronts Prohibited.** To preserve and maintain the district's  
10 small-scale, fine grain storefronts, the consolidation or merger of existing ground floor retail or  
11 commercial spaces or storefronts shall be prohibited, except that two adjacent storefronts may be  
12 consolidated or merged if the storefronts are for a Legacy Business on a corner lot within the same  
13 building and Block and Lot number, and provided that the consolidation or merger of storefronts would  
14 not result in a use size in excess of the principally permitted use size within the Polk Street NCD.

15 \* \* \* \*

16  
17 **SEC. 781.6. NORTH BEACH FINANCIAL SERVICE, LIMITED FINANCIAL**  
18 **SERVICE, AND BUSINESS OR PROFESSIONAL SERVICE SUBDISTRICT.**

19 (a) **Purpose.** In order to preserve the unique mixture of local, citywide and regional  
20 sales and services in the North Beach area, there shall be a North Beach Financial Service,  
21 Limited Financial Service, and Business or Professional Service Subdistrict, generally  
22 applicable for the portion of the North Beach Neighborhood Commercial District south of  
23 Greenwich Street, excluding Powell Street south of Union Street, as designated on Sectional Map  
24 SU01 of the Zoning Map.

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Section 4. The Planning Code is hereby amended in accordance with Planning Code Section 106 by revising Sectional Map SU01 of the Zoning Map as follows:

Assessor's Block and Lot	Zoning Subdistrict to be Superseded	Zoning District Hereby Approved
Block 117: Lots: 011 012 013 014 015 016	North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict	North Beach Neighborhood Commercial District
Block 118: Lots: 001 002 003 004 005 006 007 008 009		
Block 129: Lots: 001 002 002C 002D 003 004 005 006 007		
Block: 130 Lots: 022 023 024 025 026 027 028 029		

1	Block: 147		
2	Lots: 014		
	015		
3	015A		
4	Block: 148		
5	Lots: 002		
6	005		
7	006		
	028		
	030		
	031		

8           Section 5. Effective Date. This ordinance shall become effective 30 days after  
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
11 of Supervisors overrides the Mayor’s veto of the ordinance.

12  
13           Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
17 additions, and Board amendment deletions in accordance with the “Note” that appears under  
18 the official title of the ordinance.

19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney

22 By:     /s/ Victoria Wong      
23       VICTORIA WONG  
24       Deputy City Attorney

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## **LEGISLATIVE DIGEST**

[Planning Code - Small Business Zoning Controls in Chinatown and North Beach and on Polk Street]

**Ordinance amending the Planning Code to 1) allow neighborhood-serving Social Service and Philanthropic Facility uses in Chinatown Mixed Use Districts with conditional use authorization; 2) change the provision for abandonment of a use that exceeds a use size maximum in Chinatown Mixed Use Districts; 3) change the use size limit and use size maximum in the Chinatown Community Business District; 4) exempt Institutional Community uses and Legacy Business Restaurants in Chinatown Mixed Use Districts from use size limits; 5) allow lot mergers under certain conditions in the Polk Street Neighborhood Commercial District; and 6) exclude the portion of Powell Street south of Union Street from the North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and general welfare findings pursuant to Planning Code, Section 302.**

### Existing Law

Section 121.4 of the Planning Code establishes use size maximums and use size limits (the latter being thresholds triggering conditional use authorization requirements) for the Chinatown Visitor Retail and Chinatown Residential Neighborhood Commercial Districts. Among other things, Section 121.4 (1) prohibits uses above the use size maximum; (2) provides that a use that exceeds the use size maximum shall be deemed abandoned with any change of use or if no business has been operational for a period of three years or more, unless the change of use is for a Legacy Business or Institutional Use, or if a Legacy Business or Institutional Use occupies the non-conforming space after the three-year period, and exempts Restaurants from the use size limit in the Chinatown Visitor Retail District.

Section 723 of the Planning Code prohibits the merger of existing ground floor retail or commercial spaces and storefronts in the Polk Street Neighborhood Commercial District (Polk Street NCD).

Section 781.6 of the Planning Code and the corresponding Zoning Map establish the North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict.

Amendments to Current Law

This ordinance would amend Section 121.4 to (1) establish a 5000 square foot use size maximum and would change the use size limit from 5000 to 2500 square feet in the Chinatown Community Business District; (2) allow Social Service and Philanthropic Facilities to exceed the use size maximums with conditional use authorization; (3) shorten the abandonment period for uses exceeding the use size maximum to eighteen months; (4) limit exceptions to the abandonment provision to Institutional Community uses and Restaurants that are Legacy Businesses that occupy the non-conforming space after eighteen months; (5) allow Social Service and Philanthropic Facility uses in the non-conforming space with conditional use authorization; (6) change the exemption from the use size limit in the Chinatown Visitor Retail District to apply only to a Restaurant that is a Legacy Business and to an Institutional Community Use; and (7) exempt Restaurant that is a Legacy Business and to an Institutional Community Use from the use size limits in the Chinatown Residential Neighborhood Commercial, and Chinatown Community Districts.

This ordinance would also amend Section 723 to allow two adjacent storefronts to be consolidated or merged if the storefronts are for a Legacy Business on a corner lot within the same building and Block and Lot number, and provided that the consolidation or merger of storefronts would not result in a use size in excess of the principally permitted use size within the Polk Street NCD.

This ordinance would also amend Section 781.6 to exclude the portion of Powell Street south of Union Street from the North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict, and retain that area as part of the North Beach Neighborhood Commercial District.

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# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor  inquiries"
- 5. City Attorney Request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Subject:

The text is listed:

Ordinance amending the Planning Code to 1) allow neighborhood-serving Social Service and Philanthropic Facility uses in Chinatown Mixed Use Districts with conditional use authorization; 2) change the provision for abandonment of a use that exceeds a use size maximum in Chinatown Mixed Use Districts; 3) change the use size limit and use size maximum in the Chinatown Community Business District; 4) exempt Institutional Community uses and Legacy Business Restaurants in Chinatown Mixed Use Districts from use size limits; 5) allow lot mergers under certain conditions in the Polk Street Neighborhood Commercial District; and 6) exclude the portion of Powell Street south of Union Street from the North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict; and affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1, and public necessity, convenience, and general welfare findings pursuant to Planning Code, Section 302.