

LEGISLATIVE DIGEST
(Substituted, 05/11/2021)

[Planning, Business and Tax Regulations, Police Codes - Small Business Recovery Act]

Ordinance amending the Planning, Business and Tax Regulations, and Police Codes to simplify procedures and allow flexibility for neighborhood, cultural, and entertainment establishments by 1) expanding streamlined review and inspection procedures to principally permitted storefront uses citywide; 2) deleting separate definitions of “Cat Boarding,” “Gym,” “Trade Shop,” and “Services, Instructional” from the Planning Code; 3) allowing permitted conditional uses to continue after three years of abandonment; 4) allowing the continuation of longstanding places of entertainment; 5) allowing Outdoor Activity Areas on rooftops; 6) temporarily requiring a conditional use authorization for uses replacing Nighttime Entertainment uses; 7) allowing accessory catering uses in Restaurants; 8) allowing accessory dwelling units on the ground floor in Neighborhood Commercial Districts; 9) allowing temporary outdoor entertainment, arts, and recreation activities; 10) deleting certain conditional use finding requirements for Nighttime Entertainment use; 11) deleting conditional use findings related to formula retail concentrations in certain districts; 12) requiring expedited permit processing for commercial uses on the ground floor; 13) eliminating Historic Preservation Commission review of minor alteration permits and certificates of appropriateness; 14) eliminating the one night dance permit; 15) extending time for limited live performances from 10 p.m. to 11 p.m.; 16) allowing additional One-Time Entertainment Permits and One-Time Outdoor Amplified Sound Permits; 17) exempting single individual performances without amplification from permit requirements; 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 findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Currently, section 32 of the Business and Tax Regulations Code requires streamlined review of principally permitted storefront uses in Neighborhood Commercial and Neighborhood Commercial Transit Districts.

Currently, the Planning Code:

- includes specific definitions for “Cat Boarding,” “Gym,” “Trade Shop,” and “Services, Instructional” (Planning Code § 102)
- provides that conditional uses that are discontinued or abandoned for three years can only be restored with a new conditional use authorization (§ 178)
- allows outdoor activity areas at the ground level (§ 202.2)

- allows Limited Restaurants to include accessory catering uses (§ 204.3)
- prohibits accessory dwelling units on the ground floor in Neighborhood Commercial, Chinatown Business, and Chinatown Visitor Districts (§ 207)
- requires specific conditional use findings for Eating and Drinking Uses, for Nighttime Entertainment, General Entertainment and other Entertainment uses, and for Formula Retail uses (related to concentrations of Formula Retail uses in certain districts) (§§ 303, and 303.1)
- allows expedited permit processing for conditional use authorization applications that comply with specific requirements (§ 303.2)
- requires neighborhood notice for certain building permit applications in residential, Neighborhood Commercial, Neighborhood Commercial Transit and in Eastern Neighborhoods Mixed Use Districts (§ 311)
- requires the Historic Preservation Commission to request review of minor alteration permits and certificates of appropriateness within 20 days (§§ 1006.2 and 1111.1)

Currently, Article 1 of the Police Code requires certain venues to obtain a one-time dance permit. Article 15 of the Police Code, Limited Live Performances must conclude by 10 p.m., unless extended. Applicants may obtain no more than 12 One-Time Entertainment Permits and One-Time Outdoor Amplified Sound Permits in a 12-month period; and performances by single individuals with no amplification must obtain a permit.

Amendments to Current Law

This ordinance would amend section 32 of the Business and Tax Regulations Code to require streamlined review of principally permitted storefront uses citywide, not just in Neighborhood Commercial and Neighborhood Commercial Transit Districts.

In addition, the ordinance would amend the Planning Code to:

- delete the specific definitions and use categories for “Cat Boarding,” “Gym,” “Trade Shop,” and “Services, Instructional.” Instead, cat boarding and trade shops would be considered a General Retail Sales and Service use, and gyms and instructional services would be considered a Personal Service use. The ordinance would delete references to the definitions throughout the Planning Code, including in zoning district tables. (Planning Code § 102 and throughout)
- delete the requirement that conditional uses are abandoned after three years (§ 178)
- establish that places of entertainment that are deemed to be a Continuing Entertainment Operations Establishment by the Entertainment Commission may continue operation regardless of zoning (new § 193)
- allow outdoor activity areas on rooftops within the boundaries of the property (§ 202.2)
- for three years following adoption of the legislation, require uses that demolish or change a nighttime entertainment use obtain a conditional use permit (new § 202.11)
- allow Restaurants to include accessory catering uses (§ 204.3)

- authorize temporary uses in outdoor areas for Entertainment, Arts and Recreation Activities (new § 205.8)
- allow accessory dwelling units on the ground floor in the commercial space in Neighborhood Commercial Districts as long as the commercial space maintains a depth of at least 25 feet (§ 207)
- allow temporary outdoor entertainment, arts and recreation activities (new § 205.8)
- delete requirements for specific conditional use findings for Eating and Drinking Uses except in the Mission Street Neighborhood Commercial Transit District; delete specific conditional use findings required for Nighttime Entertainment, General Entertainment and other Entertainment Uses; delete certain findings requirements related to the concentration of formula retail uses (§§ 303, 303.1)
- expand the types of conditional use permits that can be expedited to include commercial uses on the first story, and the first and second story if the commercial use would operate on both stories (§ 303.2)
- remove the neighborhood notification requirement for changes of use in Eastern Neighborhood Mixed Use Districts (§ 311)
- eliminate Historic Preservation Commission review of minor alteration permits and certificates of appropriateness (§§ 1006.2, 1111.1)

Further, the ordinance amends Article 1 of the Police Code to eliminate one-time dance permits. The ordinance also amends Article 15 of the Police Code to allow limited live performances until 11 p.m., except in certain districts; to allow issuance of additional One-Time Entertainment Permits and One-Time Outdoor Amplified Sound Permits; to exempt single individual performances with no amplification from permit requirements; and to allow the Entertainment Commission to deem certain entertainment uses as a Continuing Entertainment Operations Establishment which allows continued operation without additional zoning reviews.

Background Information

These amendments implement the Small Business Recovery Act.

This legislation substitutes for legislation introduced on April 6, 2021, which substituted for legislation introduced on March 23, 2021. This version retains conditional use findings for eating and drinking uses in the Mission Neighborhood Commercial Transit District; retains restrictions on Accessory Dwelling Units in the Chinatown Business and Visitor Districts; eliminates Historic Preservation Review of minor alteration permits and certificates of appropriateness; and eliminates the need for one-time dance permits.