

BOARD of SUPERVISORS



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December 17, 2019

**File No. 191257**

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On December 10, 2019, Supervisor Peskin introduced the following proposed legislation:

**File No. 191257**

**Ordinance amending the Planning Code to allow authorization of a Limited Restaurant use in the Jackson Square Special Use District that does not comply with the current requirements for a Limited Restaurant use if a building permit application furthering the establishment of such use was filed by July 19, 2018; 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.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to read "Erica Major".

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

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning

1 [Planning Code - Jackson Square Special Use District - Exemption from Limitation on  
2 Proposed Limited Restaurant Uses]

3 **Ordinance amending the Planning Code to allow authorization of a Limited Restaurant**  
4 **use in the Jackson Square Special Use District that does not comply with the current**  
5 **requirements for a Limited Restaurant use if a building permit application furthering**  
6 **the establishment of such use was filed by July 19, 2018; affirming the Planning**  
7 **Department's determination under the California Environmental Quality Act; making**  
8 **findings of consistency with the General Plan, and the eight priority policies of**  
9 **Planning Code, Section 101.1; and adopting findings of public necessity, convenience,**  
10 **and welfare under Planning Code, Section 302.**

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

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

19 Section 1. Findings.

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

25 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
3 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this  
5 ordinance will serve the public necessity, convenience, and general welfare for the reasons  
6 set forth in Planning Commission Resolution No. \_\_\_\_\_.

7  
8 Section 2. The Planning Code is hereby amended by revising Section 249.25, to read  
9 as follows:

10 **SEC. 249.25. JACKSON SQUARE SPECIAL USE DISTRICT.**

11 In order to provide for the protection and enhancement of specialty retail and antique  
12 store uses in the Jackson Square area, there shall be established the Jackson Square Special  
13 Use District as designated on Sectional Map No. SU01 of the Zoning Map. The boundaries of  
14 this Special Use District shall be coterminous with the boundaries of the Jackson Square  
15 Historic District as established by Appendix B to Article 10 of this Code and further described  
16 in Section 3 of that Appendix, and shall also include Lot 4 of Block 195. The following  
17 provisions shall apply within the Jackson Square Special Use District:

18 \* \* \* \*

19 (b) **Controls.**

20 (1) **General.** The provisions of the C-2 use district as established in Section  
21 210.2 and applicable provisions of the Washington-Broadway Special Use Districts (Section  
22 239), and the Chinatown Community Business District (Section 810), shall prevail except as  
23 provided in paragraphs (2) and (3) below.

24 (2) **Conditional Uses.**



1 (A) **Office Uses, Business Services, and Institutional Uses.** Office Uses,  
2 Business Services, and Institutional Uses, as *set forth defined* in Section 102 of this Code, at  
3 the ground floor are subject to Conditional Use authorization pursuant to Section 303 of this  
4 Code, provided, however, that building lobbies, entrances, and exits to and from the  
5 basement, ground floor, or upper floors, and other reasonably-sized common areas at the  
6 ground floor shall be permitted without Conditional Use authorization. In addition to the  
7 findings required under Section 303(c) for Conditional Use authorization, the Commission  
8 shall make the following findings:

9 (i) The use shall be necessary to preserve the historic resource  
10 and no other use can be demonstrated to preserve the historic resource.

11 (ii) The use shall be compatible with, and shall enhance, the  
12 unique retail character of the District.

13 (B) **Restaurants, Limited Restaurants, and Bars.** Restaurant,  
14 Limited Restaurant, and Bar uses may be permitted as a Conditional Use on the First Story  
15 through the procedures set forth in Section 303 only if the Zoning Administrator first  
16 determines that the proposed new Restaurant, Limited Restaurant, or Bar would occupy a  
17 space that is currently or was last legally occupied by one of the uses described below;  
18 provided that its last use has not been discontinued or abandoned pursuant to Sections  
19 186.1(d) or 178(d) of this Code and that the proposed new use will not enlarge the space; and  
20 provided further that no Conditional Use shall be required if the use remains the same as the  
21 prior authorized use, with no enlargement or intensification of use:

22 (i) A Bar may occupy a space that is currently or last legally  
23 occupied by a Bar;

24 (ii) A Restaurant may occupy a space that is currently or was last  
25 legally occupied by a Restaurant or Bar; and

1 (iii) A Limited Restaurant may occupy a space that is currently or  
2 was last legally occupied by a Limited Restaurant, Restaurant, or Bar.

3 (iv) Except as provided herein, no other use shall be allowed to  
4 convert to a Limited Restaurant, Restaurant, or Bar.

5 (C) Exception for Certain Proposed Limited Restaurant Uses. A proposed  
6 Limited Restaurant use is Principally Permitted, shall not be required to obtain a Conditional Use  
7 authorization pursuant to subsection (b)(2)(B) above, and shall not be subject to the limitation of  
8 subsection (b)(2)(B)(iii) above if an application for a building permit necessary for the establishment of  
9 such use was filed with the City by July 19, 2018.

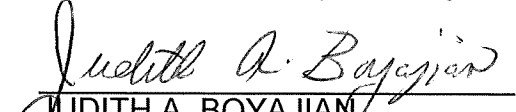
10 (3) **Prohibited Uses.** Adult Businesses, as defined in Section 102 of this Code,  
11 are prohibited.

12  
13 Section 3. Effective Date. This ordinance shall become effective 30 days after  
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
16 of Supervisors overrides the Mayor's veto of the ordinance.

17  
18 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
22  
23  
24  
25

1 additions, and Board amendment deletions in accordance with the "Note" that appears under  
2 the official title of the ordinance.

3  
4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By:   
7 JUDITH A. BOYAJIAN  
8 Deputy City Attorney

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## LEGISLATIVE DIGEST

[Planning Code - Jackson Square Special Use District - Exemption from Limitation on Proposed Limited Restaurant Uses]

**Ordinance amending the Planning Code to allow authorization of a Limited Restaurant use in the Jackson Square Special Use District that does not comply with the current requirements for a Limited Restaurant use if a building permit application furthering the establishment of such use was filed by July 19, 2018; 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.**

### Existing Law

Planning Code Section 249.25 established the Jackson Square Special Use District and imposed specific controls on Office Uses, Business Services, and Institutional Uses. In March, 2018, Ordinance No. 47-18, was enacted imposing new controls on Restaurant, Limited Restaurant, and Bar uses. The new controls allow new Restaurants, Limited Restaurants, and Bar uses on the First Story as a Conditional Use but only if (1) the Zoning Administrator first determines that the space the proposed use will occupy was last legally occupied by a Restaurant, Limited Restaurant, or Bar, whichever use or uses are applicable, and (2) the proposed new use will not enlarge the space. For a proposed Limited Restaurant, it may only be authorized if it will occupy a space that is currently or was last legally occupied by a Limited Restaurant, Restaurant, or Bar. A Conditional Use is not required if the use remains the same as the prior authorized use, with no enlargement or intensification of use.

### Amendments to Current Law

This ordinance will amend Section 249.25 to provide an exception from the current requirements for a proposed Limited Restaurant use if an application for a building permit necessary for the establishment of such use was filed with the City by July 19, 2018.

### Background Information

The sponsors of new restaurant and bar uses often obtain financing, negotiate leases, and prepare plans for use of the space well before filing an application for a tenant improvement or other City permits. Since a Limited Restaurant use is less intensive than a full-service Restaurant or Bar use, it would have less of an impact on the neighborhood and surrounding uses. This ordinance creates an exception from the newly-enacted controls for a proposed Limited Restaurant use that is limited in time and will not impact the purpose of the newly-enacted controls.

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