



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: MAY 9, 2019

90-DAY DEADLINE: N/A

Project Name: **Code Reorganization: Chinatown**
Case Number: **2017-016416PCA** [Board File No. TBD]
Initiated by: Planning Commission / Initiated April 11, 2019
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Recommendation: **Approval with Modifications**

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PLANNING CODE AMENDMENT

Ordinance amending the Planning Code to revise the zoning control tables of the Chinatown Mixed Use Districts to make them consistent with those in Articles 2 and 7, to apply the use definitions in Section 102, to set an abandonment period for use size maximums, and to allow General Entertainment and Nighttime Entertainment Uses with conditional use authorization; 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 adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

The Way It Is Now:

1. Planning Code Sections 810, 811, and 812 (Chinatown Mixed-Use Districts) contain land use controls, development standards, and density controls for the Chinatown Mixed-Use Districts. These controls are outlined in zoning control tables.
2. All uses allowed in the Chinatown Mixed-Use Districts are defined in Section 890 of the Planning Code.
3. Planning Code Section 121.4 sets a maximum use size for non-residential uses in the Chinatown Visitor and Residential Neighbored Commercial Districts. Once approved, these maximum use sizes are not abandoned with a change of use or if the underlying use is abandoned.
4. In the Chinatown Visitor Retail District, Other Entertainment (to be changes to General Entertainment and Nighttime Entertainment) is principally permitted, but can only be approved if the use is associated with a Restaurant.

The Way It Would Be:

1. Planning Code Sections 810, 811, and 812 will still contain land use controls, development standards, and density controls for the Chinatown Mixed-Use Districts; however, the proposed ordinance would revise the zoning control tables to match the tables in Articles 2 and 7.
2. Chinatown Mixed-Use Districts would use the standardized use definitions in Section 102.

3. Planning Code Section 121.4 would be amended so that the maximum use size would be abandoned with any change of use or if no business has been operational for a period of three years or more.
4. In the Chinatown Visitor Retail District, General Entertainment and Nighttime Entertainment would be permitted with Conditional Use Authorization.

BACKGROUND

Overall Goals and Phasing

Initiated in 2013, the Code Reorganization Project seeks to restructure the Planning Code so that it's easier to read, understand, and use. Phase 1 of the Planning Code Reorganization project focused on Article 2 and consolidated definitions into Planning Code Section 102. Phase 2 focused on Article 7 of the Planning Code. This Phases, Phase 3.1, focuses solely on Chinatown Mixed Use Districts. Phase 3.2 will focus on the Eastern Neighborhood Mixed Use Districts.

Phase 1 of the Code Reorganization program streamlined the use definitions in the Planning Code by consolidating them into one section of the Code (Section 102). The Planning Department also reorganized Article 2, which includes Residential (RH, RM, and RC), Downtown (C-3), and Industrial (PDR, and M) zoning districts, by creating Zoning Control Tables similar to the ones already used in our Neighborhood Commercial Districts. The major benefit to Zoning Control Tables is that they allow users to obtain building standards and use controls for a zoning district in one easy to use chart. The Planning Commission approved of the Phase 1 in October of 2014 and Phase 2 in February of 2017.

Having successfully completed Phase 1 and 2, the Department is now proposing to initiate Phase 3.1. This phase of the project will focus on Article 8 of the Planning Code, which contains controls for the Chinatown Mixed -Use Districts. Phase 3.2 will focus on The Eastern Neighborhoods Mixed Use Districts.

One of the benefits of the new zoning control tables is that they will account for every use in the Code. This will allow users to easily find out what uses are allowed in a zoning district in one chart, rather than having to rely on interpretations by the Zoning Administrator or complex cross referencing. It will also allow for greater customization by removing use groupings that limit how certain uses can be regulated.

How Did We Get Here?

The Planning Code maintained the same basic structure until 1986 when the NCD controls were added to the Code in Article 7. Prior to that, all development standards and general definitions were in Article 1, and use definitions and use controls were in Article 2.

For its time, Article 7 was a dramatically new way of organizing the Planning Code and thinking about land use, primarily because it used vertical controls to regulate uses; however, because of the structural differences between Articles 2 and 7, and the desire to more closely regulate retail and service uses, Article 7 was given its own set of use definitions. When Article 8 was added to the Code, it followed the same format as Article 7 along with adding its own list of use definitions. As a result, at the start of the Code Reorganization Process there were four different section of the Planning Code that contained definitions. Today we have two sets of definitions; one for R, C, M, PDR, and NC Districts in Section 102,

one for MUDs in Article 8. At the end of this process, there will only be one set of definitions in the Planning Code (Section 102) and one standard format for zoning control tables.

ISSUES AND CONSIDERATIONS

Specific Provisions in Chinatown Zoning Districts

Chinatown has several specific provisions in addition to standard land use controls and building standards. One of them is a provision that links the approval and operation of any Other Entertainment use to the establishment and operation of a Restaurant. Other Entertainment, as defined in Article 8, groups General Entertainment (pool halls, bowling alleys) and Nighttime Entertainment uses (dance clubs, or events that or any performance where alcohol is served during the performance) into one use. Using the use definitions in Section 102, Chinatown districts will be able to regulate General Entertainment and Nighttime Entertainment separately in the future.

When the Planning Commission initiated this ordinance it directed staff, at the request of CCDC, to include substantive amendment to allow both General Entertainment and Nighttime Entertainment in the Chinatown Visitor Retail District with Conditional Use authorization. This change is in the version of the ordinance being considered by the Planning Commission for adoption.

Non-Residential Use Size Limits

Chinatown also has its own non-residential use size limits, which are promulgated in Planning Code Section 121.4 (see chart below). These use size limits are intended to protect and maintain small scale use within an historically significant area and to conserve neighborhood-serving uses in Chinatown. Unlike most other districts, these non-residential use size limits have a maximum threshold, which prohibits any non-residential use above that limit. Other districts set a size at which a CU (Conditional Use) is required, but only a few set a maximum cap like Chinatown does.

Currently, Use Size cannot be abandoned like Uses. For example, typically a Restaurant Use would be abandoned if there had not been a Restaurant operating in a space for 3 years. If Restaurants are prohibited in that zoning district, then after three years a new Restaurant Use could not move into that space. Similarly, if a CU is required for a Restaurant, then after three years a business would need to get a new CU authorization to reestablish the Restaurant Use. Use Size Limits are physical characteristic, and not a Use so they do not have such an abandonment period. At the initiation hearing, the Commission directed staff, at the request of CCDC, to include a substantive change to Section 121.4 that would require Use Sizes to become abandoned with any change of use. This change is in the version of the ordinance being considered by the Planning Commission for adoption.

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	None	5,000 sq. ft.

Use Consolidation and Changes

In consolidating the definitions into Section 102, Staff was careful to preserve all existing use definitions so that existing land use controls could be preserved. To achieve this, use groupings (definitions that include multiple discrete uses) were broken up into their more discrete uses. For example, in Article 2 Institutional Uses like Hospitals, Schools, and Social Services are all regulated and defined separately; however, in Articles 7 and 8 these uses are combined into a definition called Other Large Institution, or Other Institutions respectively. Conversely Articles 7 and 8 are very specific when it comes to Retail Sales and Services Uses, whereas Article 2 made few distinctions in this category. Under the new Section 102 definition the Use Category Retail Sales and Service includes 34 different uses, the clear majority of which came from Articles 7 and 8. The new consolidated set of use definitions ensure that existing fined grained controls in all districts can be maintained, while reducing redundancy in the Code by eliminating multiple sets of definitions.

The following Section 890 definitions have been broken up into their more discrete uses in Section 102:

- **Public Use:** Public Facilities, Open Recreation Area, Passive Outdoor Recreation, Community Recycling Center, Internet Service Exchange, Public Transportation Facility, and Utility Installation.
- **Other Institution:** Residential Care Facilities Community Facilities, Private Community Facilities, Job Training, Post-Secondary Educational Institution, School, Religious Institution, Social Service or Philanthropic Facility, and Trade School.
- **Other Retail Sales and Service:** General Retail Sales & Service, General Grocery, Specialty Grocery, Cat Boarding, Non-Auto Vehicle Sales/Rental, and Pharmacy.
- **Massage Establishment:** Massage Establishment and Foot/Chair Massage
- **Personal Services:** Personal Service and Instructional Services.
- **Business or Professional Services:** Retail Professional Service, Design Professional, and Trade Office.
- **Other Entertainment:** General Entertainment, and Nighttime Entertainment.

Organizing Structure

The organizational system that this proposal uses was developed as part of Phase 1 of the Code Reorganization Project. As stated earlier, one of the goals of this project is to bring consistency to the Planning Code. This consistency extends not only to the use definitions, but also to how those controls are promulgated. The organization system is based on eight defined use categories. This system allows for all uses to be accounted for in each zoning district without having to list each use in every chart. Each use definition starts by indicating which use category it belongs to, and each use category is defined in Section 102 and includes all the uses that are within that category.

All of the Planning Code's 116+ uses definitions have been placed in one of the following eight use categories:

1. **Agriculture**
2. **Industrial**
3. **Institutional:** Education, Healthcare and Community
4. **Sales and Service:** Retail, Non-Retail

5. **Residential**
6. **Entertainment, Arts and Recreation:** Non-Commercial, Retail
7. **Automotive:** Non-Retail, Retail
8. **Utility and Infrastructure**

These categories then inform how the zoning control tables are organized. Each use category has its own section in the table in which the category is listed first, followed by any use in that category that has a different land use control. Below is an example of how this works in the zoning control tables. The “*” in the chart indicates “Not Listed Below.”

Controls by Story				
Industrial Use Category	Section	1st	2nd	3rd+
Industrial Uses	§§102, 202.2(d)	NP	NP	NP
Institutional Use Category				
Institutional Uses*	§102	P	C	C
Child Care Facility	§102	P	P	P
Hospital	§102	NP	NP	NP
Medical Cannabis Dispensary	§§102, 202.2(e)	DR	NP	NP
Philanthropic Admin. Services	§102	NP	NP	NP
Public Facilities	§102	C	C	C
Residential Care Facility	§102	P	P	P

As shown in the table above, instead of listing all 21 Industrial Uses in the zoning control table, the chart only lists the Industrial Use category, and then indicates that the uses under this category are NP (not permitted). Under Institutional Uses, instead of listing all 14 different Institutional Uses, the chart only lists those uses that have controls different from the overall use category. This system helps reduce the length and complexity of the tables. If the reader wants to know what uses are included in the category, they can look it up in Section 102. Conversely, if someone wants to know what category a use is in they can look at the definition of the use in Section 102.

This system also allows every use definition to be accounted for in each district. Currently, in Articles 7 and 8, if the definition is not listed it is not permitted with some exceptions. Staff has found that omitting the use from the table makes the Code vague, especially for members of the public who are not aware of the rule. Also, some charts list uses that others don’t, only adding to the confusion. It also requires the Zoning Administrator to make interpretations about some missing uses. For example, Kennels are not listed in the Article 7 charts, but Animal Hospitals are listed. Because the question came up with a proposed project, the Zoning Administrator made an interpretation that Kennels are regulated like Animal Hospitals in NCDs. Accounting for every use in the Code in all zoning districts will help reduce the need to Zoning Administrator interpretations and make the Code clearer for users.

Changes Since Initiation

Since initiation, the ordinance has been amended to include the requested changes from CCDC described in this report, as well as other small clerical changes.

General Plan Compliance

The proposed ordinance is in compliance with the General Plan's Commerce and Industry Element in that it preserves reasonable performance standards, and appropriate land use controls for commercially zoned property. It is also in compliance with the Housing Element in that it helps create certainty in the development process by providing clear community parameters for development.

Implementation

The Department determined that this ordinance will help the Department implement the Planning Code by standardizing the Planning Code, making it easier to use and understand. Overall, Current Planning Staff, Citywide Staff and Enforcement Staff have found the recent changes to Article 2 very helpful in clarifying controls and making the Code much easier to use.

RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Staff shall continue to review and refine the proposed ordinance to ensure that the existing land use controls in the Chinatown Mixed use Districts will be maintained.

BASIS FOR RECOMMENDATION

At over 1336 pages and including 111 zoning districts, the Planning Code is a large and complicated document. This complexity, some of which is necessary, can make it difficult to effectively implement and interpret the City's land use regulations. It also makes it difficult for members of the community to effectively engage in the City's development process. The Department strongly believes that consolidating use definitions and making the Planning Code easier to use by creating zoning control tables for all zoning districts will help mitigate these issues. Further, standardizing how zoning districts are organized will aid future community planning efforts by providing a clear framework for existing land use regulations and use definitions.

Recommendation 1: Staff shall continue to review and refine the proposed ordinance to ensure that the existing land use controls will be maintained. While staff can continue to make non-substantive changes to the ordinance as it moves through the legislative process, there may be changes that the City Attorney's office considers substantive changes to the ordinance, but which are intended to preserve existing Planning Code controls. Staff respectfully asks that the Commission include this recommendation in their motion in case any such changes need to occur. This same recommendation was made for Phase 2 of the Code Reorganization and was effective and providing a more accurate and complete ordinance to the Board.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

PUBLIC COMMENT

The Planning Department has reached out to Supervisor Peskin's office, CCDC, and discussed the proposed changes with them. CCDC proposed amendments to this ordinance, which are discussed in this report. Otherwise, the Department has not received any other public comment regarding the proposed Ordinance.

Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Proposed Ordinance