

REVISED LEGISLATIVE DIGEST
(Amended in Committee – November 27, 2023)

[Planning Code - Citywide Expansion of Allowable Commercial, Restaurant, and Retail Uses]

Ordinance amending the Planning Code to 1) permit additional commercial, retail, and restaurant uses on the ground floor in certain neighborhood commercial districts (NCDs) and residential districts; 2) principally permit Flexible Retail on the ground floor in certain NCDs and Chinatown mixed use districts; 3) principally permit Retail Professional Services uses on all floors and conditionally permit Non-Retail Professional Services on the ground floor in specified NCDs; 4) create regulations for music entertainment venues and non-profit theaters distinct from regulations for Bars; 5) allow Limited Corner Commercial Uses that are not Formula Retail in certain residential districts; 6) amend Section 311 to remove neighborhood notice requirements for changes of use in the Eastern Neighborhoods mixed use districts and to require neighborhood notice for changes of use in certain residential districts; 7) expand business types that qualify for the Planning Department priority review program and establish that the program will not apply in the North Beach NCD and North Beach Special Use District (SUD); 8) clarify that multiple allowable uses may co-locate on one site; 9) clarify and modify various other use regulations and processes; 10) permit additional retail and non-retail uses in specified NCDs; 11) eliminate the Mission Street Formula Retail Restaurant Subdistrict; 12) modify requirements for limited commercial uses within one-quarter mile of the North Beach SUD; and 13) exempt eligible projects proposing a change in use from all development impact fees, with the exception of inclusionary housing fees, for a five-year period; and 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 making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Existing Law

The Planning Code regulates various uses as principally permitted, conditionally permitted, or not permitted. In certain commercial districts, some commercial uses either are not permitted or require conditional use authorization (CUA).

Flexible Retail is allowed only in Neighborhood Commercial Districts (NCDs) in two geographic areas.

Professional Services, such as accounting, advertising, and insurance, are regulated either as Retail (generally open to the public) or Non-Retail (primarily serving other businesses). Retail Professional Services are generally permitted on all floors. Non-Retail Professional Services are typically prohibited at the ground floor, permitted on the second floor, and prohibited on the third and higher floors.

Uses are regulated either as principal uses or accessory uses (minor or incidental uses associated with the principal use). If multiple uses are proposed at one site, but the additional uses are not minor enough to be deemed “accessory,” each use will be evaluated and regulated as a principal use. In this way, multiple uses may be permitted at one site, even though such combined uses are not explicitly authorized in the Planning Code.

The California Department of Alcoholic Beverage Control (ABC) recently created a new license for music venues, called Type 90, that has not yet been incorporated into the Planning Code. ABC license Type 64 allows alcohol sales at non-profit theaters.

Planning Code Section 311 requires neighborhood notices for changes of use in several districts, including Eastern Neighborhoods Mixed Use Districts. Proposition H (2020’s Save Our Small Businesses Initiative) eliminated this notice requirement for many other districts. Changes of use to limited commercial uses (LCUs) or limited corner commercial uses (LCCUs) are exempt from the notice requirements.

Certain small and mid-sized businesses qualify for expedited processing under the priority processing provisions of Planning Code Section 303.2. Currently, uses that sell alcohol, such as Nighttime Entertainment and Bars, do not qualify for priority processing.

Certain non-conforming commercial uses, commonly known as corner stores, are allowed to continue to operate in residential districts as limited commercial uses. Such LCUs are exempt from requirements to terminate the non-conforming use within twenty to fifty years, as required for other non-conforming uses. If the LCU is near certain restricted use districts, it must comply with certain requirements of that district.

Amendments to Current Law

Overall, the amendments in this ordinance would allow more business types on the ground floor in commercial areas. The chart below summarizes these amendments. In addition, this ordinance would:

- explicitly allow multiple principal uses to co-locate at one site
- not require Section 311 neighborhood notice for changes of use in Eastern Neighborhoods Mixed Use Districts
- require Section 311 neighborhood notice for changes of use to an LCU or LCCU in RH, RM-1, and RM-2 districts
- allow Bars and Nighttime Entertainment uses to benefit from priority processing
- require conditional use authorization for commercial mergers in the Mission Street Neighborhood Commercial District
- establish requirements for LCUs within one-quarter mile of the North Beach SUD to qualify for the exemption from termination, and
- establish and clarify operating requirements for LCCUs.

Use	District(s)	Current Code*	Proposed Control
Flexible Retail	All NCDs (except North Beach and Pacific Avenue) and Chinatown mixed use districts	Permitted only in NCDs in two specified zones	Permitted citywide
		NP, C, or P**	P
Retail Professional Services	All NCDs and Chinatown Visitor Retail District	NP, C, or P	P
Non-Retail Professional Services	Broadway Street, North Beach, and Pacific Avenue NCDs; Chinatown mixed use districts	NP	No change, still NP
	Polk Street NCD	NP	C on side streets, otherwise NP
	All other NCDs	NP	C
		Where currently C or P	No change
Restaurants	Taraval Street Restaurant Subdistrict; Chinatown mixed use districts; Lakeshore Plaza Special Use District (SUD)	C	P
	Haight Street NCD	NP (C up to 3 restaurants)	P
	Mission Street NCTD	C, up to a cap of 167 eating and drinking uses	C, up to a cap of 179 eating and drinking uses
Limited Restaurants	Taraval Street Restaurant Subdistrict; Lakeshore Plaza SUD	C	P
	Mission Street NCTD	P, up to a cap of 167 eating and drinking uses	P, up to a cap of 179 eating and drinking uses

Use	District(s)	Current Code*	Proposed Control
Formula Retail Restaurants and Limited Restaurants	Mission Street Formula Retail Restaurant Subdistrict	NP	Subdistrict deleted; effective control in the area will be C
Bars	Haight Street NCD; Union Street NCD; Sacramento Street NCD; 24th Street – Mission NCTD	NP	C
	Mission Street NCTD	C, up to a cap of 167 eating and drinking uses	C, up to a cap of 179 eating and drinking uses
Liquor Stores	Haight Street Alcohol Restricted Use Subdistrict	NP	C
Alcohol Sales at Music Venues and Non-Profit Theaters	Mission Alcoholic Beverage SUD; North Beach SUD; Haight Street Alcohol Restricted Use Subdistrict	Not specifically listed, or only Type 64 allowed	Allowed with Type 90 or Type 64 ABC license
Financial Services	Lakeside Village NCD	NP	P
Limited Corner Commercial Uses	Residential, House (RH); Residential, Mixed (RM)	NP	P; NP if Formula Retail, Walk-Up Facility, or Residential Conversion
Miscellaneous	Various NCDs; Chinatown Visitor Retail District; Residential Transit Oriented Districts (RTOs); PDR-1-B District	Various uses in these districts would shift from NP to C, or from C to P. See ordinance for details.	

* All zoning controls listed refer to ground floor controls, unless otherwise indicated

** P – Principally Permitted
C – Conditionally Permitted

NP – Not Permitted

Background

This legislative digest reflects amendments made at the Land Use and Transportation Committee on November 27, 2023. Those amendments:

- Modify or eliminate the proposed zoning controls changes for Chinatown Mixed Use Districts; Broadway Street NCD; Haight Street NCD; North Beach NCD, North Beach SUD, and North Beach Financial Service, Limited Financial Service, and Business or Professional Service Subdistrict; Pacific Avenue NCD; Polk Street NCD (including additional prohibited uses on Hyde Street); Jackson Square SUD.
- Delete the Mission Street Formula Retail Restaurant Subdistrict.
- Eliminate all proposed changes for Outdoor Activity Areas and Limited Commercial Uses.
- Modify Priority Processing provisions of Section 303.2 to exempt North Beach; exclude previously proposed requirement for Planning Department staff to use an abbreviated case report.
- Correct the proposed cap on eating and drinking establishments in Mission Street NCTD to 179.
- Revert to existing code language to retain a 90-day abandonment period for Flexible Retail.
- Establish and clarify operating requirements for LCCUs.
- Eliminate an outdated exception for Limited Restaurants in the Jackson Square SUD.
- Waive development impact fees and requirements in Article 4, with the exception of inclusionary housing (Section 415), for a five-year period for projects proposing certain changes in use.
- require Section 311 neighborhood notice for changes of use to an LCU or LCCU in RH, RM-1, and RM-2 districts.
- Make miscellaneous clarifications and corrections.

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