



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Change

HEARING DATE: OCTOBER 23, 2014

*Project Name:* **Article 2 Simplification and Definition Consolidation**  
*Case Number:* 2013.0647T  
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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to consolidate definitions into Section 102, reorganize Article 2 to create Zoning Control Tables, and make nonsubstantive changes to various sections in Articles 1, 2, 3, 4, 6, 7 and 8 in order to update, clarify, and simplify Code language.

#### The Way It Is Now:

- Article 2 of the Planning Code contains use and residential unit density controls for Residential (R), Commercial (C), Manufacturing (M) and Production Distribution and Repair (PDR) Districts. See Exhibit C for sample of the existing Article 2 use charts.
- Articles 7 and 8 contain zoning control tables for the City's Neighborhood Commercial Districts (NCDs) and Mixed Use Districts (MUDs). Zoning control tables include a summary of use controls as well as development standards. Each zoning district has its own table, and divides the uses into vertical controls (i.e. uses are regulated by story). See Exhibit D for sample of an Article 7 zoning control table.
- Article 1 contains development standards for all zoning districts in the City, such as rear yard and front yard setbacks, open space requirements, parking ratios and the like.
- Section 102 is the primary Section for definitions in the Planning Code, but definitions - especially use definitions - are found in almost every Article of the Planning Code. Use definitions are located in Articles 2, 7 and 8. Many of the use definitions are duplicative or overlap.

#### The Way It Would Be:

The proposed legislation would:

- Replace the use tables in Article 2 with zoning control tables, similar to those found in Articles 7 and 8; however, rather than giving each zoning district its own table, similar zoning districts, such as all RH (Residential, House) or all RM (Residential, Mixed) zoning districts, would be grouped into one table. These charts would not be divided up into vertical controls like they are in the NCDs and MUDs, because uses in these districts, for the most part, are not regulated by

story. The tables also include the use controls as well as development standards for that particular zoning district. See page 175 of Exhibit B (Proposed Ordinance) for an example of the proposed Zoning Control Tables.

- Move all use definitions and “universal definitions” (definitions that are not specific to one Article or Section of the Code or that are general terms, such as Planning Department, Board of Supervisors, Façade, etc.) into Section 102 (page 2, Exhibit B), and separate out location and operational conditions from use definitions and place them in Section 202.2 (page 130, Exhibit B). Eventually, the goal is to have all zoning districts reference one set of use definitions, and operation and location controls.

## **BACKGROUND**

### **Overall Goals and Phasing**

The goals of this proposal are to reorganize Article 2 so that it is easier to use, rationalize use definitions by consolidating them into one section of the Code and have all zoning districts reference one set of use definitions. To do this, the Department is proposing a three phase approach. The first phase would consolidate all definitions into one location (Section 102) and to reorganize Article 2 into a format similar to Articles 7 and 8. The second and third phases would delete use definitions in Articles 7 and 8 and modify those Articles so that they reference the consolidated use definitions in Section 102.

The three phase approach is proposed for two reasons. The first is to break up the proposal so that it isn't overwhelming for staff, the Commission or members of the public. While the majority of the changes to the Code in this process will be non-substantive, each phase will require an ordinance that is several hundred pages long. This phase alone is over 460 pages long. The second reason is to reduce the potential for errors and oversights. Breaking up this process into three phases will allow staff to focus on fewer sections at a time. While this will temporarily make the Planning Code longer and in parts redundant, Staff believes that breaking up the proposal into phases is essential to ensuring a process that is as transparent and efficient as possible.

### **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 located in Article 1, use definitions and use controls were located 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. Today we have four sets of use definitions in the Planning Code; one for R Districts and one for C, M and PDR Districts in Article 2, one for NCDs in Article 7, and one for MUDs in Article 8. Many of these uses overlap and some are exact copies, while other use definitions are exclusive to that particular Article.

### **Use Chart vs. Zoning Control Table**

The use charts used in Article 2 define and list the various land uses permitted in R, C, M, and PDR Districts in one chart. The chart includes the use definition and indicates if the use is permitted, requires conditional use authorization or is not permitted. One advantage of this format is that it allows you to see all of the districts where a particular use is permitted in one table. The main disadvantage is that

these charts do not also include development standards or other relevant controls for particular uses. To find those, the user has search through other sections of the Planning Code, which often means sorting through several paragraphs of code in order to find the information. Further, because the definition for each use is located within the use charts, these charts are difficult to format and cumbersome to use. It also requires some use definitions to be listed twice, once for Residential districts (RH, RM, RTO, RC) and once for Commercial districts (C, M, and PDR).

Zoning control tables found in Articles 7 and 8 list land uses as well as basic development standards and controls, providing the user a single table that outlines the basic parameters of a particular zoning district. If more information is needed about a development standard, the section where that standard is found is listed in the zoning control table for reference. Also, uses are listed in a separate section (790 and 890 respectively) so that they only need to be listed once, and because the use definition is not in the table, they are more succinct and easier to understand.

While there is an advantage to being able to see all of the districts where a use is permitted in one chart, experience has shown that the zoning controls tables in Articles 7 and 8 are more user friendly than the use charts used in Article 2. Further, should the need ever arise, use charts can always be developed as a Planning Department publication rather than being included in the Planning Code. Staff developed the proposed zoning control tables for Article 2 in the attached Ordinance based on the tables in Articles 7 and 8, but refined them to be more space efficient and user friendly.

**Proposed Definition Structure**

Articles 2, 7, and 8 also have different ways of categorizing land uses. In addition to providing an organizational structure, use categories are sometimes used to identify special controls or prohibitions. The chart below compares the how the three articles currently categorize their uses.

<b>Article 2</b>	<b>Articles 7/8</b>
Dwellings.....	Residential Use
Other Housing.....	Residential Use
Institutions.....	Institutional
Retail Sales and Personal Service.....	Retail Sales and Service
Massage Establishments.....	Retail Sales and Service
Offices.....	Non-Retail Sales and Service/ Office
Laundering Facilities.....	Retail Sales and Service
Assembly and Entertainment.....	Retail Sales and Service/ Assembly, Recreation, Arts and Entertainment
Home and Business Services.....	Non-Retail Sales and Service/ Home and Business Service
Automotive.....	Retail Sales and Service/ Automotive Services and/or Vehicle Parking
Animal Services.....	Retail Sales and Service
Wholesale, Storage Distribution etc.....	N/A: Refers to Industrial/PDR uses in Article 2
Manufacturing and processing.....	N/A: Refers to Industrial/PDR uses in Article 2

To maintain continuity with the current Code, Staff organized the uses in the Code using existing terms and groupings. The result is eight main use categories with several sub categories as shown below:

- **Agriculture**
- **Industrial**
- **Institutional:** Education, Healthcare and Community
- **Sales and Service:** Retail, Non-Retail
- **Residential**
- **Entertainment, Arts and Recreation:** Non-Commercial, Retail
- **Automotive:** Non-Retail, Retail
- **Utility and Infrastructure**

For a chart showing a complete listing of the proposed uses divided into their use categories, please see Exhibit F.

The purpose behind using these new use categories is twofold. The first is to maintain continuity with the way use definitions are currently categorized, which will help lessen the need for significant policy changes. The second is to provide a way to organize the uses through the various use districts. The new zoning tables in Article 2 will use the eight use categories to list the uses, reducing the size of each table. For example, in RH districts Industrial uses are not permitted. Rather than listing all Industrial type uses in the RH Zoning Control Table and indicating them as NP, the use table will show just the use category "Industrial" as not permitted in all RH Districts. The same would be true for Retail Sales and Service Uses in C Districts, which are primarily permitted. Rather than listing out all Retail Sales and Service Uses, only those that have specific provisions would be listed individually. Otherwise all Retail Sales and Service Uses would be show as permitted. Please see page 178 of the proposed Ordinance (Exhibit B) for an example.

#### Use Characteristic vs. Use

With this Ordinance, use characteristics would be more clearly defined and delineated in the Code. There are two types of use characteristics, residential and commercial. Residential use characteristics include Student Housing and SROs. Commercial use characteristics include Drive Thru Facility, Formula Retail, Open Air Sales, Out Door Activity Area, Walk-Up Facility, and Water Borne Commerce. Use Characteristics are not stand alone uses that can be approved on their own, and are regulated separately from the use itself since they are not inherent to the use. For instance a Restaurant can be Formula Retail and a Drive Thru Facility, but those characteristics are not inherent to the Restaurant use. You can also have a Restaurant without those characteristics. Similarly, Student Housing and SROs can be either dwelling units or part of a group housing development. Residential Use Characteristics are listed at the beginning of *Residential and Standards Uses* table and Commercial Characteristics are listed at the beginning of ever *Non-Residential Standards and Uses* table for commercial districts.

#### Outreach and Process to Date

The Department originally presented this effort to the Planning Commission on June 20, 2013. At that time, the Department gave an overview of how the Planning Code had grown over time from about 18 pages in the 1930s to the 1336+ page Code we have today, and how that growth added both necessary and unnecessary complexity to the Code. Staff also discussed the proposed organizational structure of the new Article 2 including the proposed use categories, the use of zoning control tables and consolidating definitions into Section 102. After that presentation, the Department held two community outreach meetings, one on August 9, 2013 and one on August 14, 2013. At those meetings, the Department gave an overview of the proposal to a few interested community members and took feedback on the proposed

reorganization. The Department spent the next few months further refined the proposed Ordinance based on the outreach meetings, comments from the Commission and further analysis of the Planning Code. Prior to coming to this Commission for initiation, the proposed Ordinance has been reviewed internally by both current planning and citywide staff, and the Zoning Administrator and Assistant Zoning Administrator have each been consulted in the development process. The Ordinance also went through a five month review by the City Attorney's office.

After the Ordinance was initiated by the Planning Commission on July 24, 2014 two community organizations (the Coalition for San Francisco Neighborhoods and The Cow Hollow Neighborhood Association) requested that Staff attend their land use committee meetings and discuss the proposed Ordinance. Staff met with the Coalition for San Francisco Neighborhoods (CSFN) on August 11, 2014. Coalition Members and Staff went over a list of questions and proposed modifications to the Ordinance, many of which have been incorporated into the revised Ordinance before the Commission today. Staff also met with the Cow Hollow Neighborhood Association on August 14, 2014 and went over the proposed changes and answered questions from the group's land use committee. The discussion was fairly general, but the group was primarily concerned about any changes that may be happening to the RH zoned neighborhoods.

#### Use Changes/Consolidations

The Code currently has an estimated 315 separate uses listed in the Code; the proposed Ordinance reduces that number down to 116 (See Exhibits E and F). Staff was able to achieve this dramatic reduction because a significant number of uses appear twice in the Code (once in Article 7 and once in Article 8) or in some case four times, such as Hospitals (twice in Article 2, once in Article 7 and once in Article 8). Staff attempted to maintain as many of the existing uses as possible; however because there are so many uses in the Code, and the Code is such a complicated document, Staff did have to make some decisions that involved deleting or consolidating certain uses. The following is a summary of the uses in the eight new use categories and the various changes that were made to uses in the process of consolidation.

#### Agricultural Uses

There are three Agricultural uses in the Code; Neighborhood Agriculture, Large-Scale Urban Agriculture and Greenhouses. Agricultural uses are widely permitted uses. In R Districts Neighborhood Agriculture is principally permitted, while Large Scale Urban Agriculture and Greenhouses require conditional use authorization. More intensive areas, such as PDR and M Districts, permit all types of Agricultural uses as of right. Greenhouses are prohibited in C-3 Districts; otherwise Agricultural uses are permitted as of right in all C-3 Districts. The operational controls for Agricultural Uses were moved from the use definitions in Section 102.34 to Section 202.2(c).

The following is a list of changes made to the definitions of Agricultural Uses in this Ordinance.

- **Greenhouse** is a use currently found in the Planning Code, but there is no definition for it; therefore, a definition for Greenhouse was developed by staff using definitions found in the dictionary and on the internet. The proposed new Greenhouse definition is as follows:

*Greenhouse. An Agricultural use that involves the cultivation of plants inside a glass building. This definition does not include accessory structures located in a required rear yard that comply with Section 136(c)(22) of this Code.*

#### Automotive Uses

Automotive Uses are divided into two subsections; Retail Automotive Use and Non-Retail Automotive Use. The Retail Automotive Use includes Automotive Repair, Automotive Sale or Rental, Automobile Service Station, Automotive Wash, Gas Station, Public Parking Garage, Public Parking Lot, Vehicle Storage Garage, and Vehicle Storage Lot. Non-Retail Automotive includes Ambulance Services, Parcel Delivery Service, Private Parking Garage, Private Parking Lot, and Vehicle Tow Service. Several of the existing automotive uses have been consolidated or removed, and the operational and location controls for all Automotive Uses have been moved to Section 202.2. The proposed changes to Automotive Uses are as follows:

- **Consolidation and Simplification of Automotive Uses.** The NE Ordinance (BF110548), which was split up into smaller ordinances after the commission's review, removed overly specific automotive use definitions that dealt with auto repair and maintenance in Article 2 (Planning Code Section 223), and replaced them with references to the more general automotive use definitions in Article 8. These changes have not been adopted by the Board of Supervisors yet, but the Planning Commission voted to recommend approval of these amendments on May 3, 2012 (Resolution 18615), and staff has included these changes in this Ordinance. The consolidation of these uses doesn't significantly impact how these uses are regulated.
- **Parking Definitions.** Currently, the Planning Code has 13 different parking definitions; three in Article 2, two in Article 7, six in Article 8. Most of these are duplicate definitions, and the uses primarily differentiate between whether or not the parking is public or private, and whether or not it is located on an open lot or in a garage. Article 8 has most of the variation and specification; parking uses are divided into six different uses.<sup>1</sup> These uses are distinguished not only by whether or not the parking is public or private, or located on an open lot or in a garage, but also the by the user of the parking. For instance, "Auto Parking Lot, Community Residential" is a private parking lot for use only by residents and visitors of residents of the vicinity. Internal discussion with current planning staff and a search of the Department's database revealed that this type of distinction was rarely used, and that this level of differentiation seemed unnecessary, difficult to implement and difficult to enforce. Based on this, and the limited impact on removing the definitions, staff felt that it was appropriate to reduce the number of parking definitions to four<sup>2</sup>, eliminating the distinction of who can use the parking. Staff believes that these four definitions will sufficiently addresses the land use impacts associated with parking in all zoning districts.

### Entertainment, Arts and Recreation Uses

This use category replaces Assembly and Entertainment use category in Article Two and the Assembly, Recreation, Arts and Entertainment category in Article 8. There is no separate category for entertainment uses in Article 7, which placed these types of uses under Retail Sales and Services. This category also includes several uses that were either not categorized into larger use categories in Article 2, or which were previously included in Section 102. This use category is also broken into two sub-use categories including Retail Entertainment, Arts and Recreation and Non-Commercial Entertainment, Arts and Recreation. The proposed changes in this use category are as follows:

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<sup>1</sup> Auto Parking Lot, Community Residential (890.7); Auto Parking Garage, Community Residential (890.8); Auto Parking Lot, Community Commercial (890.6); Auto Parking Garage, Community Commercial (890.10); Auto Parking Lot, Public (890.11); Auto Parking Garage, Public (890.12).

<sup>2</sup> Parking Lot, Private; Parking Lot, Public; Parking Garage, Private; Parking Garage, Public

- **Non-Commercial Entertainment, Arts and Recreation.** This use category was created for two uses that did not fit into the definition of a retail or commercial use. These two uses are Open Recreation Area and Passive Outdoor Recreation Area. Their definitions have not changed.
- **Adult Entertainment.** This use has been moved to the Retail Sales and Service use category, and is now called an Adult Business. Often when entertainment uses are mentioned in the Planning Code, it is usually followed by the caveat “except for Adult Entertainment.” Since this use is often excluded from the Entertainment Use category, Staff made the decision to remove it from Entertainment and Recreation category and place it in the Retail Sales and Services category. The name was also changed to Adult Business to reflect its new category. This does not change the way the uses is regulated in the Planning Code, or the Police Code.
- **Amusement Game Arcade.** The proposed Ordinance removes the Amusement Game Arcade as a separate use and consolidates it into General Entertainment. Amusement Game Arcade was added as a separate use to the Planning Code in the 1980s because of concerns over the proliferation of video game arcades in the City, and the perceived impact that they had on the City’s teenage population. While video game arcades are making a small comeback as a novelty use, Staff finds that the land use impacts associated with arcades is similar to other general entertainment uses and does not need to be called out as a separate use in the Code.
- **General Entertainment.** This is a new use definition derived from some of the less impactful uses in the Other Entertainment use definition currently in Articles 7 and 8 (790.38 and 890.37). This new use definition includes billiard halls, bowling alleys, skating rinks, mini-golf and video game arcades. Removed from this definition are the uses that are already included in the definition of Nighttime Entertainment and Arts Activities, both of which are found in Section 102 as separate definitions.
- **Livery Stable.** This was previously included in the Animal Services use category located in Section 224. Currently, Animal Services includes Kennels, Cat Boarding, Riding Academies/Livery Stable, and Animal Hospital. Animal Services is not proposed as a use category in this Ordinance. Most uses that were in this category are being move to the Retail Sales and Service use category, with the exception of Livery Stables, which has more in common with recreation and entertainment uses.

### Industrial Use Category

Industrial Use category is primarily made up of the uses currently listed in Article 2 (Sections 225), the one exception is Light Manufacturing, which is listed in both Articles 2 and 8. Most of these uses are only permitted in M and PDR Districts; however Light Manufacturing is currently permitted in all C-3 Districts and will continue to be permitted in all C-3 districts with this Ordinance. In addition to the operational and location requirements for Industrial uses being moved to Section 202.2(d), the following changes were made to uses found in the Industrial Use Category:

- **Grain Elevator.** There was no definition for Grain Elevator in the Planning Code, but it does appear as a separate use in Section 225(g). Staff developed a definition for this use based several other definitions found in the dictionary and on the internet. The proposed definition is as follows:

*Grain Elevator. An Industrial Use defined as a storage facility for grain that contains a bucket elevator or a pneumatic conveyer that scoops up grain from a lower level and deposits it in a silo*

*or other storage facility. This use also covers the entire elevator complex including, but not limited to, receiving and testing offices, weighbridges, and storage facilities.*

- **Volatile Materials Storage.** This is a new definition that was created by merging Inflammable<sup>3</sup> Material Storage (Section 225(d)) and Explosive Storage (Section 225(e)). The impacts of this are minor, but do require that Inflammable Material Storage uses receive CU authorization from the Planning Commission in M-2 Districts, where previously this use was principally permitted.
- **Manufacturing Uses.** Currently, Article 2 has 31 different Manufacturing Use categories for C, M and PDR Districts (Section 226), while Article 8 has one; Light Manufacturing (Section 890.54). The existing controls for manufacturing uses in M and PDR districts are such that the uses could not be condensed down to only a couple of uses without making substantial changes to how those uses are regulated; however Staff was able to condense them down to 11<sup>4</sup> uses. Staff based the new manufacturing uses on how existing manufacturing uses are controlled in PDR districts, and the type of manufacturing that occurs. For example, uses that deal with the manufacturing and processing of food, fiber and beverages are grouped into Food Fiber and Beverage Processing 1 & 2. Staff chose to group manufacturing uses based on PDR controls primarily because these controls were recently updated based on community input<sup>5</sup>. Moreover, there are more properties zoned PDR than M<sup>6</sup>, and PDR is a more modern zoning category.

Condensing these definitions into 11 categories had little impact on M-2 Districts; however there are some more significant impacts to M-1 properties. Mostly uses became more permissive, while one uses - Battery Manufacturing - became prohibited<sup>7</sup>. These changes are detailed below:

Was Prohibited, now Permitted in M-1: Curing, smoking, or drying fish; manufacture of cereals, distilled liquors, felt or shoddy, hair or hair products, pickles, sauerkraut, vinegar, yeast, soda or soda compounds, structural clay products, meat products, and fish oil. (now Food, Fiber and Beverage Processing 1); Blast Furnace (now Heavy Manufacturing 1).

Was Permitted, now Prohibited in M-1: Battery Manufacturing (now Heavy Manufacturing 3)

Was Prohibited, now Permitted with CU in M-1: Production or refining of petroleum products. (now Heavy Manufacturing 2)

## Institutional Uses

The new Institutional Use category is divided into three subcategories including Education, Healthcare and Community. These uses are currently found in 209.3 and 217, the Institutional Use sections in the

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<sup>3</sup> Inflammable is often confused as an antonym to flammable, however it means capable of burning or easily set on fire.

<sup>4</sup> Automobile Assembly, Food Fiber and Beverage Processing 1 and 2, Heavy Manufacturing 1, 2, 3, Light Manufacturing, Metal Workshop, Livestock Processing 1 and 2, and Ship Yard.

<sup>5</sup> Board File 131205, Enactment Number 071-14, Effective 6/23/14

<sup>6</sup> There are 71 properties zoned M-1 and only 58 properties zoned M-2, while there are 283 properties with a PDR zoning.

<sup>7</sup> An internet search for this uses did not find any battery manufacturing within the City of San Francisco. It is unlike that this change will have any impact on existing businesses.



current Article 2. These uses appear in Articles 7 and 8 as Institutional uses as well. The following is a listing of the changes made to Institutional uses in the proposed Ordinance:

- **Institutional Use Groupings.** Other Large Institution (790.50), Other Small Institution (790.51) and Other Institutions (890.50) are grouping of institutional uses used in Articles 7 and 8, respectively. These groupings have been removed and replaced with the following uses; Child Care Facility, Social Service or Philanthropic Facility, School, Post-Secondary Educational Institution, Religious Institution, Community Facility, and Private Community Facility. Removing these use groupings allows continuity with current regulations in Article 2 districts and removes duplicate or redundant use definitions. It also allows these uses to be regulated separately in Article 7 and 8 districts should the need arise in the future.
- **School.** School is a new use definition that is made up of two existing use definitions; Elementary School and Secondary School. Staff merges these two uses into one use because their land use impacts are similar and they are currently regulated the same in all zoning districts. School is a different use than Post-Secondary Education Institutions, which is currently a separate use and would continue to be a separate use should this Ordinance move forward.

### Residential Uses

Residential Uses includes Dwelling Units, Group Housing, Residential Hotels, Live Work Units<sup>8</sup> and Senior Housing. These uses were previously included in Section 209.1 and 215 of Article 2. The definitions for these uses have not changed; however the use currently known as “Dwellings Specifically Designed for and Occupied by Senior Citizens” has been renamed “Senior Housing” and its location operational standards are now located in Section 202.2(f).

### Sales and Service Use Category

Sales and Service Use category is divided into two subcategories; Retail and Non-Retail. These uses are mostly found in Articles 7 and 8 (790 and 890 respectively) but they are also found in Article 2 as Commercial Establishments in Section 209.8, Retail Sales and Service in Section 218, and Offices in 219. Retail uses are defined as “... uses that involve the sale of goods, typically in small quantities or services directly to the ultimate consumer or end user with some space for retail service on site...” This uses includes uses such as Restaurant, Bars, Gyms and Jewelry Stores. A Non-Retail Sales and Service use is defined as “...uses that involve the sale of goods or services to other businesses rather than the end user, or that do not provide for direct sales to the consumer on site.” This use category includes things like General Office, Catering, Laboratory and Commercial Storage. This distinction is particularly important in NC, RC and some C-3 Districts that seek to have retail uses on the ground floor and non-retail uses on the upper floors.

Sales and Service is by far the largest use category in the Code and includes 45 different uses (32 for Retail and 13 for Non-Retail). This is primarily due to Articles 7 and 8, which regulate Sales and Service uses more specifically than other zoning districts. Except for Amusement Game Arcade (see discussion above) and Hardware Store (see discussion below) all retail uses have been maintained in this Ordinance, and some uses like Cat Boarding, Animal Hospitals and Hotel<sup>9</sup> have been added to the Retail Sales and

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<sup>8</sup> Live/Work Units are no longer permitted in San Francisco; however the use definition is maintained in the Planning Code for the Live/Work units that legally established when the use was permitted.

<sup>9</sup> Animal Uses were previously listed in Section 224 as “Animal Services” and Hotels, previously known as Tourist Hotels, were listed in Sections 209.2 and 216 as “Other Housing.”

Service Use category. The following is a listing of the changes made to the uses in the Retail and Non-Retail Sales and Service Use categories:

Retail Sales and Service Uses

- **Trade Shop.** The Trade Shop definitions in Articles 7 and Article 8 are essentially the same, and a similar use is found in Article 2 called “Home and Business Service” (Section 222). The proposed Ordinance uses the definition in Articles 7 and 8, which covers all of the uses listed in Article 2 except for Catering and Hardware Stores. Staff decided to keep Catering out of the Trade Shop definition and make Catering its own use because Trade Shops are considered a retail use and Catering is not (A Catering use with a retail function is defined as a Restaurant). This is particularly important in Neighborhood Commercial Districts (Article 7) where retail uses are encouraged and in some cases required on the ground floor, while non-retail uses are typically discouraged or prohibited. Staff removed Hardware Stores from the Trade Shop definition because this use is already covered in the General Retail Sales and Service use definition, it is not defined anywhere in the Code, and it is not listed as a separate use anywhere else in the Code.

Trade Shops are considered to be PDR uses<sup>10</sup>, so removing Catering and Hardware Stores from the Trade Shop definition also removed them from the list of PDR uses. However, because Catering is becoming its own use, it can be listed individually as a PDR use, and the proposed Ordinance does that. Hardware Store on the other hand is not being given its own use definition and instead is being grouped with General Retail Sales and Service, which is not a PDR use; therefore Hardware Stores will no longer be considered a PDR use should this Ordinance become law. The impacts of this change are listed below:

- Hardware Stores would be subject to the gross floor area limitations for Retail in PDR Districts; however Storage Yards, which includes contractor supply yards, would still be considered a PDR use and not subject to those restrictions.
  - Hardware Stores would no longer be able to locate on the ground floor in a space greater than 2,500 sq. ft. within a Small Enterprise Workspace (SEW).
  - Hardware Stores would be considered a retail use for the purposes of calculating TIDF (Transportation Impact Development Fee).
- **Personal Services.** Staff divided Personal Service into two new use categories, which include Personal Service and Instructional Service. Currently, Personally Service is defined as:

*A retail use which provides grooming services to the individual, including salons, cosmetic services, tattoo parlors, and health spas, or instructional services not certified by the State Educational Agency, such as art, dance, exercise, martial arts, and music classes.*

This definition was split into two as follows:

**Service, Personal.** *A Retail Sales and Services Use that provides grooming services to the individual, including salons, cosmetic services, tattoo parlors, and health spas, bathhouses, and steam rooms.*

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<sup>10</sup>A PDR use is a Production, Distribution and Repair Use. These uses are encouraged in PDR Districts, unlike retail and other commercial uses.

*Service, Instructional.* A Retail Sales and Service Use that includes instructional services not certified by the State Educational Agency, such as art, dance, exercise, martial arts, and music classes.

Staff split this definition into two uses at the request of Supervisor Tang, who is seeking to regulate Personal Services differently than Instructional Services in certain neighborhoods in her district. While it would add another use definition to the Code, this change allows more flexibility in how these uses are regulated.

- **Cat Boarding** is a use currently in the Code, but which did not have a definition. Staff derived the proposed definition based on the definition for Kennel, which is currently found in Section 224(c). The proposed new definition is as follows:

*Cat Boarding.* A Retail Sales and Service Use that provides boarding only for cats.

#### Non-Retail Sales and Service Uses

- **Administrative Services** (790.106 and 890.106) is a non-retail sales and service use not open to the public, and was originally added to the Code to allow for clerical services to locate within Neighborhood Commercial Districts. It was intended to be distinct from a General Office use, which is not permitted in neighborhood commercial districts. Professional Services (790.108, 890.108) is a similar use, but is a retail use and open to the public. It also includes administrative and clerical uses in addition to real-estate brokers, advertising agencies, public relation agencies and the like. In order to accommodate for both the retail and non-retail aspects of these two uses and to clarify the difference between these uses, staff changes the names of these uses to Non-Retail Professional Services (previously Administrative Services) and a Retail Professional Service (previously Professional Services). The Department continued to have internal discussions as to whether or not these uses distinctions are needed anymore, and there is an effort to reexamine how we regulate office uses in Neighborhood Commercial Districts; however, for this Ordinance, Staff has maintained these uses in order to avoid making larger policy changes.
- **Office Use** is currently defined in section 890.70 and includes general office uses as well as Professional Services (now Retail Professional Services) and Administrative Services (now Non-Retail Professional Services). Staff maintained this term, Office Use, because it is used in other areas of the Planning Code (Section 320) but removed the text that defined general office uses and used it to create a separate General Office definition. In its place staff put a reference to the new General Office use definition; now an Office Use is defined as "A grouping of uses that includes General Office, Retail Professional Services and Non-Retail Professional Services..." This allows General Offices uses to be regulated separately from Retail and Non-Retail Professional Services.

#### Utility and Infrastructure Uses

As the name suggest, Utility and Infrastructure Use category contains uses for the City's utility and infrastructure uses, including Community Recycling Center, Internet Service Exchange, Public Transportation Facility, Public Utilities Yard, Wireless Telecommunications Service (WTS) Facility, and Utility Installation. These uses were previously listed under "Public Facilities and Utilities" in Section 209.6 and "Other Uses" in Section 227. Other than grouping these uses into one single category and

renaming Wireless Telecommunications Facility to Wireless Telecommunications Service Facility<sup>11</sup>, Staff has not proposed any significant changes to these definitions.

#### NE Legislation.

Staff also included changes that were part of the Northeast Ordinances<sup>12</sup> even though they have not yet been adopted into the Code. Staff felt that it was appropriate to include these changes because they were reviewed and recommended by the Commission, and are included in the pending Northeast Ordinances that were reintroduced at the Board this past month. Further, these Ordinances are scheduled to be heard at the Land Use Committee on October 20.

The following is a summary of the proposed changes in the NE Ordinance that have been included in this proposed Ordinance:

- Consolidate definitions of Awning, Canopy, and Marquee (Sections 136, 136.1, 136.2, 136.3)
- Make awning and sign controls for RC (Residential, Commercial) districts consistent with those for NC (Neighborhood Commercial) Districts (Sections 136.1, 136.2, 243, 249.5, 607.1, 607.3, 607.4 and Table 209.3)
- Make parking requirements in C-3 (Downtown, Commercial) and RC districts consistent with those of NCT (Neighborhood Commercial Transit) districts (Sections 151.1 and 243, and Tables 209.3 and 210.2)
- Make surface parking lots a nonconforming use in C-3-S districts (Sections 156 and 184)
- Remove horsepower limits for machines in accessory uses in C (Commercial) Districts, add operating conditions (Section 204.3)
- Eliminate the conditional use requirement for high residential density in C-3 Districts (Table 210.2 and Section 214)
- Consolidate Automotive Uses with those in NC and Mixed Use Districts (Sections 102 and 223)
- Nonconforming surface parking lots in C-3 districts built before 1985 are no longer grandfathered in, and will now be required to be converted to another use, or seek conditional use approval to continue as a parking lot. Previously, these parking lots were allowed to operate in perpetuity.
- New conditionally-permitted uses that replace nonconforming uses in NC districts will now require conditional use approval. Previously, these uses were allowed to convert to any principally permitted or conditionally permitted use as of right.

#### Modifications Since Initiation

Since the Ordinance was initiated by the Planning Commission, Staff has continued to review and correct the proposed Ordinance and has incorporated some suggestions and correction from members of the public. The vast majority of these changes are clerical and do not substantively alter the proposed Ordinance. A list of the changes can be found in Exhibit G.

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<sup>11</sup> This name change was done to make the Planning Code consistent with other codes and Planning Department Documents.

<sup>12</sup> Originally Board Files 110547, 110548, subsequently reintroduced as Board Files 120471, 120472, and 120474. Planning Department Case # 2011.0533TZ. The Planning Commission had its final hearing on these Ordinances on 5/17/12.

## REQUIRED COMMISSION ACTION

The proposed Resolution is before the Commission so that it may recommend approval or disapproval to initiate the Planning Code amendments.

## RECOMMENDATION

The Department recommends that the Commission recommend approval with modifications of the proposed Ordinance to the Board of Supervisors. The proposed modifications are as follows:

- Allow Staff to continue to find and fix typos, incorrect or missing references and other non-substantive changes in consultation with the City Attorney's office.

### Clerical Amendments

1. **Page 175, Line 8:** Text for RH-2 height limits should be moved to RH-2 Zoning Column.
2. **Page 233, Lines 24-25:** Reference to old Code sections should be replaced with the following text, "...such that the combined floor area of any and all uses permitted by the Zoning Control Table for PDR Districts may not exceed the limits stated in the table below for any given lot."
3. **Page N/A, Line N/A:** Add Section 219.1(c)(2) to the Ordinance and fix reference to Small Enterprise Workspace: Should be: Section 102 ~~Section 227(t)~~.
4. **Page 419, Line 14:** Add section 320(f) to correct reference. "Section 219" should be changed to "Office Use as defined in Section 102"

## BASIS FOR RECOMMENDATION

At over 1336 pages and including over 100 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.

### Staff's Recommended Modification

Staff has thoroughly reviewed and vetted the proposed Ordinance, and has held or attended several community meetings to seek input and answer questions on the proposed changes. This effort, which has taken over a year to complete, has created a more complete and accurate Ordinance; however as with any large undertaking small errors and typos are inevitable. Staff is asking that the Commission included in their recommendation a provision that allows Planning Staff to continue to refine the proposed Ordinance as part of their motion. Any changes would be limited to non-substantive changes and have to be vetted by the City Attorney's office.

## **ENVIRONMENTAL REVIEW**

This Ordinance is not defined as a project under CEQA Guidelines Sections 15378 and 1506(c)(2) because it does not result in a physical change in the environment.

## **PUBLIC COMMENT**

The Department held two community outreach meetings on the propose Ordinance, and attended the Coalition for San Francisco Neighborhoods (CFSN) Land Use Committee meeting and the Cow Hollow Neighborhood Association Land Use Committee meeting. Overall the reception was positive; however there was a concern that more substantive changes would be made in the Ordinance and that the Ordinance was large and confusing. In response to some of the concerns raised by CSFN, the Department modified some parts of the Ordinance to clarify language.

The Department received a resolution from CSFN stating its opposition to the proposed Ordinance because of what they see as four unresolved issue. The Department sent a response to the resolution on October 10, 2014 (Exhibit H). The Cathedral Hill Neighborhood Association sent a letter in support of CFSN resolution.

The Department also received a letter from the Miraloma Park Improvement Club asking that the adoption of the Article 2 Ordinance be delayed because believes that the Ordinance “will change ‘student housing’ from an Institutional to a Residential ‘characteristic use,’ which will get this institutional use granted automatically in residential areas without a conditional use permit.” The Department responded to this letter on 10/15/14 in an attempt to correct this misunderstanding. (Exhibit H)

<b>RECOMMENDATION:</b>	<b>Approval with Modifications</b>
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### **Attachments:**

- Exhibit A: Draft Resolution
- Exhibit B: Ordinance
- Exhibit C: Sample of existing Article 2
- Exhibit D: Sample of existing Article 7
- Exhibit E: List of new definitions and corresponding existing code section
- Exhibit F: Chart of propose use categories and uses
- Exhibit G: List of Changes Since Initiation
- Exhibit H: Letters and Responses