

1 [Planning Code - Catering as an Accessory Use in Neighborhood Commercial Districts]

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3 **Ordinance amending the Planning Code to allow Catering as an Accessory Use to**
4 **Limited Restaurants in Neighborhood Commercial Districts under certain conditions;**
5 **affirming the Planning Department's determination under the California Environmental**
6 **Quality Act; making findings of consistency with the General Plan, and the eight**
7 **priority policies of Planning Code Section 101.1; and making findings of public**
8 **necessity, convenience, and welfare pursuant to Planning Code, Section 302.**

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

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

17 Section 1. Environmental and Land Use Findings.

18 (a) The Planning Department has determined that the actions contemplated in this
19 ordinance comply with the California Environmental Quality Act (California Public Resources
20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. 180320 and is incorporated herein by reference. The Board affirms
22 this determination.

23 (b) On June 21, 2018, the Planning Commission, in Resolution No. 20214, adopted
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. 180320, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code
4 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
5 in Planning Commission Resolution No. 20214, and the Board incorporates such reasons
6 herein by reference.

7 Section 2. The Planning Code is hereby amended by revising Sections 204.3, 703,
8 803.2 and 803.3 to read as follows:

9 **SEC. 204.3. ACCESSORY USES FOR USES OTHER THAN DWELLINGS IN C, RC,
10 M, AND PDR DISTRICTS.**

11 (a) **Commercial, Residential-Commercial, PDR, and M Districts.** An Accessory Use
12 to a lawful Principal or Conditional Use is subject to the following limitations:

13 (1) **Floor Area Limitations.** An Accessory Use cannot occupy more than
14 one-third of the total floor area occupied by such use, any additional accessory uses, and the
15 Principal or Conditional Use to which it is accessory, except in the case of accessory off-street
16 parking or loading.

17 (2) **Noise and Vibration Limitations.** Any noise, vibration, or unhealthful
18 emissions may not extend beyond the premises of the use.

19 (3) **Limitations on Cannabis Retail Accessory Uses.** The sale of cannabis
20 as an accessory use is subject to any applicable limitations or regulations imposed by the
21 Office of Cannabis. Cannabis Retail is not permitted as an Accessory Use unless the
22 Cannabis Retail establishment holds a permit from the City's Office of Cannabis specifically
23 permitting Cannabis Retail accessory to another activity on the same premises.
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1 (4) Accessory Catering Use to Limited Restaurants. Catering Uses that
2 satisfy the limitations set forth in Section 703(d)(3)(B) shall be permitted as an Accessory Use
3 to Limited Restaurants.

4 * * * *

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6 **SEC. 703. NEIGHBORHOOD COMMERCIAL DISTRICT REQUIREMENTS.**

7 (a) **Zoning Control Tables.** Each Zoning District in Article 7 has a corresponding
8 Zoning Control Table that details the basic development standards and Use controls for the
9 respective district. Zoning Control Tables are explained in Section 202.1 of this Code.
10 Permitted or Conditionally permitted ~~u~~Uses and Uses that are not permitted in the zoning
11 districts described in this Section 703 are detailed in the corresponding Zoning Control Tables.

12 (b) **Uses in Enclosed Buildings.** All permitted uses shall be conducted within an
13 enclosed building in Neighborhood Commercial Districts, unless otherwise specifically allowed
14 in this Code. Exceptions from this requirement are: uses which, when located outside of a
15 building, qualify as an Outdoor Activity Area or Open Air Sales, accessory off-street parking
16 and loading, and other uses listed below which function primarily as open-air uses, or which
17 may be appropriate if located on an open lot, outside a building, or within a partially enclosed
18 building, subject to other limitations of this Article 7 and other sections of this Code.

- 19 33A. Wireless Telecommunications Services Facility
- 20 Public and Private Parking Lots
- 21 Gas Station
- 22 Automotive Service Station
- 23 Automotive Wash
- 24 Automobile Sale or Rental
- 25 Institutional Uses (selected)

- 1 Public Facilities (selected)
- 2 Open Recreation Area
- 3 Outdoor Recreation Area
- 4 Neighborhood and Large Scale Urban Agriculture
- 5 Utility and Infrastructure Uses (selected)

6 (c) **Multiple Uses in One Structure.** If there are two or more uses in a structure and
7 none is classified under Section 703(d) below as an Accessory Use, then each of these uses
8 will be considered separately as independent Principal, Conditional or temporary uses.

9 (d) **Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1
10 (Accessory Uses for Dwelling Units in R and NC Districts), 204.4 (Dwelling Units Accessory to
11 Other Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, Accessory
12 Uses as defined in Section 102 shall be permitted when located on the same lot. Any use that
13 does not qualify as an Accessory Use shall be classified as a Principal or Conditional Use
14 unless it qualifies as a temporary use under Sections 205 through 205.4 of this Code.

15 No Use will be considered accessory to a permitted Principal or Conditional Use that
16 involves or requires any of the following:

17 (1) The use of more than ~~one-third~~^{1/3} of the total floor area occupied by such
18 use and the Principal or Conditional use to which it is accessory, except in the case of
19 accessory off-street parking and loading and as specified in subsection (d)(3) below as
20 accessory wholesaling, manufacturing, or processing of foods, goods, or commodities.

21 (2) Any Bar or Restaurant, or any other retail establishment which serves liquor
22 for consumption on-site; however, this shall not prohibit take-out food activity which operates
23 in conjunction with a Limited Restaurant, Restaurant, General Grocery, and Specialty
24 Grocery.

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1 (3) The wholesaling, manufacturing, or processing of foods, goods, or
2 commodities on the premises of an establishment that does not also use or provide for retail
3 sale of such foods, goods, or commodities at the same location where such wholesaling,
4 manufacturing, or processing takes place; ~~except, however in,~~ with the following exceptions:

5 (A) In the North Beach Special Use District where such activities are
6 limited to 15% of the total floor area occupied by the Principal or Conditional Use to which it is
7 accessory unless the Principal or Conditional Use is Specialty Foods Manufacturing as
8 defined in Section 780.3 of this Code; and

9 (B) Notwithstanding the floor area limitation in subsection (d)(1), a A
10 Catering Use limited to food and beverage Catering shall be permitted as an Accessory Use to Limited
11 Restaurants if the following requirements are met:

12 (i) The Catering Use does not operate more than 75% of the total time
13 within the Limited Restaurant's Hours of Operation on any given day; and

14 (ii) The Catering Use does not distribute or deliver individual meals to
15 customers directly from the subject lot, either by its own means, or through a third-party delivery
16 service.

17 (4) Any retail Liquor Store.

18 (5) Medical Cannabis Dispensaries.

19 (6) Any General Entertainment or Nighttime Entertainment use, except for one
20 that involves a Limited Live Performance Permit as set forth in Police Code Section 1060 et
21 seq.

22 (7) Within the North Beach SUD and NCD, a Limited Restaurant.

23 (8) A Health Service use as an Accessory Use in the Sacramento Street
24 Neighborhood Commercial District requires a Conditional Use authorization on the ground
25 story and is permitted above the ground story pursuant to Section 724 of this Code.

1 (9) Cannabis Retail that does not meet the limitations set forth in Section
2 204.3(a)(3) *of this Code*.

3 (e) **Uses Not Permitted.**

4 (1) No use, even though listed as a Permitted Use, shall be permitted in a
5 Neighborhood Commercial District which, by reason of its nature or manner of operation,
6 creates conditions that are hazardous, noxious, or offensive through the emission of odor,
7 fumes, smoke, cinders, dust, gas, vibration, glare, refuse, water-carried waste, or excessive
8 noise.

9 (2) The establishment of a use that sells alcoholic beverages, other than beer
10 and wine, concurrent with motor vehicle fuel is prohibited, and shall be governed by Section
11 202.2(b), ~~with the exception that~~ *Except* in the SoMa NCT, ~~where~~ these uses are permitted
12 Accessory Uses.

13 (f) **Conflicting Controls.** All uses, buildings, and features in Neighborhood
14 Commercial Districts shall comply with all controls set forth for the district in which they are
15 located. Where different controls conflict or overlap within the same District, the use, building,
16 or feature shall abide by the most restrictive of all controls. For example, in an NC-2 District, a
17 Dwelling Unit on the second story is proposed for conversion to a Personal Service use.
18 Residential Conversions at the Second Story in an NC-2 District require Conditional Use
19 authorization under Table 711, while Personal Services at the Second Story in an NC-2
20 District are permitted as Principal Uses under Table 711. Following the most restrictive
21 control, the applicant must obtain Conditional Use authorization and all other necessary
22 permits in order to legally convert the Dwelling Unit to a Personal Service use.

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24 **SEC. 803.2. USES PERMITTED IN CHINATOWN MIXED USE DISTRICTS.**
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1 A uUse is the specific purpose for which a property or building is used, occupied,
2 maintained, or leased. Whether or not a uUse is permitted in a specific Chinatown Mixed Use
3 District is set forth, summarized or cross-referenced in Sections 810.1 through 812.96 of this
4 Code for each district class.

5 * * * *

6 (C) Accessory Uses. Subject to the limitations set forth below and in Sections
7 204.1 (Accessory Uses for Dwelling Units in R Districts) and 204.5 (Parking and Loading as
8 Accessory Uses) of this Code, a related minor use which is either necessary to the operation
9 or enjoyment of a lawful Principal Use or Conditional Use or is appropriate, incidental, and
10 subordinate to any such use, shall be permitted in Chinatown Mixed Use Districts as an
11 Accessory Use when located on the same lot. Any Use not qualified as an Accessory Use
12 shall only be allowed as a Principal or Conditional Use, unless it qualifies as a temporary use
13 under Sections 205 through 205.2 of this Code.

14 No use in a Chinatown Mixed Use District will be considered accessory to a
15 Principal Use which involves or requires any of the following:

16 (i) The use of more than one-third^{1/3} of the total floor area occupied
17 by both the aAccessory uUse and the pPrincipal uUse to which it is accessory, combined,
18 except in the case of accessory off-street parking;

19 (ii) Any bBar or rRestaurant, or any other retail establishment which
20 serves liquor for consumption on-site;

21 (iii) Any take-out food use, except for a take-out food use which
22 occupies 100 square feet or less (including the area devoted to food preparation and service
23 and excluding storage and waiting areas) in a retail grocery or specialty food store;

24 (iv) The wholesaling, manufacturing or processing of foods, goods, or
25 commodities on the premises of an establishment which does not also provide for primarily

1 retail sale of such foods, goods or commodities at the same location where such wholesaling,
2 manufacturing or processing takes place; however, Catering Uses that satisfy the limitations
3 set forth in Section 703(d)(3)(B) shall be permitted as an Accessory Use to Limited
4 Restaurants.

5 (v) Medical Cannabis Dispensaries as defined in Section 890.133.

6 (vi) Any other entertainment use, as defined in Section 890.37, except
7 for one that involves a Limited Live Performance Permit as set forth in Police Code Section
8 1060 et seq.

9 (vii) Cannabis Retail that does not meet the limitations set forth in
10 Section 204.3(a)(3).

11 No part of this subsection (C) shall prohibit take-out food activity which
12 operates in conjunction with a fast-food restaurant. A fast-food restaurant, by definition,
13 includes take-out food as an accessory and necessary part of its operation.

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16 **SEC. 803.3. USES PERMITTED IN EASTERN NEIGHBORHOODS MIXED USE**
17 **DISTRICTS AND SOUTH OF MARKET MIXED USE DISTRICTS.**

18 * * * *

19 (C) Accessory Uses. Subject to the limitations set forth below and in Sections
20 204.1 (Accessory Uses for Dwelling Units in R and NC Districts), 204.2 (Accessory Uses for
21 Uses Other Than Dwellings in R Districts), 204.4 (Dwelling Units Accessory to Other Uses),
22 and 204.5 (Parking and Loading as Accessory Uses) of this Code, an accessory use is a
23 related minor use which is either necessary to the operation or enjoyment of a lawful Principal
24 Use or Conditional Use, or is appropriate, incidental, and subordinate to any such use, and
25 shall be permitted as an Accessory Use in an Eastern Neighborhoods Mixed Use District and

1 South of Market Mixed Use District. In order to accommodate a Principal Use which is carried
2 out by one business in multiple locations within the same general area, such Accessory Use
3 need not be located in the same structure or lot as its Principal Use provided that (1) the
4 Accessory Use is located within 1,000 feet of the Principal Use; and (2) the multiple locations
5 existed on April 6, 1990. Accessory Uses to non-office uses (as defined in Section 890.70)
6 may occupy space which is noncontiguous or on a different Story as the Principal Use so long
7 as the Accessory Use is located in the same building as the Principal Use and complies with
8 all other restrictions applicable to such Accessory Uses. Any use which does not qualify as an
9 Accessory Use shall be classified as a Principal Use.

10 No use will be considered accessory to a Principal Use which involves or
11 requires any of the following:

12 (i) The use of more than one-third of the total Occupied Floor Area
13 which is occupied by both the accessory use and principal use to which it is accessory,
14 combined, except in the case of accessory off-street parking or loading which shall be subject
15 to the provisions of Sections 151, 156 and 303 of this Code;

16 (ii) A hotel, motel, inn, hostel, adult entertainment, massage
17 establishment, large fast food restaurant, or movie theater use in a RED, RED-MX, SPD,
18 RSD, SLR, SLI, SSO, DTR, MUG, WMUG, MUR, MUO, WMUO, SALI or UMU District;

19 (iii) Any take-out food use, except for a take-out food use which
20 occupies 100 square feet or less (including the area devoted to food preparation and service
21 and excluding storage and waiting areas) in a restaurant, bar, catering establishment, bakery,
22 retail grocery or specialty food store.

23 (iv) Any sign not conforming to the limitations of Section 607.2(f)(3).

24 (v) Medical Cannabis Dispensaries as defined in 890.133.
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(vi) Any nighttime entertainment use, as defined in Section 102; provided, however, that a Limited Live Performance Permit as set forth in Police Code Section 1060 et seq. is allowed in any District except for an RED, RED-MX, RSD, SLR, MUR, or MUG District.

(vii) Cannabis Retail that does not meet the limitations set forth in Section 204.3(a)(3).

(viii) Catering Uses that do not meet the limitations set forth in Section 703(d)(3)(B).

* * * *

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

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Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: 
AUSTIN M. YANG
Deputy City Attorney
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City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 180320

Date Passed: July 31, 2018

Ordinance amending the Planning Code to allow Catering as an Accessory Use to Limited Restaurants under certain conditions; 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.

July 16, 2018 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

July 16, 2018 Land Use and Transportation Committee - CONTINUED AS AMENDED

July 23, 2018 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

July 24, 2018 Board of Supervisors - PASSED ON FIRST READING

Ayes: 9 - Cohen, Brown, Kim, Mandelman, Peskin, Ronen, Safai, Stefani and Yee

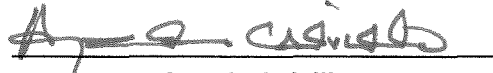
Excused: 2 - Fewer and Tang

July 31, 2018 Board of Supervisors - FINALLY PASSED

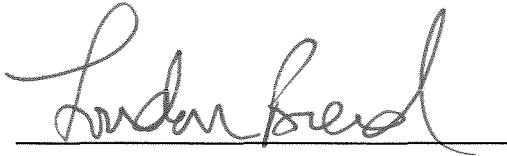
Ayes: 11 - Cohen, Brown, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani, Tang and Yee

File No. 180320


I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
7/31/2018 by the Board of Supervisors of
the City and County of San Francisco.



Angela Calvillo
Clerk of the Board



London N. Breed
Mayor



Date Approved