

REVISED LEGISLATIVE DIGEST

(11/13/2018, Amended in Board)

[Planning Code - Temporary Pop-Up Retail, Flexible Retail, and Arts Activities Uses]

Ordinance amending the Planning Code to create new Use allowing flexible, multi-use retail; permitting Temporary Pop-Up Retail uses in commercial spaces; permitting Flexible Retail in certain Neighborhood Commercial Districts; permitting Arts Activities in certain Neighborhood Commercial Districts; 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 considers Arts Activities, Limited Restaurants, General Retail Sales and Services, Personal Services, Retail Professional Services, and Trade Shop as separate uses. Each of these Uses is defined in section 102 of the Planning Code. While there is no Use that permits a retailer to combine multiple Uses in the same space, under certain conditions, the Planning Code permits some Uses to be considered Accessory to Principal Uses. In Neighborhood Commercial Districts (“NCDs”) conditions for Accessory Uses are set forth in Planning Code section 703. Generally, Accessory Uses may not occupy more than 30% of the total floor area occupied by such use and the Principal or Conditional use.

Arts Activities is a retail Entertainment, Arts and Recreation Use.

Amendments to Current Law

This ordinance creates a new use called Flexible Retail. Flexible Retail would be a type of Retail Sales and Service Use and only permitted in located in NCDs. This Use would combine a minimum of the two following existing uses: Arts Activities, Limited Restaurants, General Retail Sales and Services, Personal Services, Retail Professional Services, and Trade Shop. Flexible Retail would also allow these Uses to be operated by one or more businesses within the space. This is different than Accessory Uses because there would be no limitation on the amount space any of the Uses could occupy. The ordinance would create Flexible Retail Zones, which are areas that loosely track the supervisorial districts 1, 4, 5, 10, and 11.

This ordinance would also allow Arts Activities in certain NCDs.

This ordinance would also create a temporary Pop-Up Retail use that allows an existing commercial space to be temporarily used for Retail uses. Temporary Pop-Up Retail uses

would be more limited in residential districts – the Pop-Up Retail use would not be permitted to serve alcohol or operate past 10 pm. In addition, in residential districts, a Pop-Up Retail use would not be permitted within six months of a prior Pop-Up Retail use beginning to occupy the same location.

Background Information

In February 2018, the Office of Economic and Workforce Development published a report entitled “State of the Retail Sector: Challenges and Opportunities for San Francisco’s Neighborhood Commercial Districts.” The report found that based on increased consumer demand for experiences and increased competition from online sales, many retailers are developing new strategies to attract customers, including: expanding opportunities for customers to interact with products before making a purchase; integrating eating, drinking, and wellness into traditional retail stores; and offering community-building activities such as classes, workshops, readings, lectures, or concerts. The report found that incorporating multiple uses or creatively co-locating other uses may help retail businesses diversify their revenue streams.

The report also found that land use and permitting requirements can present challenges to new businesses in San Francisco. Specifically, that existing land use and permitting requirements may make it challenging for businesses to incorporate food, drink, events, and other elements that create attractive experiences for customers, and that existing land use and permitting requirements also limit a business’ ability to incorporate multiple uses, or co-locate multiple businesses, within a single storefront.

On 10/30/2018, Supervisors Fewer, Brown, Cohen and Safai joined as sponsors of the legislation, and introduced substitute legislation allowing Flexible Retail to be permitted in NCDs located in the area loosely bounded supervisorial districts 1, 4, 5, 10, and 11. The substitute legislation also permitted Arts Activities to be permitted in the same areas, and introduced the Temporary Pop-Up Retail Use.

For both Flexible Retail and Temporary Pop-Up Retail uses, this amendment does not modify the approvals otherwise required by the City. For example, a Flexible Retail Use that seek to incorporate a Limited Restaurant that is also considered Formula Retail, must obtain a Conditional Use Authorization pursuant to the Formula Retail controls, in addition to other Use approvals that may be required by the code. The Limited Restaurant may also need to obtain the necessary Alcohol and Beverage Control license. A Pop-Up Retail Use must obtain any necessary approvals from the Department of Public Health, the Department of Building Inspection, and any necessary Alcohol and Beverage Control license. A temporary Pop-Up Retail Use does not change these obligations.