



## KATY TANG

### Flexible Retail Legislation File 180806

**Legislative Goal:** *Provide business owners the opportunity to share space with other types of businesses and switch between an identified set of uses without requiring additional Planning Department permits. As it gets more challenging for businesses to open or remain in San Francisco due to high rents and online commerce, this legislation serves as one tool to address the issue of storefront vacancies in our commercial corridors.*

#### Legislation Details:

- Creates new “Flexible Retail” use under Planning Code
- Flexible Retail would be principally permitted in District 4 (*legislation will be expanded to include other districts per amendments at Land Use Committee on Oct. 29<sup>th</sup> and underlying zoning would apply in each district*)
- Under the new Flexible Retail use, there can be any combination of the following use categories within a ground-floor space and these can be operated by one or more business operators:
  - Arts Activities
  - Limited Restaurant
  - General Retail Sales and Services
  - Personal Service
  - Retail Professional Service
  - Trade Shop
- *Notes:*
  - Flexible Retail would not require neighborhood notification under Planning Code Section 311. However, a Conditional Use Authorization (CUA) is still required in neighborhoods where the zoning requires a CUA.
  - Permits and inspections from other city departments (such as Department of Public Health, Department of Building Inspection, or liquor license from the state) would still be required for Limited Restaurant use.





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### Amendments as part of substitute legislation – introduction at Board of Supervisors on October 30, 2018:

- Allow Flexible Retail use in Districts 1, 5, 10, 11 (defined by geographical boundaries).
- Require the specific use within Flexible Retail Uses must be permitted in the underlying zoning district. All underlying conditions for uses in the underlying zoning district would apply to the specific use being proposed under the Flexible Retail Use, including Formula Retail controls.
- Clarify that all other departments' required approvals still apply.
- Require that to establish and maintain a Flexible Retail Use, the site must operate at least two uses at any given time.
  - There will be a grace period of 60 days to allow for a business to search for another business tenant which falls under the Flexible Retail use definition – but if new tenant is not identified within this period, the Flexible Retail use is abandoned and the business would re-establish its underlying use. (Once Planning Department discovers abandonment, 60-day period kicks in. If after 60 days, the second use is not filled, Planning Department would deem the Flexible Retail use as automatically abandoned unless further shown that good-faith efforts have been made to secure a second business tenant at the same site.)
- Amend Planning Code Section 205 to create a new “60-Day Pop-Up Temporary Use” permit.
- Include Neighborhood Commercial Transit Districts (NCT), Neighborhood Commercial Shopping Center Districts (NC-S), and NC-3 Districts in legislation. (Originally, this legislation only applied to District 4, which does not have NCTs, NC-S, or NC-3)
- Permit Arts Activities uses in all NCDs and NCTs in the participating districts (1, 5, 10, 11).
  - Prior to a code reorganization, “Arts “Activities” was not a defined use. After the reorganization, any use that was previously undefined in Article 7 was listed as “Not Permitted.”

Last updated: 10/25/18

**Comparison of Temporary Use permits currently available vs. new Flexible Retail Use & “pop-up” permits**

	<b>Temporary Use – 60-day limit (Planning Code Section 205.1)</b>	<b>Temporary Use – one or two year limit (Planning Code Section 205.2)</b>	<b>Temporary Use – 24 hour limit (Planning Code Section 205.3)</b>	<b>Temporary Use – Intermittent Activities (Planning Code Section 205.4)</b>	<b>Establish different uses on one site under existing codes/regulations</b>	<b>NEW: Temporary Use – 60 -day limit (add new section under Planning Code Section 205.5(e))</b>	<b>NEW: Flexible Retail</b>
<b>General provisions:</b>	<p>Encompasses: neighborhood carnival, exhibition, celebration or festival organized by neighbors or merchants; booths for charitable purposes; open air sale of agriculturally produced seasonal decorations, such as Christmas trees &amp; Halloween pumpkins.</p> <p>Temp use permits may be renewed as many times within 60-day timeframe.</p>	<p>Encompasses: temporary structures/uses incidental to construction; rental/sales office incidental to new development; automobile wrecking use in M-1 or M-2 District; temporary Wireless Telecommunications Services Facilities</p>	<p>Applies to: PDR, C, M, Neighborhood Commercial, or Mixed Use Districts.</p> <p>Encompasses: performance, exhibition, dance, celebration or festival requiring liquor license, entertainment police permit, and/or other City permit. Can be sponsored by group of residents, businesses, or owner-occupants of property.</p>	<p>Outdoor use which occurs with some routine/regularity.</p> <p>Includes, but is not limited to: mobile food facilities; farmers markets; open-air craft markets.</p> <p>Typically requires additional authorization from other city departments.</p> <p>May be authorized for up to one year.</p>	<p>Any one particular unit/storefront may have more than one use permit in operation.</p> <p>Each business/use would need to undergo permitting &amp; notification process required for each use each time one of the uses changes.</p>	<p>Encompasses pop-up style uses. Can be retail, arts activities, full-service restaurant, may serve alcohol. Must be hosted in a commercial space. Pop-up does not have to be associated with the host business.</p> <p>Limits in Residential (R) districts:</p> <ul style="list-style-type: none"> <li>- Limit 1 permit per every 6 months</li> <li>- Events can run until 10pm</li> <li>- No alcohol</li> </ul>	<p>Allows any combination (2 uses at minimum at any given time) of the following uses:</p> <ul style="list-style-type: none"> <li>-Arts Activities</li> <li>-Limited Restaurant</li> <li>-General Retail Sales &amp; Services</li> <li>-Personal Service</li> <li>-Retail Professional Service</li> <li>-Trade Shop</li> </ul> <p>Uses can be interchanged at any time without additional permits, so long as there is always a combination of 2 uses listed above.</p>
<b>Neighborhood notification?</b>	None	Permits in excess of 90 days for Temporary WTS Facilities operated for commercial purposes shall be subject to Section 311	None	If the use will occupy more than 300 sq. ft. or if any portion of the vending space would be located within 50 feet of an RH, RM, RED, or RTO District	None	None	Not within District 4, which removes notification requirement for uses that are principally permitted. All of the above uses are principally permitted within District 4.
<b>Additional requirements</b>						Appropriate permits from DPH, DBI, ABC	Appropriate permits from DPH, DBI, ABC
<b>On-site alcohol consumption allowed?</b>	No	No	Yes	No	Yes, if zoning allows	Yes, as long as one of the two businesses has an ABC licenses, whether permanent or temporary	No, because none of the 6 uses within Flexible Retail Use category permit alcohol.

## Scenario

## The Way It Is

## The Way It Would Be

A coffee shop that normally closes after lunch wants to host "pizza nights" once per week



**No additional permits from Planning required.**  
**Why:** The coffee shop is a Limited Restaurant. Serving pizza would also be a Limited Restaurant use.



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A coffee shop would like to redesign their space to dedicate more than 30% to a local clothing designer's sales

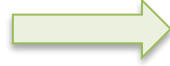


**A new Use permit would be required from Planning for a General Retail Sales & Service Use**  
**Why:** The coffee shop is a Limited Restaurant use. The apparel sales is a different use (General Retail Sales).

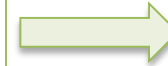


**May apply to be a Flexible Retail Use instead of adding a 2<sup>nd</sup> Use permit**  
**Why:** Gives freedom to not only add apparel sales, but try something different within the allowed uses under Flexible Retail without coming to Planning each time.

A coffee shop would like to host a "pop-up" retail shop for 6 weeks.

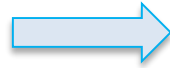


**A new Use permit would be required from Planning for General Retail Sales & Service.**  
**Why:** The coffee shop is a Limited Restaurant, not General Retail Sales use & no Temporary Use permit fits this scenario.

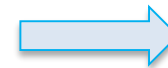


**Option 1:** The coffee shop can apply for the new **60 Day Temporary Pop-Up Use** permit. Best option if no plan to host retail on a regular basis.  
**Option 2:** The coffee shop could apply to be a **Flexible Retail Use** if they plan to host regularly.

A homewares store would like to host "pop-up" style dinners from a local caterer

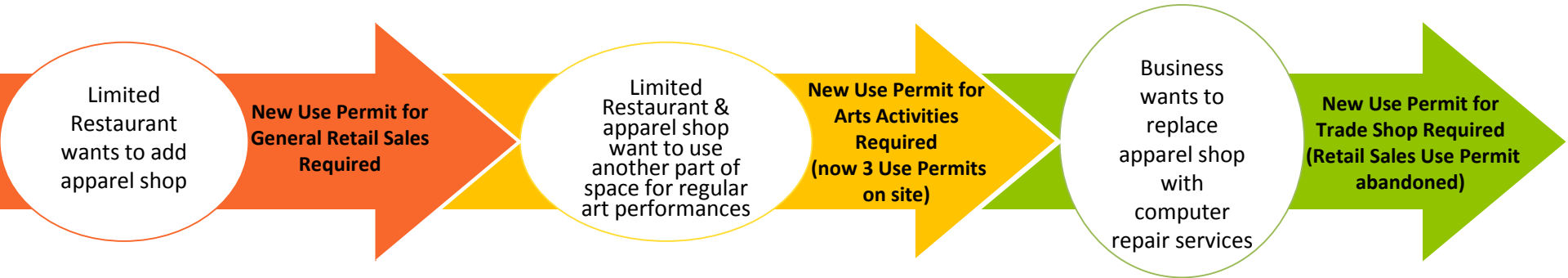


**A new Use permit would be required for a Full-Service Restaurant** due to alcohol being served. No Temporary Use permit fits this scenario.



**May apply for the new 60 Day Temporary Pop-Up Use permit.** Would allow alcohol to be served on site (unless in an RH District). *Proper ABC and DPH permits required.*

# The Way It Is Now:



# The Way It Would Be:

