[Planning Code - Jackson Square Special Use District - Exemption from Limitation on Proposed Limited Restaurant Uses]

Ordinance amending the Planning Code to allow authorization of a Limited Restaurant use in the Jackson Square Special Use District that does not comply with the current requirements for a Limited Restaurant use if a building permit application furthering the establishment of such use was filed by July 19, 2018; 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 adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

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

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 191257 and is incorporated herein by reference. The Board affirms this determination.

(b) On___________, the Planning Commission, in Resolution No. __________, adopted findings The Board of Supervisors finds that the actions contemplated in this
ordinance are consistent, on balance, with the City's General Plan. Objective 2 of the
Commerce and Industry Element is to maintain and enhance a sound and diverse economic
base for the City; Policy 2.1 seeks to retain existing commercial and industrial activity and to
attract new such activity to the City. Objective 6 of the Commerce and Industry Element is to
maintain and strengthen viable neighborhood commercial areas easily accessible to City
residents; Policy 6.1 seeks to ensure and encourage the retention and provision of
neighborhood-serving goods and services in the City’s neighborhood commercial districts,
while recognizing and encouraging diversity among the districts and Policy 6.2 seeks to
promote economically vital neighborhood commercial districts which foster small business
enterprises and entrepreneurship.

(c b) The Board of Supervisors finds that the actions contemplated in this ordinance
are consistent, on balance, with the eight priority policies of Planning Code Section
101.1(b) in that the proposed ordinance will provide opportunities for resident employment in
and ownership of neighborhood-serving retail (Policy 1). The proposed ordinance will not have
an adverse effect on existing housing or neighborhood character (Policy 2), the City’s supply
of affordable housing (Policy 3), the City’s Landmarks and historic buildings (Policy 7), or the
City’s parks and open spaces (Policy 8). The proposed ordinance will not cause commuter
traffic to impede MUNI transit service or overburden the streets or neighborhood parking
(Policy 4), cause displacement of the industrial or service sectors due to office development,
or affect future opportunities for resident employment or ownership in those sectors (Policy 5).
The proposed ordinance will have no effect on the City’s ability to protect against injury or loss
of life in an earthquake (Policy 6). The Board adopts these findings as its own. A copy of said
Resolution is on file with the Clerk of the Board of Supervisors in File No. ________, and is
incorporated herein by reference.
Pursuant to Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience, and general welfare because it will provide an exception from newly-enacted controls that is limited in time. It will not impact the purpose of the new controls since a Limited Restaurant Use is less intensive than a full-service restaurant or bar and would have less of an impact on the neighborhood and surrounding uses for the reasons set forth in Planning Commission Resolution No. ___.

Section 2. The Planning Code is hereby amended by revising Section 249.25, to read as follows:

**SEC. 249.25. JACKSON SQUARE SPECIAL USE DISTRICT.**

In order to provide for the protection and enhancement of specialty retail and antique store uses in the Jackson Square area, there shall be established the Jackson Square Special Use District as designated on Sectional Map No. SU01 of the Zoning Map. The boundaries of this Special Use District shall be coterminous with the boundaries of the Jackson Square Historic District as established by Appendix B to Article 10 of this Code and further described in Section 3 of that Appendix, and shall also include Lot 4 of Block 195. The following provisions shall apply within the Jackson Square Special Use District:

* * * *

(b) **Controls.**

(1) **General.** The provisions of the C-2 use district as established in Section 210.2 and applicable provisions of the Washington-Broadway Special Use Districts (Section 239), and the Chinatown Community Business District (Section 810), shall prevail except as provided in paragraphs (2) and (3) below.

(2) **Conditional Uses.**
(A) **Office Uses, Business Services, and Institutional Uses.** Office Uses, Business Services, and Institutional Uses, as *set forth defined* in Section 102 of this Code, at the ground floor are subject to Conditional Use authorization pursuant to Section 303 of this Code, provided, however, that building lobbies, entrances, and exits to and from the basement, ground floor, or upper floors, and other reasonably-sized common areas at the ground floor shall be permitted without Conditional Use authorization. In addition to the findings required under Section 303(c) for Conditional Use authorization, the Commission shall make the following findings:

(i) The use shall be necessary to preserve the historic resource and no other use can be demonstrated to preserve the historic resource.

(ii) The use shall be compatible with, and shall enhance, the unique retail character of the District.

(B) **Restaurants, Limited Restaurants, and Bars.** Restaurant, Limited Restaurant, and Bar uses may be permitted as a Conditional Use on the First Story through the procedures set forth in Section 303 only if the Zoning Administrator first determines that the proposed new Restaurant, Limited Restaurant, or Bar would occupy a space that is currently or was last legally occupied by one of the uses described below; provided that its last use has not been discontinued or abandoned pursuant to Sections 186.1(d) or 178(d) of this Code and that the proposed new use will not enlarge the space; and provided further that no Conditional Use shall be required if the use remains the same as the prior authorized use, with no enlargement or intensification of use:

(i) A Bar may occupy a space that is currently or last legally occupied by a Bar;

(ii) A Restaurant may occupy a space that is currently or was last legally occupied by a Restaurant or Bar; and
(iii) A Limited Restaurant may occupy a space that is currently or was last legally occupied by a Limited Restaurant, Restaurant, or Bar.

(iv) Except as provided herein, no other use shall be allowed to convert to a Limited Restaurant, Restaurant, or Bar.

(C) Exception for Certain Proposed Limited Restaurant Uses. A proposed Limited Restaurant use is Principally Permitted, shall not be required to obtain a Conditional Use authorization pursuant to subsection (b)(2)(B) above, and shall not be subject to the limitation of subsection (b)(2)(B)(iii) above if an application for a building permit necessary for the establishment of such use was filed with the City by July 19, 2018.

(3) Prohibited Uses. Adult Businesses, as defined in Section 102 of this Code, are prohibited.

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.

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:
JUDITH A. BOYAJIAN
Deputy City Attorney

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Ordinance amending the Planning Code to allow authorization of a Limited Restaurant use in the Jackson Square Special Use District that does not comply with the current requirements for a Limited Restaurant use if a building permit application furthering the establishment of such use was filed by July 19, 2018; 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 adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

January 27, 2020 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

January 28, 2020 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE
   Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

January 28, 2020 Board of Supervisors - PASSED ON FIRST READING AS AMENDED
   Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

February 04, 2020 Board of Supervisors - FINALLY PASSED
   Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 2/4/2020 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  
2/14/20