Ordinance amending the Planning Code to allow Arts Activities, and Social Service or Philanthropic Facilities, and COVID-19 Recovery Activities as a temporary use in vacant ground-floor commercial space; 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 general 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. 200215 and is incorporated herein by reference. The Board affirms this determination.

(b) On June 25, 2020, the Planning Commission, in Resolution No. 20750, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City’s General Plan and eight priority policies of Planning Code Section 101.1. 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. 200215, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
Planning Code amendment will serve the public necessity, convenience, and welfare for the
reasons set forth in Planning Commission Resolution No. 20750, and the Board incorporates
such reasons herein by reference.

Section 2. Legislative Purpose and Intent.

(a) Empty storefronts are currently pervasive throughout San Francisco, which is
having a harmful effect on the health and well-being of the City’s commercial corridors.
Meanwhile, arts organizations and community-serving agencies are increasingly struggling
with displacement, planned and unplanned transitions between facilities that disrupt
operations, and a general lack of stability in the places where they operate.

(b) Low-barrier planning permits such as temporary use authorizations that will
enable arts and community service organizations to operate out of unused or underused
vacant storefront properties will allow these vital services to remain and thrive in San
Francisco. In turn, their presence will help to mitigate the neighborhood blight caused by
vacant storefronts, encourage economic activity along commercial corridors struggling with
vacancies, and promote arts, cultural and civic activities in San Francisco.

(c) Allowing art and community service activities to operate as temporary uses in
vacant storefront properties is intended to help preserve and promote the cultural,
socioeconomic, and historical context of the surrounding neighborhood, especially within
vulnerable communities.

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Section 3 2. Article 2 of the Planning Code is hereby amended by revising Section 205 and adding Section 205.7, to read as follows:

SEC. 205. TEMPORARY USES, GENERAL.

(a) The temporary uses listed in Sections 205.1 through 205.5, where not otherwise permitted in the district, may be authorized as provided therein and in this Section 205, up to the time limits indicated. Further time for such uses may be authorized only by action upon a new application, subject to all the requirements for the original application, unless otherwise indicated in Sections 205.1 through 205.5.

* * * *

(d) The time periods referenced in Sections 205.1 through 205.3 and Sections 205.5 through 205.7 are consecutive hours or consecutive calendar days; they are not the total number of hours or days that the use is in operation. Therefore, a 24-hour authorization that begins at 6:00 am expires at 6:00 am the following day, even if the use was in operation only eight hours of that 24-hour period. Similarly, a 60-day authorization expires after 60 calendar days even though the use may only have been open for business three days per week during that 60-day period. Hours or days of unused authorization cannot be stored or credited.

(e) Any temporary uses authorized pursuant to this Section 205 and Sections 205.1 through 205.5 shall not be required to comply with any Planning Code requirements that are not expressly applicable to such temporary uses under this Section 205 and Sections 205.1 through 205.5, provided, however, any temporary uses authorized pursuant to this Section 205 and Sections 205.1 through 205.5 shall be subject to all applicable initiative ordinances approved by the voters of the City and County of San Francisco.
(f) The decision of the Planning Director to authorize or deny authorization of any temporary use pursuant to this Section 205 and Sections 205.1 through 205.5 may be appealed to the Board of Appeals within 15 days after the date of the decision by filing a written notice of appeal with that body.

SEC. 205.7 205.6. TEMPORARY USES: INTERIM ACTIVITIES IN VACANT GROUND- FLOOR COMMERCIAL SPACES.

(a) Arts Activities, Social Service or Philanthropic Facilities, and COVID-19 Relief and Recovery uses: Authorization Interim Activity as a Temporary Uses. Within all districts listed in Section 201 of this Code except for Residential Districts, the Planning Director may authorize an Arts Activity or Social Service or Philanthropic Facility use, as those uses are defined in Section 102, or any COVID-19 Relief and Recovery use as defined in subsection (b) an Interim Activity as a temporary use in a vacant ground-floor commercial space for a maximum of four two years. The temporary uses may be provided, in whole or in part, either on site or off site. Such uses may also conduct their administrative activities on site as a sole Principal Use. The Planning Director’s initial authorization (“Initial Period”) shall not exceed two one years and may be extended by the Director up to the two-four year maximum pursuant to the provisions of subsection (i) below. I

(b) Definitions. For purposes of this Section 205.6, the following definitions shall apply:

“COVID-19 Relief and Recovery use” means any use providing direct services in housing, employment, health, education and training, legal assistance, public benefits, enrollment and financial assistance preparing and distributing food, water and other essential items, establishing testing facilities, or providing access to restroom or handwashing facilities, or performing any other service that the Department determines will aid COVID-19 relief and recovery efforts.
“Interim Activity” means any Arts Activity or any Social Service or Philanthropic Facility, as those terms are defined in Section 102 of this Code. An Office use for administrative purposes may be allowed if it is incidental to the Interim Activity’s provision of services to the public.

“Vacant ground-floor commercial space” means a space with street frontage on the ground floor that is zoned for a Non-Residential Use, as defined in Section 102 of this Code, and is vacant.

(c) Application. The property owner or the property owner’s authorized agent (“Applicant,” in either case) shall submit an application for temporary use to the Planning Department, on a form prepared by the Planning Department. The application shall be accompanied by the applicable fees pursuant to Planning Code Section 350 and shall include an affidavit signed by the Applicant and, if applicable, each tenant occupying any portion of the vacant ground-floor commercial space for the Interim Activity temporary use or each tenant’s authorized agent, acknowledging that (1) the use of the space for the Interim Activity is temporary and subject to the time limits set forth in this Section 205.6, (2) the Applicant will pay any outstanding fees, invoices, or penalties owed to City agencies, and (3) the Applicant is in compliance with all requirements of the Municipal Code, including any requirements to abate any Code violations, including Building Code violations. The Applicant shall not be required to pay additional fees set forth in Article 4 of the Planning Code as a prerequisite to obtaining temporary use authorization pursuant to this Section 205.6.

(d) New, Additional, or Modified Temporary Uses. New, additional, or modified temporary uses that were not previously approved by the Planning Director shall be reviewed through the filing of a new application and submittal of a new application fee.

(e) New Tenants. Additional or different tenants may commence occupancy within and use the subject site without additional applications or fees, provided that each new tenant submits a completed affidavit to the Department attesting to the truthfulness and correctness of the information in
the previously submitted application and declaring that the new tenant will not discontinue, add to, or modify the approved Interim Activity.

(f) **No Conversion, Change, Discontinuance, or Abandonment of Use.** The approval or commencement of an Interim Activity as a temporary use as authorized under this Section 205.7 shall not be considered a conversion, discontinuance, abandonment, or change of use for purposes of this Code, notwithstanding Sections 182 and 183 of this Code. Any property for which the Interim Activity temporary use is authorized shall retain its authorized land use(s). Such authorized land uses, including any nonconforming uses, shall become operative upon the expiration, termination, or abandonment of such temporary use authorization.

(g) **Fenestration, Transparency, and Visibility Requirements.** Construction proposed in connection with the Interim Activity temporary use shall not cause noncompliance or exacerbate existing noncompliance with respect to fenestration, transparency, or any other visibility requirement of Section 145.1 of this Code. Further, no film, adhesive, blinds, or other treatment may be applied to any existing fenestration.

(h) **Information To Be Available To Public.** The Department shall make available to the public in the Planning Department’s main office and on its website a list of all applications approved under this Section 205.6, along with applicable time frames and any additional information the Planning Department deems useful for or relevant to the continued and successful activation of the subject sites in the surrounding neighborhood.

(i) **Extension of Initial Period.** Upon the Planning Director’s written determination that permits for the vacant ground-floor commercial space are being and have been diligently pursued, and that the Interim Activity temporary use has been consistent with public convenience, necessity, or the general welfare of the City, the Planning Director is authorized to permit the Interim Activity temporary use to exceed the Initial Period for an additional period of time not to exceed a total time of 24 months for the Interim Activity. This extension shall require a separate determination of the
Planning Director according to this Section 205.7(i), 205.6(i), and the authorization of the temporary use Interim Activity may not exceed a total duration of 48 24 months.

(j) **Other Temporary Uses.** Authorization of an Interim Activity a temporary use pursuant to this Section 205.7 205.6 shall not preclude the authorization of any other temporary uses recognized in Sections 205.1 through 205.6 205.5.

(k) **Additional Permits.** Authorization of a temporary use under this Section 205.7 does not waive the requirement to obtain any additional permit(s) that may be required by other City Codes, including but not limited to permits required by the Health Code or Building Code.

(l) **Fee Waiver for Uses that Propose a COVID-19 Recovery and Relief Activity.** If an applicant for approval of a temporary use under this Section 205.6 proposes a COVID-19 Recovery and Relief use, as defined in subsection (b) above, the Planning Department fee for reviewing the application shall be waived.

Section 4 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 5 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: /s/ JUDITH A. BOYAJIAN
JUDITH A. BOYAJIAN
Deputy City Attorney
Ordinance amending the Planning Code to allow Arts Activities, and Social Service or Philanthropic Facilities, and COVID-19 Recovery Activities as a temporary use in vacant ground-floor commercial space; 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 general welfare under Planning Code, Section 302.

July 20, 2020 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

July 20, 2020 Land Use and Transportation Committee - CONTINUED AS AMENDED

July 27, 2020 Land Use and Transportation Committee - RECOMMENDED

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

August 18, 2020 Board of Supervisors - FINALLY PASSED
   Ayes: 10 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Stefani, Walton and Yee
   Excused: 1 - Safai
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 8/18/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

8.18.20
Date Approved