

# PLANNING CODE

## LAND USE DEFINITIONS

### PROPOSED NEW DEFINITIONS

#### ACCESSORY ENTERTAINMENT USE

Accessory Entertainment Uses subject to a new type of entertainment permit issued through the Entertainment Commission (yet to be developed) that occupies no more than 25 percent of the floor area of an otherwise permitted use (excluding Bars as defined in the San Francisco Planning Code) that are subject to SF Noise Ordinance enforcement at residential use standards. Standard Hours of Operation 8am-12pm. Dance floors and any performance area integrated into the accessory size limitations are subject to a Conditional Use permit applications and authorizations.

#### RECREATIONAL FACILITY

Facilities built specifically to be utilized as ice skating, bowling, swimming, soccer, tennis, basketball, softball and baseball, playgrounds of 10,000 square feet or greater.

- Associated new CU findings associated with this proposed policy:

A project sponsor must demonstrate to the Planning Commission and other legislative bodies, as necessary, that the potential loss of the recreational services to the neighborhood or the population of existing users can be met with some appropriate and nearby recreational facilities whether they be existing or newly provided.

#### DIGITAL MEDIA

Space within any structure used by businesses and professionals that require primarily nontraditional office space due to either the production, storage, and display requirements, or the technological infrastructure needs of the occupants, including, but not limited to, the following: architectural, advertising, landscape architectural, engineering, interior design, industrial design services, multimedia, software development, web design, product design, electronic commerce, information technology, bioinformatics and other computer based technology businesses. "Design, Creative and High Technology Uses" shall exclude traditional office uses such as banking, insurance, financial services, real estate, management, consulting, and sales. No more than 25% of the cumulative building floor area for each tenant (with and approved business license) shall be permitted to be enclosed (with walls and doors).

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### ARTICLE 1

#### SEC. 102.2. ARTS ACTIVITIES AND SPACES.

Arts activities shall include performance, exhibition (except exhibition of films), rehearsal, production, post-production and some schools of any of the following: Dance, music, dramatic art, film, video, graphic art, painting, drawing, sculpture, small-scale glass works, ceramics, textiles, woodworking, photography, custom-made jewelry or apparel, and other visual, performance and sound arts and craft. It shall exclude accredited schools and accredited post-secondary educational institutions as defined by 209.3(i), 217(h), 790.50(c) and 890.50(c). It shall include commercial arts and art-related business service uses including, but not limited to recording and editing services, small-scale film and video developing and printing; titling; video and film libraries; special effects production; fashion and photo stylists; production, sale and rental of theatrical wardrobes; and studio property production and rental companies. Arts spaces shall include studios, workshops, galleries, museums, archives and theaters, and other similar spaces customarily used principally for arts activities, exclusive of theaters subject to Section 221(d), dance halls subject to Section 221(f), adult entertainment subject to Section 221(k) of this Code, and any other establishment where liquor is customarily served during performances.

#### SEC. 102.13. LIVE/WORK UNIT.

A live/work unit is a structure or portion of a structure combining a residential living space for a group of persons including not more than four adults in the same unit with an integrated work space principally used by one or more of the residents of that unit; provided, however, that no otherwise qualifying portion of a structure which contains a Group A occupancy under the San Francisco Building Code shall be considered a live/work unit.

#### SEC. 102.17. NIGHTTIME ENTERTAINMENT USES.

Nighttime entertainment uses shall include dance halls, discotheques, nightclubs, private clubs, and other similar evening-oriented entertainment activities which require dance hall keeper police permits or place of entertainment police permits which are not limited to non-amplified live entertainment, including restaurants and bars which present such activities, but shall not include any arts activities or space as defined in Section 102.2 of this Code, any theater performance space which does not serve alcoholic beverages during performances, or any temporary uses permitted pursuant to Sections 205 through 205.3 of this Code.

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### ARTICLE 2, 3 & 6

#### SEC. 224. ANIMAL SERVICES.

- (a) Animal hospital or clinic, if conducted entirely within an enclosed building; not including a commercial kennel as specified below.
- (b) Animal hospital or clinic, if conducted on premises not less than 200 feet from any R District.
- (c) Commercial kennel, if conducted on premises not less than 200 feet from any R District. A "commercial kennel" shall mean any commercial or business premises or other premises where dogs are boarded for compensation, or are cared for or trained for hire, or are kept for sale or bred for sale, where the care, breeding or sale of the dogs is the principal means of livelihood of the occupants of the premises.
- (d) Riding academy or livery stable, if conducted on premises not less than 200 feet from any R District.

#### SEC. 221. ASSEMBLY AND ENTERTAINMENT.

- (e) Recreation building.
- (f) Amusement enterprise, including **billiard hall**, dance hall, nightclub, other nighttime entertainment activities as defined in Section 102.17, bowling alley, skating rink, shooting gallery, when conducted within a completely enclosed building; provided, (1) that incidental noise is reasonably confined to the premises by adequate soundproofing or other device, and (2) that no portion of a building occupied by such use shall have any opening, other than fixed windows and exits required by law, within 50 feet of any R District.

#### SEC. 207.8. - DIVISION OF DWELLING UNITS IN THE RTO AND NCT DISTRICTS.

In order to ensure an adequate supply of family-sized units in existing and new housing stock, the subdivision of existing units is restricted. The division of any existing dwelling unit into two or more units in RTO and NCT districts shall be permitted only if it meets both of the following conditions:

- (a) The existing unit exceeds 2,000 occupied square feet or contains more than 3 bedrooms; and
- (b) At least one of the resulting units is no less than 2 bedrooms and 1,250 square feet in size.

#### SEC. 218. - (GYM) RETAIL SALES AND PERSONAL SERVICES.

- (d) Health club, fitness, gymnasium, or exercise facility when including equipment and space for weight-lifting and cardiovascular activities.

#### SEC. 209.5. OPEN RECREATION AND HORTICULTURE.

- (a) Open recreation area not publicly owned which is not screened from public view, has no structures other than those necessary and incidental to the open land use, is not operated as a gainful business and is devoted to outdoor recreation such as golf, tennis or riding.
- (b) Open space used for horticultural or passive recreational purposes which is not publicly owned and is not screened from public view, has no structures other than those necessary and incidental to the open land use, is not served by vehicles other than normal maintenance equipment, and has no retail or wholesale sales on the premises. Such open space may include but not necessarily be limited to a park, playground, plant nursery, rest area, community garden or neighborhood garden.
- (c) Greenhouse, plant nursery, truck garden or other land or structure devoted to cultivation of plants of any kind, either with or without retail or wholesale sales on the premises.

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### SEC. 227. OTHER USES.

(a) Greenhouse or plant nursery.

(c) Mortuary establishment, including retail establishments that predominantly sell or offer for sale caskets, tombstones, or other funerary goods.

(h) Commercial wireless transmitting, receiving or relay facility, including towers, antennae, and related equipment for the transmission, reception, or relay of radio, television, or other electronic signals where:

(1) No portion of such facility exceeds a height of 25 feet above the roof line of the building on the premises or above the ground if there is no building, or 25 feet above the height limit applicable to the subject site under Article 2.5 of this Code, whichever is the lesser height; and

(2) Such facility, if closer than 1,000 feet to any R District (except for those R Districts entirely surrounded by a C-3, M or a combination of C-3 and M Districts), does not include a parabolic antenna with a diameter in excess of three meters or a composite diameter or antennae in excess of six meters. (See also Section 204.3.)

### SEC. 209.6. PUBLIC FACILITIES AND UTILITIES.

(c) Utility Installation that is an Internet Services Exchange defined as a location that contains any of the following uses (excluding any commercial wireless transmitting, receiving or relay facility described in Sections 227(h) and 227(i)): switching equipment (whether wireline or wireless) that joins or connects occupants, customers or subscribers to enable customers or subscribers to transmit data, voice or video signals to each other; one or more computer systems and related equipment used to build, maintain or process data, voice or video signals and provide other data processing services; or a group of network servers.

## ARTICLE 3

### SEC. 315.1 DEFINITIONS

(38) "**Student housing**" shall mean a building where 100 percent of the residential uses are affiliated with and operated by an accredited post-secondary educational institution. Typically, student housing is for rent, not for sale. This housing shall provide lodging or both meals and lodging, by prearrangement for one week or more at a time. This definition only applies in the Eastern Neighborhoods Mixed Use Districts.

## ARTICLE 6

### SEC. 602.7 GENERAL ADVERTISING SIGN

A sign, legally erected prior to the effective date of Section 611 of this Code, which directs attention to a business, commodity, industry or other activity which is sold, offered or conducted elsewhere than on the premises upon which sign is located, or to which it is affixed, and which is sold, offered or conducted on such premises only incidentally if at all.

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### ARTICLE 7

#### SEC. 790. DEFINITIONS FOR.

This and the following Sections provide the definitions for Neighborhood Commercial Districts. In case of conflict between the following definitions and those set forth in Sections 102 through 102.28 of this Code, the following definitions shall prevail for Neighborhood Commercial Districts.

#### SEC. 790.2. AMBULANCE SERVICE.

A retail use which provides medically related transportation services.

#### SEC. 790.4. AMUSEMENT GAME ARCADE (MECHANICAL AMUSEMENT DEVICES).

A retail use which provides eleven or more amusement game devices such as video games, pinball machines, or other such similar mechanical and electronic amusement devices, in a quantity which exceeds that specified in Section 1036.31 of the Police Code as accessory uses. Mechanical amusement devices are further regulated in Sections 1036 through 1036.35 of the Police Code.

#### SEC. 790.6. ANIMAL HOSPITAL.

A retail use which provides medical care and accessory boarding services for animals, not including a commercial kennel as specified in Section 224(c) of this Code.

#### SEC. 790.8. AUTOMOBILE PARKING.

A use which provides temporary parking accommodations for private vehicles whether conducted within a garage or on an open lot, excluding accessory parking, as defined in Section 204.5 of this Code, and community residential parking, as defined in Section 790.10 of this Code. Provisions regulating automobile parking are set forth in Sections 155, 156, 157 and other provisions of Article 1.5 of this Code. Parking of commercial vehicles or trucks shall be limited to commercial passenger vehicles and light delivery trucks only and must be conducted within a garage.

#### SEC. 790.10. AUTOMOBILE PARKING, COMMUNITY RESIDENTIAL.

A use which provides parking accommodations, including a garage or lot, for the storage of private passenger automobiles for residents of the vicinity and meeting the requirements of Section 159 and other Sections in Article 1.5 of this Code, and for off-street car-share parking spaces, as defined in Section 166, when permitted by this Code, and excluding accessory parking, as defined in Section 204.5 of this Code.

#### SEC. 790.12. AUTOMOBILE SALE OR RENTAL.

A retail use which provides vehicle sales or rentals whether conducted within a building or on an open lot.

#### SEC. 790.14. AUTOMOTIVE GAS STATION.

A retail automotive service use which provides motor fuels, lubricating oils, air, and water directly into motor vehicles and without providing automotive repair services, including self-service operations which sell motor fuel only.

#### SEC. 790.15. AUTOMOTIVE REPAIR.

A retail automotive service use which provides any of the following automotive repair services when conducted within an enclosed building having no openings, other than fixed windows or exits required by law, located within 50 feet of any R District: minor auto repair, engine repair, rebuilding, or

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installation of power train components, reconditioning of badly worn or damaged motor vehicle, collision service, or full body paint spraying. It may include other services for automobiles including, but not limited to, accessory towing, if all towed vehicles stored on the premises are limited to those vehicles which are to be repaired on the premises.

### **SEC. 790.16. AUTOMOTIVE SERVICE.**

A retail use which provides services for motor vehicles including automotive gas station, automotive service station, automotive repair, and automotive wash.

### **SEC. 790.17. AUTOMOTIVE SERVICE STATION.**

A retail automotive service use which provides motor fuels and lubricating oils directly into motor vehicles and minor auto repairs (excluding engine repair, rebuilding, or installation of power train components, reconditioning of badly worn or damaged motor vehicles, collision service, or full body paint spraying) and services which remain incidental to the principal sale of motor fuel. Repairs shall be conducted within no more than three enclosed service bays in buildings having no openings, other than fixed windows or exits required by law, located within 40 feet of any R District. It may include other incidental services for automobiles including, but not limited to, accessory towing, if the number of towing vehicles does not exceed one, and all towed vehicles stored on the premises are limited to those vehicles which are to be repaired on the premises.

### **SEC. 790.18. AUTOMOTIVE WASH.**

A retail automotive service use which provides cleaning and polishing of motor vehicles, including self-service operations, when such cleaning and polishing are conducted within an enclosed building having no openings, other than fixed windows or exits required by law located within 50 feet of any R District, and which has an off-street waiting and storage area outside the building which accommodates at least 1/4 the hourly capacity in vehicles of the enclosed operations.

### **SEC. 790.22. BAR.**

A retail use which provides on-site alcoholic beverage sales for drinking on the premises, including bars serving beer, wine and/or liquor to the customer where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC] licenses 42, 48, or 61) and drinking establishments serving liquor (with ABC licenses 47 or 49) in conjunction with other uses which admit minors, such as restaurants, movie theaters, and other entertainment.

### **SEC. 790.30. DRIVE-UP FACILITY.**

A structure designed for drive-to or drive-through trade which provides service to patrons while in private motor vehicles; excluding gas stations, service stations, auto repair garages and automotive wash, as defined in Sections 790.14, 790.15, 790.17 and 790.18 of this Code.

### **SEC. 790.34. EATING AND DRINKING USE.**

A retail use which provides food and/or beverages for either on or off-site food consumption including take-out food, self-service specialty food, bars, full-service restaurants, large fast-food restaurants and small self-service restaurants.

### **SEC. 790.36. ENTERTAINMENT, ADULT.**

A retail use which includes the following: adult bookstore, as defined by Section 791 of the Police Code; adult theater, as defined by Section 791 of the Police Code; and encounter studio, as defined by Section

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1072.1 of the Police Code. Such use shall be located no less than 1,000 feet from another adult entertainment use.

### SEC. 790.38. ENTERTAINMENT, OTHER.

A retail use, other than adult entertainment, as defined in Section 790.36 of this Code, which provides live entertainment, including dramatic and musical performances, and/or operates as a dance hall which provides amplified taped music for dancing on the premises, including but not limited to those defined in Section 1060 of the Police Code, and which is adequately soundproofed or insulated so as to confine incidental noise to the premises. Other entertainment also includes a bowling alley, billiard parlor, shooting gallery, skating rink and other commercial recreational activity, but it excludes amusement game arcades, as defined in Section 790.4 of this Code and regulated in Section 1036 of the Police Code.

### SEC. 703.3 FORMULA RETAIL

(c) Formula Retail Use Defined. Formula retail use is hereby defined as a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

- (1) Standardized array of merchandise shall be defined as 50% or more of in-stock merchandise from a single distributor bearing uniform markings.
- (2) Trademark shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.
- (3) Servicemark shall be defined as word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.
- (4) Decor shall be defined as the style of interior finishings, which may include but is not limited to, style of furniture, wallcoverings or permanent fixtures.
- (5) Color Scheme shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.
- (6) Facade shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.
- (7) Uniform Apparel shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.
- (8) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning Code.
- (9) "Retail sales activity or retail sales establishment" shall include the following uses, as defined in Article 8 of this code: "bar," "drive-up facility," "eating and drinking use," "restaurant, large fast-food," "restaurant, small fast-food," "restaurant, full-service," "sales and services, other retail," "sales and services, nonretail," "movie theater," "amusement game arcade," and "take-out food."

### SEC. 790.44. HOSPITAL OR MEDICAL CENTER.

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A public or private institutional use which provides medical facilities for inpatient care, medical offices, clinics, and laboratories. It may also include employee or student dormitories adjacent to medical facilities when the dormitories are operated by and affiliated with a medical institution. The institution must have met the applicable provisions of Section 304.5 of this Code concerning institutional master plans.

### **SEC. 790.46. HOTEL, TOURIST.**

A retail use which provides tourist accommodations, including guest rooms or suites, which are intended or designed to be used, rented, or hired out to guests (transient visitors) intending to occupy the room for less than 32 consecutive days. This definition also applies to buildings containing six or more guest rooms designated and certified as tourist units, under Chapter 41 of the San Francisco Administrative Code. For purposes of this Code, a tourist hotel does not include (except within the Bayshore-Hester Special Use District as provided for in Sections 713 and 780.2 of this Code) a tourist motel, which contains guest rooms or suites which are independently accessible from the outside, with garage or parking space located on the lot, and designed for, or occupied by, automobile-traveling transient visitors. Tourist hotels shall be designed to include all lobbies, offices and internal circulation to guest rooms and suites within and integral to the same enclosed building or buildings as the guest rooms or suites.

### **SEC. 790.47. HOTEL, RESIDENTIAL.**

A hotel, as defined in Chapter 41 of the San Francisco Administrative Code, which contains one or more residential hotel units. A residential hotel unit is a guest room, as defined in Section 203.7 of Chapter XII, Part II of the San Francisco Municipal Code (Housing Code), which had been occupied by a permanent resident on September 23, 1979, or any guest room designated as a residential unit pursuant to Sections 41.6 or 41.7 of Chapter 41 of the San Francisco Administrative Code. Residential hotels are further defined and regulated in the Residential Hotel Unit Conversion and Demolition Ordinance, Chapter 41 of the San Francisco Administrative Code.

### **SEC. 790.48. HOURS OF OPERATION.**

The permitted hours during which any commercial establishment, not including automated teller machines, may be open for business.

(a) Other restrictions on the hours of operation of movie theaters, adult entertainment, and other entertainment uses, as defined in Sections 790.64, 790.36, and 790.38 of this Code, respectively, shall apply pursuant to provisions in Section 303(c)(5), when such uses are permitted as conditional uses.

(b) Exception for Pharmacies. For purposes of this Section, "pharmacy" shall mean a retail enterprise in which the profession of pharmacy is practiced and where prescriptions are compounded and offered for sale. This Section shall not be construed to limit any qualifying pharmacy from offering other retail goods in addition to prescription pharmaceuticals. Notwithstanding anything to the contrary in this Code, a pharmacy may operate on a 24-hour basis as a permitted use provided that the following conditions are met during any period between 11:00 p.m. and 6:00 a.m. in which the pharmacy is open for business:

- (1) A pharmacist licensed by the State of California in accordance with the California Business and Professions Code is on duty on the premises;
- (2) The pharmacy provides prescription drugs for retail sale; and
- (3) The pharmacy provides adequate lighting and security for the safety of customers, residents and the adjoining property, including adequate lighting and security for any parking facilities provided. Such lighting and security may not negatively impact neighborhood character.



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### SEC. 790.50. INSTITUTIONS, OTHER LARGE.

A public or private, nonprofit or profit-making use, excluding hospitals and medical centers, which provides services to the community and meets the applicable provisions of Section 304.5 of this Code concerning institutional master plans, including but not limited to the following:

(a) Assembly and Social Service. A use which provides social, fraternal, counseling or recreational gathering services to the community. It includes a private noncommercial club house, lodge, meeting hall, recreation building, or community facility not publicly owned. It also includes an unenclosed recreation area or noncommercial horticulture area not publicly owned.

(b) Child Care. A use which provides less than 24-hour care for 13 or more children by licensed personnel and which meets the requirements of the State of California and other authorities.

(c) Educational Service. A use certified by the Western Association of Schools and Colleges which provides educational services, such as a school, college or university. It may include, on the same premises, employee or student dormitories and other housing operated by and affiliated with the institution.

(d) Religious Facility. A use which provides religious services to the community, such as a church, temple or synagogue. It may include on the same lot, the housing of persons who engage in supportive activity for the institution.

(e) Residential Care. A medical use which provides lodging, board, and care 24 hours or more to seven or more persons in need of specialized aid by personnel licensed by the State of California and which provides no outpatient services; including but not limited to, a board and care home, rest home, or home for the treatment of the addictive, contagious, or other diseases or physiological disorders.

### SEC. 790.51. INSTITUTIONS, OTHER SMALL.

A public or private, nonprofit or profit-making use which provides services to the community and limited to the following:

(a) Child Care. A use which provides less than 24-hour care for 12 or fewer children by licensed personnel and which meets the requirements of the State of California and other authorities.

(b) Residential Care. A medical use which provides lodging, board and care 24 hours or more to six or fewer persons in need of specialized aid by personnel licensed by the State of California and which provides no outpatient services, including but not limited to, a board and care home, rest home, or home for the treatment of the addictive, contagious, or other diseases or physiological disorders.

### SEC. 790.54. LIGHT MANUFACTURING, WHOLESALE SALES.

A commercial use, including light manufacturing or wholesale sales, as defined in Subsections (a) and (b) below.

(a) Light Manufacturing. A nonretail use which provides for the fabrication or production of goods, by hand or machinery, for distribution to retailers or wholesalers for resale off the premises, primarily involving the assembly, packaging, repairing, or processing of previously prepared materials, when conducted in an enclosed building having no openings other than fixed windows or exits required by law located within 50 feet of any R District. Light manufacturing uses include production and custom activities, usually involving individual or special design, or handiwork, such as the following fabrication or production activities defined by the Standard Industrial Classification Code Manual as light manufacturing uses:

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- (1) Food processing, not including mechanized assembly line production of canned or bottled goods;
- (2) Apparel and other garment products;
- (3) Furniture and fixtures;
- (4) Printing and publishing of books or newspapers;
- (5) Leather products;
- (6) Pottery;
- (7) Glass blowing;
- (8) Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks.

It shall not involve the chemical processing of materials or the use of any machine that has more than five horsepower capacity, nor shall the mechanical equipment required for the use, together with related floor space used primarily by the operators of such equipment, in aggregate occupy more than 1/4 of the total gross floor area of the use.

It shall be distinct and separate from a trade shop, as defined in Section 790.124 of this Code. It shall not include other general or heavy manufacturing uses, not described in this Subsection (a).

(b) Wholesale Sales. A nonretail use which exclusively provides goods or commodities for resale or business use, including accessory storage. It shall not include a nonaccessory storage warehouse.

### **SEC. 790.55. LIQUOR STORE.**

A retail use which sells beer, wine, or distilled spirits to a customer in an open or closed container for consumption off the premises and which needs a State of California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) This classification shall not include retail uses that (1) are both (a) classified as a general grocery store use as set forth in Section 790.102(a), a specialty grocery store use as set forth in Section 790.102(b), or a self-service specialty food use as set forth in Section 790.93, and (b) have a gross floor area devoted to alcoholic beverages that is within the accessory use limits set forth in Section 703.2(b)(1)(C)(vi); or (2) have both a) a use size as defined in Section 790.130 of this Code of greater than 10,000 gross square feet and (b) a gross floor area devoted to alcoholic beverages that is within accessory use limits as set forth in Section 204.2 or 703.2(b)(1)(c) of this Code, depending on the zoning district in which the use is located. For purposes of Planning Code Sections 249.5, 781.8, 781.9, 782, 783, and 784, the retail uses explicitly exempted from this definition as set forth above shall only apply to general grocery and specialty grocery stores that exceed 5,000s/f in size, shall not:

- (a) sell any malt beverage with an alcohol content greater than 5.7% by volume; any wine with an alcohol content of greater than 15% by volume, except for "dinner wines" that have been aged two years or more and maintained in a corked bottle; or any distilled spirits in container sizes smaller than 600 ml;
- (b) devote more than 15% of the gross square footage of the establishment to the display and sale of alcoholic beverages; and
- (c) sell single servings of beer in container sizes 24 oz. or smaller.

### **SEC. 790.56. LOT SIZE (PER DEVELOPMENT).**

The permitted gross lot area for new construction or expansion of existing development. "Lot" is defined in Section 102.14.

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### SEC. 790.60. MASSAGE ESTABLISHMENT.

A retail use as defined in Section 1900 of the Health Code, provided that the massage establishment has first obtained a permit from the Department of Public Health pursuant to Section 1908 of the San Francisco Health Code, and provided that the use is located no less than 1,000 feet from the premises of any other massage establishment; except that these requirements shall not apply where: (a) massage services are incidental to the institutional uses permitted in Sections 790.44 and 790.50 of this Code or to the use by an individual member of the facilities of a health club, gymnasium, or other facility with a regular membership which health club, gymnasium or other facility is used primarily for instruction and training in body building, exercising, reducing, sports, dancing, or other similar physical activities, or (2) the only massage service provided is chair massage, such service is visible to the public, and customers are fully-clothed at all times.

### SEC. 790.141. MEDICAL CANNABIS DISPENSARY.

A medical cannabis dispensary shall be as defined by Section 3301(f) of the San Francisco Health Code provided that:

- (a) the medical cannabis dispensary has applied for a permit from the Department of Public Health pursuant to Section 3304 of the San Francisco Health Code;
- (b) if medical cannabis is smoked on the premises, the parcel containing the medical cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community facility that primarily serves persons under 18 years of age, or a recreation building as defined in Section 790.50(a) of this Code that primarily serves persons under 18 years of age, unless not required by State law, and, regardless of whether medical cannabis is smoked on the premises, if the dispensary was not in operation as of April 1, 2005, as defined in Subsection (i), it is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community facility that primarily serves persons under 18 years of age or a recreation building as defined in Section 790.50(f) of this Code that primarily serves persons under 18 years of age;
- (c) if medical cannabis is smoked on the premises the dispensary shall provide adequate ventilation within the structure such that doors and/or windows are not left open for such purposes resulting in odor emission from the premises;
- (d) regardless of whether medical cannabis is smoked on the premises the parcel containing the medical cannabis dispensary is not located on the same parcel as a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health;
- (e) no alcohol is sold or distributed on the premises for on or off-site consumption;
- (f) upon acceptance of a complete application for a building permit for a medical cannabis dispensary the Planning Department shall cause a notice to be posted on the proposed site and shall cause written notice to be sent via U.S. Mail to all owners and occupants of properties within 300 feet of the subject lot in the same Assessor's Block and on the block face across from the subject lot as well as to all individuals or groups that have made a written request for notification regarding specific properties, areas or medical cannabis dispensaries;
- (g) all building permit applications shall be held for a period of 30 calendar days from the date of the mailed notice to allow review by residents, occupants, owners of neighborhood properties and neighborhood groups;

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(h) after this 30-day period, the Planning Commission shall schedule a hearing to consider whether to exercise its discretionary review powers over the building permit application for a medical cannabis dispensary. The scheduling and the mailed notice for this hearing shall be processed in accordance with Section 312(e) of this Code;

(i) Medical cannabis dispensaries that can demonstrate to the Planning Department, based on any criteria it may develop, that they were in operation as of April 1, 2005 and have remained in continuous operation since then, and that they have filed an application for a medical cannabis dispensary permit as provided in San Francisco Health Code section 3304 on or before July 1, 2007, must obtain a final permit on or before January 21, 2009, or must cease operations on January 21, 2009, or upon denial of a permit application if it occurs before January 21, 2009. Medical cannabis dispensaries that were in operation as of April 1, 2005, and were not in continuous operation since then, but can demonstrate to the Planning Department, based on any criteria it may develop, that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, also must obtain a permit on or before January 21, 2009, or must cease operations on January 21, 2009, or upon denial of a permit application if it occurs before January 21, 2009. Notwithstanding the foregoing, in no case shall a dispensary that had or has a suspended or revoked permit be considered to be in continuous operation. Any dispensary that began operation after April 1, 2005, and any dispensary that failed to file a permit application with the Department of Public Health as provided in San Francisco Health Code section 3304 on or before July 1, 2007, and has failed to file a completed application, including a California Environmental Quality Act categorical exemption application and a discretionary review application, with the Planning Department by August 15, 2007; or any dispensary that is located within an RH (Residential House) or RM (Residential Mixed) zoning district, must immediately cease operations;

(j) any permit issued for a medical cannabis dispensary shall contain the following statement in boldface type: "Issuance of this permit by the City and County of San Francisco is not intended to and does not authorize the violation of State or Federal law."

### **SEC. 790.62. MORTUARY.**

A retail use which provides funeral services, funeral preparation, or burial arrangements, including retail establishments that predominantly sell or offer for sale caskets, tombstones, or other funerary goods.

### **SEC. 790.64. MOVIE THEATER.**

A retail use other than an adult theater, regulated as adult entertainment, defined in Section 790.36 of this Code, which displays motion pictures, slides, or closed-circuit television pictures.

### **SEC. 790.68. NEIGHBORHOOD-SERVING BUSINESS.**

A neighborhood-serving business cannot be defined by the type of use, but rather by the characteristics of its customers, types of merchandise or service, its size, trade area, and the number of similar establishments in other neighborhoods. The primary clientele of a "neighborhood-serving business," by definition, is comprised of customers who live and/or work nearby.

While a neighborhood-serving business may derive revenue from customers outside the immediately surrounding neighborhood, it is not dependent on out-of-neighborhood clientele.

A neighborhood-serving use provides goods and/or services which are needed by residents and workers in the immediate neighborhood to satisfy basic personal and household needs on a frequent and recurring basis, and which if not available require trips outside of the neighborhood.

A use may be more or less neighborhood-serving depending upon its trade area. Uses which, due to the nature of their products and service, tend to be more neighborhood-serving, are those which sell

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convenience items such as groceries, personal toiletries, magazines, and personal services such as cleaners, laundromats, and film processing. Uses which tend to be less neighborhood-oriented are those which sell more specialized, more expensive, less frequently purchased comparison goods such as automobiles and furniture.

For many uses (such as stores selling apparel, household goods, and variety merchandise), whether a business is neighborhood-serving depends on the size of the establishment: the larger the use, the larger the trade area, hence the less neighborhood-oriented.

Whether a business is neighborhood-serving or not also depends in part on the number and availability of other similar establishments in other neighborhoods: the more widespread the use, the more likely that it is neighborhood-oriented.

### **SEC. 790.69. OFFICE.**

A building, or portion thereof, containing a service as defined in Sections 790.106 through 790.116 of this Code.

### **SEC. 790.70. OUTDOOR ACTIVITY AREA.**

An area, not including primary circulation space or any public street, located outside of a building or in a courtyard which is provided for the use or convenience of patrons of a commercial establishment including, but not limited to, sitting, eating, drinking, dancing, and food-service activities.

### **SEC. 790.80. PUBLIC USE.**

A publicly or privately owned use which provides public services to the community, whether conducted within a building or on an open lot, and which has operating requirements which necessitate location within the district, including civic structures (such as museums, post offices, administrative offices of government agencies), public libraries, police stations, transportation facilities, utility installations, including Internet Services Exchange, and wireless transmission facilities. Such use shall not include service yards, machine shops, garages, incinerators and publicly operated parking in a garage or lot. "Publicly operated parking" is defined in Sections 790.8 and 790.10 of this Code. Public uses shall also include a community recycling collection center, as defined in Subsection (a) below.

(a) Community Recycling Collection Center. A public use, which collects, stores or handles recyclable materials, including glass and glass bottles, newspaper, aluminum, paper and paper products, plastic and other materials which may be processed and recovered, if within a completely enclosed container or building, having no openings other than fixed windows or exits required by law, provided that: (1) flammable materials are collected and stored in metal containers and (2) collection hours are limited to 9:00 a.m. to 7:00 p.m. daily. It does not include the storage, exchange, packing, disassembling or handling of junk, waste, used furniture and household equipment, used cars in operable condition, used or salvaged machinery, or salvaged house-wrecking and structural steel materials and equipment.

### **SEC. 790.84. RESIDENTIAL CONVERSION.**

The change in occupancy (as defined and regulated by the Building Code) of any residential use to a nonresidential use. This definition shall not apply to conversions of residential hotels, as defined and regulated in Chapter 41 of the San Francisco Administrative Code.

### **SEC. 790.86. RESIDENTIAL DEMOLITION.**

The demolition (as defined by the Building Code) of any building or structure or portion thereof containing a residential use. This definition shall not apply to demolitions of residential hotels, as regulated in Chapter 41 of the San Francisco Administrative Code.

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### SEC. 790.88. RESIDENTIAL USE.

A use which provides housing for San Francisco residents, rather than visitors, including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a residential hotel, as defined in Section 790.47 of this Code and in Chapter 41 of the San Francisco Administrative Code.

(a) Dwelling Unit. A residential use which consists of a suite of two or more rooms and includes sleeping, bathing, cooking, and eating facilities, but has only one kitchen.

(b) Group Housing. A residential use which provides lodging or both meals and lodging without individual cooking facilities for a week or more at a time in a space not defined as a dwelling unit. Group housing includes, but is not limited to, a rooming house, boarding house, guest house, lodging house, residence club, commune, fraternity and sorority house, monastery, nunnery, convent, and ashram. It also includes group housing operated by a medical or educational institution when not located on the same lot as such institution.

### SEC. 790.90. RESTAURANT, LARGE FAST-FOOD.

(a) A retail eating or drinking use which provides ready-to-eat food to a high volume of customers at a high turnover rate for consumption on or off the premises, which may or may not provide seating. Such use exhibits the following characteristics:

- (1) A gross floor area of 1,000 square feet or more;
- (2) A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;
- (3) Food served in disposable wrappers or containers;
- (4) Food is ordered and served at customer service counter;
- (5) Food is paid for prior to consumption;
- (6) Public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages;
- (7) Food available upon a short waiting time.

It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, self-service specialty food use, as described in Section 790.93 of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no-site food preparation area, such as confectionery or produce stores. When a fast-food restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant use shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters, excluding fish, poultry and meat counters.

(c) It may provide off-site beer, wine, and/or liquor sales for consumption off the premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.

(d) It shall be conducted in accordance with the following conditions:

- (1) All debris boxes shall be kept in enclosed structures.

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(2) The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.

(3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

### **SEC. 790.91. RESTAURANT, SMALL SELF-SERVICE.**

(a) A retail eating or eating and drinking use which provides ready-to-eat food for consumption on and off the premises and which may or may not provide seating. Such use exhibits the following characteristics:

(1) Contains fewer than 50 seats and less than 1,000 square feet of gross floor area;

(2) A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;

(3) Food served in disposable wrappers or containers;

(4) Food is ordered and served at customer service counter;

(5) Food is paid for prior to consumption;

(6) Public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages;

(7) Food available upon a short waiting time.

It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, self-service specialty food use, as described in Section 790.93 of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no-site food preparation area, such as confectionery or produce stores. When a fast-food restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant use shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters, excluding fish, poultry and meat counters.

(b) It may provide off-site beer, wine and/or liquor sales for consumption off the premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48) or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.

(c) It shall be conducted in accordance with the following conditions:

(1) All debris boxes shall be kept in enclosed structures.

(2) The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.

(3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

### **SEC. 790.92. RESTAURANT, FULL-SERVICE.**

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A retail eating or eating and drinking use which serves food to customers primarily for consumption on the premises, and is not specifically designed to attract and accommodate high customer volumes or turnover.

It has seating and serves prepared, ready-to-eat cooked foods for consumption on the premises. Guests typically order and receive food and beverage while seated at tables on the premises and pay for service after the meal is consumed.

It includes, but is not limited to, lunch counters, coffee shops, soda fountains and full-service dining establishments. It is distinct and separate from a small or large fast-food restaurant, as defined in Sections 790.90 and 790.91 of this Code.

It may provide on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.

### **SEC. 790.100. SALES AND SERVICES, NONRETAIL.**

A commercial use which provides goods and/or services, including light manufacturing, wholesale sales, and administrative services, as defined in Sections 790.54 and 790.106 of this Code, respectively, exclusively to the business community and not to the general public.

### **SEC. 790.102. SALES AND SERVICES, OTHER RETAIL.**

A retail use which provides goods and/or services but is not listed as a separate zoning category in zoning category numbers .41 through .63 listed in Article 7 of this Code, including but not limited to, sale or provision of the following goods and services:

(a) General groceries. As used herein, general groceries means:

(1) An individual retail food establishment that:

(A) Offers a diverse variety of unrelated, non-complementary food and non-food commodities, such as beverages, dairy, dry goods, fresh produce and other perishable items, frozen foods, household products, and paper goods;

(B) May provide beer, wine, and/or liquor sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) within the accessory use limits as set forth in Section 703.2(b)(1)(C)(vi);

(C) Prepares minor amounts or no food on-site for immediate consumption; and

(D) Markets the majority of its merchandise at retail prices.

(b) Specialty groceries. As used herein, specialty groceries means:

(1) An individual retail food establishment that:

(A) Offers specialty food products, such as baked goods, pasta, cheese, confections, coffee, meat, seafood, produce, artisanal goods and other specialty food products, and may also offer additional food and non-food commodities related or complementary to the specialty food products;

(B) May provide beer, wine, and/or liquor sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) within the accessory use limits as set forth in Section 703.2(b)(1)(C)(vi);

(C) Prepares minor amounts or no food on-site for immediate consumption; and



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- (D) Markets the majority of its merchandise at retail prices.
- (c) Pharmaceutical drugs and personal toiletries;
- (d) Personal items such as tobacco and magazines;
- (e) Self-service laundromats and dry cleaning, where no portion of a building occupied by such use shall have any opening other than fixed windows and exits required by law within 50 feet of any R District;
- (f) Household goods and service (including paint, fixtures and hardware, but excluding other building materials);
- (g) Variety merchandise, pet supply stores and pet grooming services;
- (h) Florists and plant stores;
- (i) Apparel and accessories;
- (j) Antiques, art galleries, art supplies and framing service;
- (k) Home furnishings, furniture and appliances;
- (l) Books, stationery, greeting cards, office supplies, copying service, music and sporting goods;
- (m) Toys, gifts, and photographic goods and services; and
- (n) Retail coffee stores. As used herein, retail coffee store means:
  - (1) A retail drinking use which provides ready-to-drink coffee and/or other nonalcoholic beverages for consumption on or off the premises, which may or may not provide seating. Its intended design is not to serve prepared ready-to-eat food for consumption on or off the premises, except where a conditional use is granted for an exception in the West Portal NCD pursuant to the "Specific Provisions for the West Portal District." Such use exhibits the following characteristics:
    - (A) Contains no more than 15 seats with no more than 400 square feet of floor area devoted to seating,
    - (B) A limited menu of beverages prepared on the premises and able to be quickly prepared for consumption on or off the premises,
    - (C) Beverages served in disposable or nondisposable containers for consumption on or off the premises,
    - (D) Beverages are ordered and served at a customer service counter,
    - (E) Beverages are paid for prior to consumption,
    - (F) Public service area, including queuing areas and service counters, which counters are designed specifically for the sale and distribution of beverages;
    - (G) Beverages are available upon a short waiting time,
    - (H) Equipment to prepare beverages for consumption,
    - (I) Limited amount of nonprepackaged food goods may be served, such as pastries or similar goods,
    - (J) No on-site food preparation, and no equipment to cook or reheat food or prepare meals other than that connected to beverage preparation, except where a conditional use is granted for an exception in the West Portal NCD pursuant to the "Specific Provisions for the West Portal District."
    - (K) Coffee beans, tea, syrups, herbs and other beverage-based products and equipment to make and/or reconstitute beverages or consume coffee, tea and/or other beverages may be sold.

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It may include any use permitted for specialty grocery, as defined in Section 790.102(b), but if so, such use shall not include accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, except to the extent permitted by this Subsection 790.102(n). It is distinct and separate from a small self-service or large fast-food restaurant, as defined in Section 790.90 and 790.91 of this Code, or a full-service restaurant as defined in Section 790.92 of this Code.

(2) It shall be conducted in accordance with the following conditions:

(A) All debris boxes shall be kept in enclosed structures,

(B) The operator shall be responsible for cleaning the sidewalk in front of or abutting the building to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code,

(C) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

This Section excludes tourist motels, as distinguished from tourist hotels in Section 790.46 of this Code, amusement game arcades as defined in Section 790.4 of this Code and household goods self-storage facilities, which are included in storage as defined in Section 790.117 of this Code. It also excludes the sale of heating fuel and the sale or rental of commercial equipment (excluding office equipment) and construction materials, other than paint, fixtures and hardware.

### **SEC. 790.104. SALES AND SERVICES, RETAIL.**

A commercial use which provides goods and/or services directly to the consumer. It may provide goods and/or services to the business community, provided that it also serves the general public. It does not include a nonretail use which is inaccessible to the general public, as defined in Sections 790.54, 790.100, and 790.106 of this Code.

### **SEC. 790.106. SERVICE, ADMINISTRATIVE.**

A nonretail use which provides executive, management, administrative, clerical and other services exclusively to the business community and not to the general public.

Administrative services may include accessory storage, but not the storage of items, other than samples, for wholesale sale.

It does not include services which are available to the general public.

### **SEC. 790.107. SERVICE, PHILANTHROPIC ADMINISTRATIVE.**

A nonretail use which provides executive, management, administrative, and clerical services and support related to philanthropic activities that serve non-profit institutions and organizations; such philanthropic activities may include funding and support of educational, medical, environmental, cultural, and social services institutions and organization. Such uses:

- a. May not be located on the first story of buildings, where the most recent prior use of which was any use other than residential or office; and
- b. May be located in a single undivided space not physically separated from a residential use; provided that:
  1. Any Residential Conversion above the first story, associated with, or following, commencement of such use shall be considered a conditional use requiring approval pursuant to Section 703.2(b)(1)(B); and

## PLANNING CODE LAND USE DEFINITIONS

2. Any loss of dwelling units described in Section 317 shall require approval as provided in Section 317.

### **SEC. 790.108. SERVICE, BUSINESS OR PROFESSIONAL.**

A retail use which provides to the general public, general business or professional services, including but not limited to, architectural, management, clerical, accounting, legal, consulting, insurance, real estate brokerage, and travel services.

It also includes business offices of building, plumbing, electrical, painting, roofing, furnace or pest control contractors, if no storage of equipment or items for wholesale use are located on-site. It may also include incidental accessory storage of office supplies and samples. Parking, loading and unloading of all vehicles shall be located entirely within the building containing the use.

It may provide services to the business community, provided that it also provides services to the general public. Otherwise, it shall be considered a nonretail service, as defined in Section 790.100 of this Code.

It does not include research service of an industrial or scientific nature in a commercial or medical laboratory, other than routine medical testing and analysis by a health-care professional or hospital.

### **SEC. 790.109. RESERVED.**

### **SEC. 790.110. SERVICE, FINANCIAL.**

A retail use which provides banking services and products to the public, such as banks, savings and loans, and credit unions, when occupying more than 15 feet of linear frontage or 200 square feet of gross floor area. Any applicant for a financial service use shall provide the Planning Department with a true copy of the license issued to it by the State of California.

### **SEC. 790.111. SERVICE, FRINGE FINANCIAL.**

A retail use that provides banking services and products to the public and is owned or operated by a "check casher" as defined in California Civil Code Section 1789.31, as amended from time to time, or by a "licensee" as defined in California Financial Code Section 23001(d), as amended from time to time. Any applicant for a fringe financial service use shall provide the Planning Department with a true copy of the license issued to it by the State of California.

### **SEC. 790.112. SERVICE, LIMITED FINANCIAL.**

A retail use which provides banking services, when not occupying more than 15 feet of linear frontage or 200 square feet of gross floor area. Automated teller machines, if installed within such a facility or on an exterior wall as a walk-up facility, are included in this category; however, these machines are not subject to the hours of operation, as defined in Section 790.48 of this Code and set forth in zoning category number .27 listed in Article 7 of this Code for each district. Any applicant for a limited financial service use shall provide the Planning Department with a true copy of the license issued to it by the State of California.

### **SEC. 790.113. RESERVED.**

### **SEC. 790.114. SERVICE, MEDICAL.**

A retail use which provides medical and allied health services to the individual by physicians, surgeons, dentists, podiatrists, psychologists, psychiatrists, acupuncturists, chiropractors, or any other health-care professionals when licensed by a State-sanctioned Board overseeing the provision of medically oriented services. It includes a clinic, primarily providing outpatient care in medical, psychiatric or other health services, and not part of a hospital or medical center, as defined in Section 790.44 of this Code.

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### SEC. 790.115. RESERVED.

### SEC. 790.116. SERVICE, PERSONAL.

A retail use which provides grooming services to the individual, including salons, cosmetic services, tattoo parlors, and health spas, or instructional services not certified by the State Educational Agency, such as art, dance, exercise, martial arts, and music classes.

### SEC. 790.93. SPECIALTY FOOD, SELF-SERVICE.

(a) A retail use whose primary function is to prepare and provide ready-to-eat specialty foods to a high volume of customers who carry out the food for off-premises consumption. Such use exhibits each of the following characteristics: (1) Contains a service counter designed specifically for the sale and distribution of food that has been prepared on site; (2) Food is paid for prior to consumption; (3) Typically open for retail sales on weekdays during daytime hours; and (4) May contain no more than 10 seats including sidewalk seating. It often includes wholesaling, manufacturing, or processing of foods, goods, or commodities on the premises as an accessory use as set forth in Section 703.2(b)(1)(C)(v).

(b) It includes, but is not limited to, specialty foods provided by bakeries, delicatessens, and confectioneries meeting each of the above characteristics, but it is distinct from small a self-service restaurant use as defined in Section 790.91, a large fast-food restaurant use as defined in Section 790.90 or a retail coffee store as defined in 790.102(n). It does not include general or specialty grocery stores with accessory take-out food activity as described in Section 703.2(b)(1)(C) or retail uses which sell prepackaged or bulk ready-to-eat-foods with no on-site food preparation area.

(c) It shall not provide on-site beer and/or wine sales for consumption on the premises, but may provide beer and/or wine sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) within the accessory use limits as set forth in Section 703.2(b)(1)(C)(vi).

### SEC. 790.117. STORAGE.

A retail use which stores within an enclosed building household goods or goods and materials used by other businesses at other locations, but which does not store junk, waste, salvaged materials, automobiles, inflammable or highly combustible materials, or wholesale goods or commodities. It shall include self-storage facilities for household goods.

### SEC. 790.122. TAKE-OUT FOOD.

A retail eating or eating and drinking use without seating which provides ready-to-eat food to a high volume of customers, who carry out the food for off-premises consumption. It sells in disposable wrappers or containers ready-to-eat food which is prepared on the premises and generally intended for immediate consumption off the premises.

It includes, but is not limited to, delicatessens, ice cream and cookie stores, and retail bakeries. It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no on-site food preparation area, such as confectionery or produce stores.

It may provide off-site beer, wine, and/or liquor sales for consumption off the premises (with ABC license 20 or 21).

### SEC. 790.123. TOBACCO PARAPHERNALIA ESTABLISHMENT.

## PLANNING CODE LAND USE DEFINITIONS

A Tobacco Paraphernalia Establishment shall be, as established in Section 227(v) of this code, a retail use where more than 15% of the gross square footage of the establishment is dedicated to the sale, distribution, delivery, furnishing or marketing of Tobacco Paraphernalia from one person to another. . "Tobacco Paraphernalia" means paraphernalia, devices, or instruments that are designed or manufactured for the smoking, ingesting, inhaling, or otherwise introducing into the body of tobacco, products prepared from tobacco, or controlled substances as defined in California Health and Safety Code Sections 11054 et seq. "Tobacco Paraphernalia" does not include lighters, matches, cigarette holders, any device used to store or preserve tobacco, tobacco, cigarettes, cigarette papers, cigars, or any other preparation of tobacco that is permitted by existing law. Medical Cannabis Dispensaries, as defined in Section 3201(f) of the San Francisco Health Code, are not Tobacco Paraphernalia Establishments.

### **SEC. 790.124. TRADE SHOP.**

A retail use which provides custom crafted goods and/or services for sale directly to the consumer, reserving some storefront space for display and retail service; if conducted within an enclosed building having no openings other than fixed windows or exits required by law located within 50 feet of any R District. A trade shop includes, but is not limited to:

- (a) Repair of personal apparel, accessories, household goods, appliances, furniture and similar items, but excluding repair of motor vehicles and structures;
- (b) Upholstery services;
- (c) Carpentry;
- (d) Building, plumbing, electrical, painting, roofing, furnace or pest control contractors and storage of incidental equipment and supplies used by them, if no processing of building materials, such as mixing of concrete or heating of asphalt, is conducted on the premises, and if parking, loading and unloading of all vehicles used by the contractor is located entirely within the building containing the use;
- (e) Printing of a minor processing nature, including multicopy and blueprinting services and local newspaper printing;
- (f) Tailoring; and
- (g) Other artisan craft uses, including fine arts uses.

It does not include a shop which uses a single machine of more than five horsepower capacity, or a shop in which the mechanical equipment, together with related floor space used primarily by the operators of such equipment, occupies in the aggregate more than 1/3 of the total gross floor area of the use. A trade shop is distinct from light manufacturing, as defined in Section 790.54(a) of this Code.

### **SEC. 790.130. USE SIZE (NONRESIDENTIAL).**

The permitted gross floor area allowed each individual nonresidential use. "Gross floor area" is defined in Section 102.9 of this Code.

### **SEC. 790.135. VIDEO STORE.**

A retail use which, as its primary use, sells or rents to the general public any type of analog or digital reproduction of motion pictures, films, or television programming including, but not limited to, video tape, laser disc or digital video disc (DVD). Any such use which only distributes programming on line or which is an accessory use, as defined in Section 703.2(b)(1)(C), shall not be defined as a Video Store.

### **SEC. 790.140. WALK-UP FACILITY.**

## PLANNING CODE LAND USE DEFINITIONS

A structure designed for provision of pedestrian-oriented services when located on an exterior building wall, including window service, self-service operations, and automated bank teller machines (ATMs).

## PLANNING CODE LAND USE DEFINITIONS

### ARTICLE 8

#### SEC. 890. DEFINITIONS FOR .

This and the following Sections provide the definitions for Mixed Use Districts. In case of conflict between the following definitions and those set forth in Sections 102 through 102.28 and in Article 2, the following definitions shall prevail for Mixed Use Districts, unless the only definition or definitions referred to for a zoning category are ones in Sections 102 through 102.28 or in Article 2.

#### SEC. 890.2. AMBULANCE SERVICE.

A retail use which provides medically related transportation services.

#### SEC. 890.4. AMUSEMENT GAME ARCADE (MECHANICAL AMUSEMENT DEVICES).

A retail use which provides 11 or more amusement games such as video games, pinball machines, or other such similar mechanical and electronic amusement devices, as regulated in Sections 1036 through 1036.35 of the Police Code.

#### SEC. 890.6. ANIMAL HOSPITAL.

A retail use which provides medical care and accessory boarding services for animals, not including a commercial kennel as specified in Section 224(c) of this Code.

#### SEC. 890.7. AUTOMOBILE PARKING LOT, COMMUNITY RESIDENTIAL.

A use which provides temporary parking accommodations on an open lot or lot surrounded by a fence or wall for private automobiles, trucks, vans, bicycles and/or motorcycles for residents and visitors of residents of the vicinity, and for off-street car-share parking spaces, as defined in Section 166 of this Code, when permitted by this Code, without parking of commercial vehicles, recreational vehicles, mobile homes, boats or other vehicles or long-term storage of vehicles.

#### SEC. 890.8. AUTOMOBILE PARKING GARAGE, COMMUNITY RESIDENTIAL.

A use which provides temporary parking accommodations in a garage, or combination garage and lot for private automobiles, trucks, vans, bicycles and/or motorcycles for residents and visitors of residents in the vicinity, and for off-street car-share parking spaces, as defined in Section 166 of this Code, when permitted by this Code, without parking of commercial vehicles, recreational vehicles, mobile homes, boats or other vehicles or long-term storage of vehicles.

#### SEC. 890.9. AUTOMOBILE PARKING LOT, COMMUNITY COMMERCIAL.

A use which provides temporary parking accommodations on an open lot or lot surrounded by a fence or wall for automobiles, vans, trucks, bicycles and/or motorcycles for operators, employees, clients and/or visitors of a permitted, or approved conditional, nonresidential use in the vicinity, without parking of recreational vehicles, mobile homes, boats or other vehicles or storage of vehicles, goods or equipment.

#### SEC. 890.10. AUTOMOBILE PARKING GARAGE, COMMUNITY COMMERCIAL.

A use which provides temporary parking accommodations in a garage, or combination garage and lot, for automobiles, vans, trucks, bicycles and/or motorcycles for operators, employees, clients and/or visitors of a permitted, or approved conditional, nonresidential use in the vicinity, without parking of recreational vehicles, mobile homes, boats or other vehicles or storage of vehicles, goods or equipment.

## PLANNING CODE LAND USE DEFINITIONS

### **SEC. 890.11. AUTOMOBILE PARKING LOT, PUBLIC.**

A use which provides temporary parking accommodations for private automobiles, trucks, vans, bicycles or motorcycles on an open lot or lot surrounded by a fence or wall open to the general public, without parking of recreational vehicles, motor homes, boats or other vehicles, or storage of vehicles, goods or equipment.

### **SEC. 890.12. AUTOMOBILE PARKING GARAGE, PUBLIC.**

A use which provides temporary parking accommodations for automobiles, trucks, vans, bicycles or motorcycles in a garage open to the general public, without parking of recreational vehicles, mobile homes, boats or other vehicles, or storage of vehicles, goods or equipment.

### **SEC. 890.13. AUTOMOBILE SALE OR RENTAL.**

A retail use which provides vehicle sales or rentals whether conducted within a building or on an open lot.

### **SEC. 890.14. AUTOMOTIVE GAS STATION.**

A retail automotive service use which provides motor fuels, lubricating oils, air, and water directly into motor vehicles and without providing automotive repair services, and which also includes self-service operations which sell motor fuel only.

### **SEC. 890.15. AUTOMOTIVE REPAIR.**

A retail automotive service use which provides any of the following automotive repair services when conducted within an enclosed building having no openings, other than fixed windows or exits required by law, located within 50 feet of any R District: minor auto repair, engine repair, rebuilding, or installation of power train components, reconditioning of badly worn or damaged motor vehicle, collision service, or full body paint spraying. It may include other services for automobiles including, but not limited to, accessory towing, if all towed vehicles stored on the premises are limited to those vehicles which are to be repaired on the premises.

### **SEC. 890.16. AUTOMOTIVE SERVICE.**

A retail use which provides services for motor vehicles including automotive gas station, automotive service station, automotive repair, and automotive wash.

### **SEC. 890.18. AUTOMOTIVE SERVICE STATION.**

A retail automotive service use which provides motor fuels and lubricating oils directly into motor vehicles and minor auto repairs (excluding engine repair, rebuilding, or installation of power train components, reconditioning of badly worn or damaged motor vehicles, collision service, or full body paint spraying) and services which remain incidental to the principal sale of motor fuel. Repairs shall be conducted within no more than three enclosed service bays in buildings having no openings, other than fixed windows or exits required by law, located within 50 feet of any R District. It may include other incidental services for automobiles including, but not limited to, accessory towing, if the number of towing vehicles does not exceed one, and all towed vehicles stored on the premises are limited to those vehicles which are to be repaired on the premises.

### **SEC. 890.19. (AUTOMOTIVE) ~~MOTOR VEHICLE~~ TOW SERVICE.**

A service use which provides vehicle towing service, including accessory vehicle storage, when all tow trucks used and vehicles towed by the use are parked or stored on the premises.



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### **SEC. 890.20. AUTOMOTIVE WASH.**

A retail automotive service use which provides cleaning and polishing of motor vehicles, including self-service operations, when such cleaning and polishing are conducted within an enclosed building having no openings, other than fixed windows or exits required by law located within 50 feet of any R District, and which has an off-street waiting and storage area outside the building which accommodates at least 1/4 the hourly capacity in vehicles of the enclosed operations.

### **SEC. 890.22. BAR.**

A retail use which provides on-site alcoholic beverage sales for drinking on the premises, including bars serving beer, wine and/or liquor to the customer where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC] licenses 42, 48, or 61) and drinking establishments serving liquor (with ABC licenses 47 or 49) in conjunction with other uses which admit minors, such as restaurants, movie theaters, and other entertainment.

### **SEC. 890.23. BUSINESS GOODS AND EQUIPMENT SALES AND REPAIR SERVICE.**

A service use which involves the sale, rental, installation, servicing and/or repair of business goods and equipment including the following items: office machines and business equipment; calipers, gauges and other precision instruments; cameras and other optical equipment; medical, scientific, musical or navigational instruments; fire safety and security systems and equipment; and other similar business machines and equipment. It also includes motor, machine, engine and tool repair; welding and blacksmith services; furnace, boiler, tank and chimney maintenance and repair; sign manufacture and repair; mannequin service; and other similar services.

### **SEC. 890.25. CATERING SERVICES.**

A service use which involves the preparation and delivery of goods including the following items: food, beverages; balloons, flowers, plants, party decorations and favors; or cigarettes/candy.

### **SEC. 890.27. COMMERCIAL USES.**

Commercial uses include those uses listed in Sections 218 through 227 of Article 2 of this Code.

### **SEC. 890.28. DESIGN PROFESSIONAL.**

An office use which provides professional design services to the general public or to other businesses and includes architectural, landscape architectural, engineering, interior design and industrial design services. It does not include (1) the design services of graphic artists or other visual artists which are included in the definition of arts activities described in Section 102.2 of this Code; (2) the services of advertising agencies or other services which are included in the definition of professional service activities described in Section 890.108 of this Code or administrative services, financial services or medical service activities as identified in Sections 890.106, 890.110 or 890.114 of this Code.

### **SEC. 890.xx. DIGITAL MEDIA (DRAFT).**

*Space within any structure used by businesses and professionals that require primarily non-traditional office space due to either the production, storage, and display requirements, or the technological infrastructure needs of the occupants, including, but not limited to, the following: architectural, advertising, landscape architectural, engineering, interior design, industrial design services, multimedia, software development, web design, product design, electronic commerce, information technology, bio-infomatics and other computer based technology businesses. "Design, Creative and High Technology Uses" shall exclude traditional office uses such as banking, insurance, financial services, real estate, management, consulting, and sales.*

## PLANNING CODE LAND USE DEFINITIONS

### SEC. 890.30. DRIVE-UP FACILITY.

A structure designed for drive-to or drive-through trade which provides service to patrons while in private motor vehicles; excluding gas stations, service stations, auto repair garages and automotive wash, as defined in Sections 890.14, 890.15, 890.18 and 890.20 of this Code.

### SEC. 890.34. EATING AND DRINKING USE.

A retail use which provides food and/or beverages for either on-site or off-site food consumption including bars, full-service restaurants, fast-food restaurants, and take-out food.

### SEC. 890.36. ENTERTAINMENT, ADULT.

A retail use which includes the following: adult bookstore, as defined by Section 791 of the Police Code; adult theater, as defined by Section 791 of the Police Code; and encounter studio, as defined by Section 1072.1 of the Police Code. Such use shall be located no less than 1,000 feet from another adult entertainment use.

### SEC. 890.37. ENTERTAINMENT, OTHER.

In the Chinatown Mixed Use Districts, a retail use, other than adult entertainment, as defined in Section 890.36 of this Code, which provides live entertainment, including dramatic and musical performances, and/or operates as a dance hall which provides amplified taped music for dancing on the premises, including but not limited to those defined in Section 1060 of the Police Code. Other entertainment also includes a bowling alley, billiard parlor, shooting gallery, skating rink and other commercial recreational activity, but it excludes amusement game arcades, as defined in Section 890.4 of this Code and regulated in Section 1036 of the Police Code. For South of Market Districts, see Section 102.17.

### SEC. 803.6 FORMULA RETAIL

(c) Formula Retail Use Defined. Formula retail use is hereby defined as a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

(1) Standardized array of merchandise shall be defined as 50% or more of in-stock merchandise from a single distributor bearing uniform markings.

(2) Trademark shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

(3) Servicemark shall be defined as word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

(4) Decor shall be defined as the style of interior finishings, which may include but is not limited to, style of furniture, wallcoverings or permanent fixtures.

(5) Color Scheme shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.

(6) Facade shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.

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(7) Uniform Apparel shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

(8) Signage shall be defined as business sign pursuant to Section 602.3 of the Planning Code.

(9) "Retail sales activity or retail sales establishment" shall include the following uses, as defined in Article 8 of this code: "bar," "drive-up facility," "eating and drinking use," "restaurant, large fast-food," "restaurant, small fast-food," "restaurant, full-service," "sales and services, other retail," "sales and services, nonretail," "movie theater," "amusement game arcade," and "take-out food."

### **SEC. 890.39. GIFT STORE- TOURIST-ORIENTED.**

A retail use which involves the marketing of small art goods, gifts, souvenirs, curios, novelties to the public, particularly those who are visitors to San Francisco rather than local residents.

### **SEC. 890.44. HOSPITAL OR MEDICAL CENTER.**

A public or private institutional use which provides medical facilities for inpatient care, medical offices, clinics, and laboratories. It shall also include employee or student dormitories adjacent to medical facilities when the dormitories are operated by and affiliated with a medical institution. The institution must have met the applicable provisions of Section 304.5 of this Code concerning institutional master plans.

### **SEC. 890.46. HOTEL, TOURIST.**

A retail use which provides tourist accommodations including guest rooms or suites, which are intended or designed to be used, rented, or hired out to guests (transient visitors) intending to occupy the room for less than 32 consecutive days. This definition also applies to buildings containing six or more guest rooms designated and certified as tourist units, under Chapter 41 of the San Francisco Administrative Code. For purposes of this Code, a "tourist hotel" does not include a tourist motel, which contains guest rooms or suites which are independently accessible from the outside, with garage or parking space located on the lot, and designed for, or occupied by, automobile-traveling transient visitors. Tourist hotels shall be designed to include all lobbies, offices and internal circulation to guest rooms and suites within and integral to the same enclosed building or buildings as the guest rooms or suites.

### **SEC. 890.47. HOTEL, RESIDENTIAL.**

A hotel, as defined in Chapter 41 of the San Francisco Administrative Code, which contains one or more residential hotel units. A residential hotel unit is a guest room as defined in Section 203.7 of Chapter XII, Part II of the San Francisco Municipal Code (Housing Code), which had been occupied by a permanent resident on September 23, 1979, or any guest room designated as a residential unit pursuant to Sections 41.6 or 71.7 of Chapter 41 of the San Francisco Administrative Code. Residential hotels are further defined and regulated in the Residential Hotel Unit Conversion and Demolition Ordinance, Chapter 41 of the San Francisco Administrative Code.

### **SEC. 890.48. HOURS OF OPERATION.**

The permitted hours during which any commercial establishment, not including automated teller machines, may be open for business.

(a) Other restrictions on the hours of operation of movie theaters, adult entertainment, and other entertainment uses, as defined in Sections 890.64, 890.36, and 890.38 of this Code, respectively, shall apply pursuant to provisions in Section 303(c)(5), when such uses are permitted as conditional uses.

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(b) Exception for Pharmacies. A pharmacy may qualify for the exception to operate on a 24-hour basis provided in Section 790.48 of this Code.

### **SEC. 890.50. INSTITUTIONS, OTHER.**

A public or private, nonprofit or profit-making use, excluding hospitals and medical centers, which provides services to the community, and meets the applicable provisions of Section 304.5 of this Code concerning institutional master plans, including but not limited to the following:

(a) Assembly and Social Service. A use which provides social, fraternal, counseling or recreational gathering services to the community. It includes a private noncommercial clubhouse, lodge, meeting hall, family or district association, recreation building, or community facility not publicly owned. It also includes an unenclosed recreation area or noncommercial horticulture area not publicly owned.

(b) Child Care. A use which provides less than 24-hour care for children by licensed personnel and which meets the requirements of the State of California and other authorities.

(c) Educational Service. A use certified by the Western Association of Schools and Colleges which provides educational services such as a school, college or university. It may include, on the same premises, employee or student dormitories and other housing operated by and affiliated with the institution.

(d) Religious Facility. A use which provides religious services to the community such as a church, temple or synagogue. It may include on the same lot, the housing of persons who engage in supportive activity for the institution.

(e) Residential Care. A medical use which provides lodging, board, and care for one day or more to persons in need of specialized aid by personnel licensed by the State of California and which provides no outpatient services; including but not limited to, a board and care home, rest home, or home for the treatment of the addictive, contagious, or other diseases or physiological disorders.

(f) Job Training. A use which provides job training and may also provide vocational counseling and job referrals.

### **SEC. 890.51. JEWELRY STORE.**

A retail use which primarily involves the sale of jewelry to the general public. It may involve sales of precious stones, gems, precious metals, gold and silver or clocks and watches. Repair services or setting, custom design or manufacture of individual pieces of jewelry may also be provided.

### **SEC. 890.52. - LABORATORY.**

Laboratory shall mean space within any structure intended or primarily suitable for scientific research. The space requirements of uses within this category include specialized facilities and/or built accommodations that distinguish the space from office uses (as defined in Section 890.70), light manufacturing (as defined in Section 890.54(a)), or heavy manufacturing (including uses listed in 226(g) through 226(w)). Examples of laboratories include the following:

(a) Chemistry, biochemistry, or analytical laboratory;

(b) Engineering laboratory;

(c) Development laboratory;

(d) Biological laboratories including those classified by the Centers for Disease Control (CDC) and National Institutes of Health (NIH) as Biosafety level 1, Biosafety level 2, or Biosafety level 3;

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- (e) Animal facility or vivarium, including laboratories classified by the CDC/NIH as Animal Biosafety level 1, Animal Biosafety level 2, or Animal Biosafety level 3;
- (f) Support laboratory;
- (g) Quality assurance/Quality control laboratory;
- (h) Core laboratory.

### **SEC. 890.53. - LIFE SCIENCE.**

Life Science is an industry that involves the integration of natural and engineering sciences and advanced biological techniques using organisms, cells, and parts thereof for products and services. This includes the creation of products and services used to analyze and detect various illnesses, the design of products that cure illnesses, and/or the provision of capital goods and services, machinery, instruments, software, and reagents related to research and production. Life Science uses may utilize office, laboratory, light manufacturing, or other types of space. As a subset of Life Science uses, Life Science laboratories typically include biological laboratories and animal facilities or vivaria, as described in Section 890.52(d) and (e).

### **SEC. 890.54. LIGHT MANUFACTURING, WHOLESALE SALES, STORAGE.**

A commercial use, including light manufacturing, wholesale sales, and storage, as defined in Subsections (a), (b), (c), and (d) below.

(a) Light Manufacturing. A nonretail use which provides for the fabrication or production of goods, by hand or machinery, for distribution to retailers or wholesalers for resale off the premises, primarily involving the assembly, packaging, repairing, or processing of previously prepared materials, when conducted in an enclosed building having no openings other than fixed windows or exits required by law located within 50 feet of any R District. Light manufacturing uses include production and custom activities usually involving individual or special design, or handiwork, such as the following fabrication or production activities defined by the Standard Industrial Classification Code Manual as light manufacturing uses:

- (1) Food processing, not including mechanized assembly line production of canned or bottled goods;
- (2) Apparel and other garment products;
- (3) Furniture and fixtures;
- (4) Printing and publishing of books or newspaper;
- (5) Leather products;
- (6) Pottery;
- (7) Glass blowing;
- (8) Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks.

It shall not include the chemical processing of materials or the use of any machine that has more than five horsepower capacity, nor shall the mechanical equipment required for the use, together with related floor space used primarily by the operators of such equipment, in aggregate occupy more than 1/4 of the total gross floor area of the use.

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It shall be not include a trade shop, as defined in Section 890.124 of this Code, or a heavy industrial use subject to Section 226(e) through (w) of this Code. It shall not include general or heavy manufacturing uses, not described in this Subsection (a).

(b) Wholesale Sales. A nonretail use which exclusively provides goods or commodities for resale or business use, including accessory storage. It shall not include a nonaccessory storage warehouse.

(c) Commercial Storage. A commercial use which stores, within an enclosed building, household goods, contractors' equipment, building materials or goods or materials used by other businesses at other locations. This use shall not include the storage of waste, salvaged materials, automobiles, inflammable or highly combustible materials, and wholesale goods or commodities.

(d) Self-Storage. Retail facilities for the storage of household and personal goods.

### **SEC. 890.60. MASSAGE ESTABLISHMENT.**

A retail use as defined in Section 1900 of the Health Code, provided that the massage establishment has first obtained a permit from the Department of Public Health pursuant to Section 1908 of the San Francisco Health Code, and provided that the use is located no less than 1,000 feet from the premises of any other massage establishment; except that these requirements shall not apply where: (a) massage services are incidental to the institutional uses permitted in Sections 790.44 and 790.50 of this Code or to the use by an individual member of the facilities of a health club, gymnasium, or other facility with a regular membership which health club, gymnasium or other facility is used primarily for instruction and training in body building, exercising, reducing, sports, dancing, or other similar physical activities, or (2) the only massage service provided is chair massage, such service is visible to the public, and customers are fully-clothed at all times.

### **SEC. 890.133. MEDICAL CANNABIS DISPENSARY.**

A medical cannabis dispensary shall be as defined by Section 3301(f) of the San Francisco Health Code provided that.

(a) the medical cannabis dispensary has applied for a permit from the Department of Public Health pursuant to Section 3304 of the San Francisco Health Code;

(b) if medical cannabis is smoked on the premises, the parcel containing the medical cannabis dispensary is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community facility that primarily serves persons under 18 years of age, or a recreation building as defined in Section 890.50(a) of this Code that primarily serves persons under 18 years of age, unless not required by State law, and, regardless of whether medical cannabis is smoked on the premises, if the dispensary was not in operation as of April 1, 2005, as defined in Subsection (i), it is located not less than 1,000 feet from the parcel containing the grounds of an elementary or secondary school, public or private, or a community facility that primarily serves persons under 18 years of age, or a recreation building as defined in Section 890.50(a) of this Code that primarily serves persons under 18 years of age;

(c) if medical cannabis is smoked on the premises the dispensary shall provide adequate ventilation within the structure such that doors and/or windows are not left open for such purposes resulting in odor emission from the premises;

(d) regardless of whether medical cannabis is smoked on the premises the parcel containing the medical cannabis dispensary is not located on the same parcel as a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health;

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- (e) no alcohol is sold or distributed on the premises for on or off-site consumption;
- (f) upon acceptance of a complete application for a building permit for a medical cannabis dispensary the Planning Department shall cause a notice to be posted on the proposed site and shall cause written notice to be sent via U.S. Mail to all owners and occupants of properties within 300 feet of the subject lot in the same Assessor's Block and on the block face across from the subject lot as well as to all individuals or groups that have made a written request for notification regarding specific properties, areas or medical cannabis dispensaries;
- (g) all building permit applications shall be held for a period of 30 calendar days from the date of the mailed notice to allow review by residents, occupants, owners of neighborhood properties and neighborhood groups;
- (h) after this 30-day period, the Planning Commission shall schedule a hearing to consider whether to exercise its discretionary review powers over the building permit application for a medical cannabis dispensary. The scheduling and the mailed notice for this hearing shall be processed in accordance with Section 312(e) of this Code;
- (i) medical cannabis dispensaries that can demonstrate to the Planning Department, based on any criteria it may develop, that they were in operation as of April 1, 2005 and have remained in continuous operation since then, and that they have filed an application for a medical cannabis dispensary permit as provided in San Francisco Health Code section 3304 on or before July 1, 2007, must obtain a final permit on or before January 21, 2009, or must cease operations on January 21, 2009, or upon denial of a permit application if it occurs before January 21, 2009. Medical cannabis dispensaries that were in operation as of April 1, 2005, and were not in continuous operation since then, but can demonstrate to the Planning Department, based on any criteria it may develop, that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, also must obtain a permit on or before January 21, 2009, or must cease operations on January 21, 2009, or upon denial of a permit application if it occurs before January 21, 2009. Notwithstanding the foregoing, in no case shall a dispensary that had or has a suspended or revoked permit be considered to be in continuous operation. Any dispensary that began operation after April 1, 2005, and any dispensary that failed to file a permit application with the Department of Public Health as provided in San Francisco Health Code section 3304 on or before July 1, 2007, and has failed to file a completed application, including a California Environmental Quality Act categorical exemption application and a discretionary review application, with the Planning Department by August 15, 2007; or any dispensary that is located within an RH (Residential House) or RM (Residential Mixed) zoning district, must immediately cease operations;
- (j) any permit issued for a medical cannabis dispensary shall contain the following statement in bold-face type: "Issuance of this permit by the City and County of San Francisco is not intended to and does not authorize the violation of State or Federal law."

### **SEC. 890.62. MORTUARY.**

A retail use which provides funeral services, funeral preparation, or burial arrangements, including retail establishments that predominantly sell or offer for sale caskets, tombstones, or other funerary goods.

### **SEC. 890.64. MOVIE THEATER.**

A retail use other than an adult theater, regulated as adult entertainment, defined in Section 890.36 of this Code, which displays motion pictures, slides, or closed-circuit television pictures.

### **SEC. 890.68. NEIGHBORHOOD-SERVING BUSINESS.**

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A neighborhood-serving business cannot be defined by the type of use, but rather by the characteristics of its customers, types of merchandise or service, its size, trade area, and the number of similar establishments in other neighborhoods. The primary clientele of a "neighborhood-serving business," by definition, is comprised of customers who live and/or work nearby.

While a neighborhood-serving business may derive revenue from customers outside the immediately surrounding neighborhood, it is not dependent on out-of-neighborhood clientele.

A neighborhood-serving use provides goods and/or services which are needed by residents and workers in the immediate neighborhood to satisfy basic personal and household needs on a frequent and recurring basis, and which if not available require trips outside of the neighborhood.

A use may be more or less neighborhood-serving depending upon its trade area. Uses which, due to the nature of their products and services, tend to be more neighborhood-serving, are those which sell convenience items such as groceries, personal toiletries, magazines, and personal services such as cleaners, laundromats, and film processing. Uses which tend to be less neighborhood-oriented are those which sell more specialized, more expensive, less frequently purchased comparison goods such as automobiles and furniture.

For many uses (such as stores selling apparel, household goods, and variety merchandise), whether a business is neighborhood-serving depends on the size of the establishment: The larger the use, the larger the trade area, hence the less neighborhood-oriented.

Whether a business is neighborhood-serving or not also depends in part on the number and availability of other similar establishments in other neighborhoods: the more widespread the use, the more likely that it is neighborhood-oriented.

### **SEC. 890.69. NON-AUTO VEHICLE SALES OR RENTAL, LIGHT AND MARINE VEHICLES.**

A retail use offering new or used bicycles, scooters, motorcycles, boats or other marine vehicles for sale, rent or lease when conducted entirely within an enclosed building.

### **SEC. 890.70. OFFICE USE.**

(a) "Office use" shall mean space within a structure or portion thereof intended or primarily suitable for occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location services including, but not limited to, the following: Professional; banking; insurance; management; consulting; technical; sales; and design; and the non-accessory office functions of manufacturing and warehousing businesses; all uses encompassed within the definition of "office" in Section 219 of this Code (*circular reference!*); multimedia, software development, web design, electronic commerce, and information technology; all uses encompassed within the definition of "administrative services" in Section 890.106 of this Code; and all "professional services" as proscribed in Section 890.108 of this Code excepting only those uses which are limited to the Chinatown Mixed Use District.

(b) "Office use" shall exclude: retail uses; repair; any business characterized by the physical transfer of tangible goods to customers on the premises; wholesale shipping, receiving and storage; and design showrooms or any other space intended and primarily suitable for display of goods.

### **SEC. 890.38. OPEN AIR SALES.**

A retail use involving open air sale of new and/or used merchandise, except vehicles, but including agricultural products, crafts and/or art work.

### **SEC. 890.71. OUTDOOR ACTIVITY AREA.**



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An area, not including primary circulation space or any public street, located outside of a building or in a courtyard which is provided for the use or convenience of patrons of a commercial establishment including, but not limited to, newspaper sales, sitting, eating, drinking, dancing, and food service activities.

### **SEC. 890.80. PUBLIC USE.**

A publicly or privately owned use which provides public services to the community, whether conducted within a building or on an open lot, and which has operating requirements which necessitate location within the district, including civic structures such as museums, post offices, administrative offices of government agencies, public libraries, police stations, transportation facilities, utility installations, including Internet Services Exchange, and wireless transmission facilities. Such use shall not include service yards, machine shops, garages, incinerators and publicly operated parking in a garage or lot. Public uses shall also include a community recycling collection center, as defined in Subsection (a) below.

(a) Community Recycling Collection Center. A public use, which collects, stores or handles recyclable materials, including glass and glass bottles, newspaper, aluminum, paper and paper products, plastic and other materials which may be processed and recovered, if within a completely enclosed container or building, having no openings other than fixed windows or exits required by law. This use shall not include the storage, exchange, packing, disassembling or handling of waste, used furniture and household equipment, used cars in operable condition, used or salvaged machinery, or salvaged housewrecking and structural steel materials and equipment.

### **SEC. 890.84. RESIDENTIAL CONVERSION.**

The change in occupancy (as defined and regulated by the Building Code) of any residential use to a nonresidential use. This definition shall not apply to conversions of residential hotels as defined and regulated in Chapter 41 of the San Francisco Administrative Code.

### **SEC. 890.86. RESIDENTIAL DEMOLITION.**

The demolition (as defined by the Building Code) of any building or structure or portion thereof containing a residential use. This definition shall not apply to conversions of residential hotels as defined and regulated in Chapter 41 of the San Francisco Administrative Code.

### **SEC. 890.88. RESIDENTIAL USE.**

A use which provides housing for San Francisco residents, rather than visitors, including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a residential hotel, as defined in Section 890.47 of this Code and in Chapter 41 of the San Francisco Administrative Code.

(a) Dwelling Unit. A residential use which consists of a suite of two or more rooms and includes sleeping, bathing, cooking, and eating facilities, and has only one kitchen.

(b) Group Housing. A residential use which provides lodging or both meals and lodging without individual cooking facilities for a week or more at a time in a space not defined as a dwelling unit. Group housing includes, but is not limited to, a roominghouse, boarding house, guest house, lodging house, residence club, commune, fraternity and sorority house, monastery, nunnery, convent, and ashram. It also includes group housing operated by a medical or educational institution when not located on the same lot as such institution.

(c) Single Room Occupancy (SRO) Unit. A dwelling unit or group housing room consisting of no more than one occupied room with a maximum gross floor area of 350 square feet and meeting the Housing Code's minimum floor area standards. The unit may have a bathroom in addition to the occupied room.

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As a dwelling unit, it would have a cooking facility and bathroom. As a group housing room, it would share a kitchen with one or more other single room occupancy unit/s in the same building and may also share a bathroom. A single room occupancy building (or "SRO" building) is one that contains one or more SRO units and non nonaccessory living space.

### **SEC. 890.90. RESTAURANT, FAST-FOOD (SMALL).**

(a) A retail eating or eating and drinking use which provides quick food service for consumption on and off the premises and which exhibits the following characteristics:

- (1) Contains fewer than 50 seats and less than 1,500 square feet of gross floor area;
- (2) A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;
- (3) Food served in disposable wrappers or containers;
- (4) Food is ordered and served at customer service counter;
- (5) Food is paid for prior to consumption;
- (6) Food available upon a short waiting time.

It includes but is not limited to delicatessens, ice cream and cookie stores, sandwich shops, and bakeries. It does not apply to retail general or specialty grocery or confectionery stores. When a fast-food restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters excluding fish, poultry and meat counters.

(b) It may provide on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 890.22 of this Code.

(c) It shall be conducted in accordance with the following conditions:

- (1) All debris boxes shall be kept in enclosed structures.
- (2) The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
- (3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

### **SEC. 890.91. RESTAURANT, FAST-FOOD (LARGE).**

(a) A retail eating or eating and drinking use which provides quick food service to a high volume of customers at a high turnover rate, and which exhibits the following characteristics:

- (1) Contains 50 or more seats or gross floor area of 1,500 square feet or more;
- (2) A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;
- (3) Food served in disposable wrappers or containers;
- (4) Food is ordered and served at customer service counter;

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- (5) Food is paid for prior to consumption;
- (6) Public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages;
- (7) Food available upon a short waiting time.

It includes but is not limited to delicatessens, ice cream and cookie stores, sandwich shops, and bakeries. It does not apply to retail general or specialty grocery or confectionery stores. When a fast-food restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters excluding fish, poultry and meat counters.

(b) It may provide on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 890.22 of this Code.

(c) It shall be conducted in accordance with the following conditions:

- (1) All debris boxes shall be kept in enclosed structures.
- (2) The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
- (3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

### **SEC. 890.92. RESTAURANT, FULL-SERVICE.**

A retail eating or eating and drinking use which serves food to customers primarily for consumption on the premises, and is not specifically designed to attract and accommodate high customer volumes or turnover.

It has seating and serves prepared, ready-to-eat cooked foods for consumption on the premises. Guests typically order and receive food and beverage while seated on the premises and pay for service after the meal is served.

It includes, but is not limited to lunch counters, coffee shops, soda fountains and full-service dining establishments. It is distinct and separate from a small or large fast-food restaurant, as defined in Sections 890.90 and 890.91 of this Code.

It may provide on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 890.22 of this Code.

### **SEC. 890.100. SALES AND SERVICES, NONRETAIL.**

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A commercial use which provides goods and/or services primarily to other businesses rather than to the general public, including light manufacturing, wholesale sales, storage and administrative services, as defined in Sections 890.54 and 890.106 of this Code, respectively.

### **SEC. 890.102. SALES AND SERVICES, OTHER RETAIL.**

A retail use which provides goods and/or services but is not listed as a separate zoning category in zoning category numbers .41 through .63 of Sections 810 through 812 of this Code, including, but not limited to sale or provision of the following goods and services:

- (a) General groceries;
- (b) Specialty groceries such as cheese, confections, coffee, meat, produce;
- (c) Pharmaceutical drugs and personal toiletries;
- (d) Personal items such as tobacco and magazines;
- (e) Self-service laundromats and dry cleaning, where no portion of a building occupied by such use shall have any opening other than fixed windows and exits required by law within 50 feet of any R District;
- (f) Household goods and services (including paint, fixtures and hardware, but excluding other building materials);
- (g) Variety merchandise;
- (h) Florists and plant stores;
- (i) Apparel and accessories;
- (j) Antiques, art galleries and framing services;
- (k) Home furnishings, furniture and appliances;
- (l) Books, stationery, music and sporting goods; and
- (m) Toys, gifts, and photographic goods and services.

It excludes tourist motels, as distinguished from tourist hotels in Section 890.46 of this Code, amusement game arcades and household goods self-storage facilities, which are included in "storage," defined in Section 790.117 of this Code. It also excludes the sale of heating fuel and the sale or rental of commercial equipment (excluding office equipment) and construction materials, other than paint, fixtures and hardware.

### **SEC. 890.104. SALES AND SERVICES, RETAIL.**

A commercial use which provides goods and/or services directly to the consumer and not for resale and is accessible to the general public.

### **SEC. 890.106. SERVICE, ADMINISTRATIVE.**

A use, generally an office use, which provides executive, management, administrative, clerical and other services exclusively to the business community and not to the general public.

It does not include services which are available to the general public. Administrative services may include accessory storage, but not the storage of building materials, contractor's equipment, or maintenance equipment for nonresidential structures, or items, other than samples, for wholesale sale.

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### **SEC. 890.108. SERVICE, PROFESSIONAL.**

A use, generally an office use, which provides professional services to the general public or to other businesses including, but not limited to, accounting, legal, consulting, insurance, real estate brokerage, advertising agencies, public relations agencies, computer and data processing services, employment agencies, management consultants and other similar consultants, telephone message services, and travel services.

Within the Chinatown Mixed Use Districts, this definition shall also apply to building, plumbing, electrical, painting, roofing, furnace or pest control contractors and storage of incidental equipment and supplies used by them, if located entirely within an enclosed building having no openings other than fixed windows or exits required by law within 50 feet of an R District, and if the storage of equipment and supplies does not occupy more than of the total gross floor area of the use. No processing of building materials, such as mixing of concrete or heating of asphalt shall be conducted on the premises. Parking, loading and unloading of all vehicles used by the contractor shall be located entirely within the building containing the use.

This use shall not include research services of an industrial or scientific nature in a commercial or medical laboratory, other than routine medical testing and analysis by a health-care professional or hospital.

### **SEC. 890.111. SERVICE, BUSINESS.**

A use which provides the following kinds of services to businesses and/or to the general public: radio and television stations; newspaper bureaus; magazine and trade publication publishing; desktop publishing; product testing laboratories; microfilm recording; slide duplicating; bulk mail services; parcel shipping services; parcel labeling and packaging services; messenger delivery/courier services; uniform security services; sign painting and lettering services; building maintenance services; interior decorating services.

### **SEC. 890.110. SERVICE, FINANCIAL.**

A use, which provides banking services and products to the public, such as banks, savings and loans, and credit unions, when occupying more than 15 feet of linear frontage or 200 square feet of gross floor area. Any applicant for a financial service use shall provide the Planning Department with a true copy of the license issued to it by the State of California.

### **SEC. 890.113. SERVICE, FRINGE FINANCIAL.**

A retail use that provides banking services and products to the public and is owned or operated by a "check casher" as defined in California Civil Code Section 1789.31, as amended from time to time, or by a "licensee" as defined in California Financial Code Section 23001(d), as amended from time to time. Any applicant for a fringe financial service use shall provide the Planning Department with a true copy of the license issued to it by the State of California.

### **SEC. 890.112. SERVICE, LIMITED FINANCIAL.**

A retail use which provides banking services, when not occupying more than 15 feet of linear frontage or 200 square feet of gross floor area. Automated teller machines, if installed within such a facility or on an exterior wall as a walk-up facility, are included in this category; however, these machines are not subject to the hours of operation, as defined in Section 890.48 of this Code and set forth in zoning category number .27 of Sections 810 through 812 of this Code for each district. Any applicant for a limited financial service use shall provide the Planning Department with a true copy of the license issued to it by the State of California.

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### **SEC. 890.114. SERVICE, MEDICAL.**

A use, generally an office use, which provides medical and allied health services to the individual by physicians, surgeons, dentists, podiatrists, psychologists, psychiatrists, acupuncturists, chiropractors, or any other health-care professionals when licensed by a State-sanctioned Board overseeing the provision of medically oriented services. It includes a clinic, primarily providing outpatient care in medical, psychiatric or other health services, and not part of a hospital or medical center, as defined in Section 890.44 of this Code.

### **SEC. 890.116. SERVICE, PERSONAL.**

A retail use which provides grooming services to the individual, including salons, cosmetic services, tattoo parlors, and health spas, excluding massage establishments subject to Section 218.1 of this Code located within South of Market Districts, or instructional services not certified by the State Educational Agency, such as art, dance, exercise, martial arts, and music classes, except that in the South of Market Districts, arts activities falling within Section 102.2 shall not be considered personal services.

### **SEC. 890.122. TAKE-OUT FOOD.**

A retail eating or eating and drinking use without seating which provides ready-to-eat food to a high volume of customers, who carry out the food for off-premises consumption. The take-out food is sold in disposable wrappers or containers ready-to-eat food which is prepared on the premises and generally intended for immediate consumption off the premises.

Take-out food includes, but is not limited to, delicatessens, ice cream and cookie stores, and retail bakeries. It does not include retail grocery stores with accessory take-out food activity, as described in Section 803.2(b)(1)(C) of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no on-site food preparation area, such as confectionery or produce stores.

It may include off-site beer, wine, and/or liquor sales for consumption off the premises (with ABC licenses 20 or 21).

### **SEC. 890.123. TOBACCO PARAPHERNALIA ESTABLISHMENT**

A Tobacco Paraphernalia Establishment shall be, as established in Section 227(v) of this code, a retail use where more than 15% of the gross square footage of the establishment is dedicated to the sale, distribution, delivery, furnishing or marketing of Tobacco Paraphernalia from one person to another. "Tobacco Paraphernalia" means paraphernalia, devices, or instruments that are designed or manufactured for the smoking, ingesting, inhaling, or otherwise introducing into the body of tobacco, products prepared from tobacco, or controlled substances as defined in California Health and Safety Code Sections 11054 et seq. "Tobacco Paraphernalia" does not include lighters, matches, cigarette holders, any device used to store or preserve tobacco, tobacco, cigarettes, cigarette papers, cigars, or any other preparation of tobacco that is permitted by existing law. Medical Cannabis Dispensaries, as defined in Section 3201(f) of the San Francisco Health Code, are not Tobacco Paraphernalia Establishments.

### **SEC. 890.124. TRADE SHOP.**

A retail service use which provides custom-crafted goods and/or services for sale directly to the consumer, reserving some storefront space for display and retail service; if conducted within an enclosed building having no openings other than fixed windows or exits required by law located within 50 feet of any R District. A trade shop includes, but is not limited to:

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- (a) Repair of personal apparel, accessories, household goods, appliances, furniture and similar items, but excluding repair of motor vehicles and structures;
- (b) Upholstery services;
- (c) Carpentry;
- (d) Printing of a minor processing nature, including multicopy and blueprinting services and printing of pamphlets, brochures, resumes and small reports, but excluding printing of books, magazines or newspapers;
- (e) Tailoring; and
- (f) Other artisan craft uses, including fine arts uses.

Within the South of Market Districts, arts activities falling within Section 102.2 shall not be considered trade shops.

(g) Within South of Market Districts, this use shall include the offices of building, plumbing, electrical, painting, masonry, roofing, furnace or pest control contractors and storage of incidental equipment and supplies used by them, if located entirely within an enclosed building having no openings other than fixed windows or exits required by law within 50 feet of an R District. No processing of building materials, such as mixing of concrete or heating of asphalt shall be conducted on the premises. Parking, loading and unloading of all vehicles used by the contractor shall be located entirely within the building containing the use.

Within the Chinatown Mixed Use Districts, it does not include any shop which uses a single machine of more than five horsepower capacity, or a shop in which the mechanical equipment, together with related floor space used primarily by the operators of such equipment, occupies in the aggregate more than 1/3 of the total gross floor area of the use. A trade shop is distinct from light manufacturing, as defined in Section 890.54(a) of this Code.

### **SEC. 890.130. USE SIZE (NONRESIDENTIAL).**

The permitted gross floor area allowed each individual nonresidential use. "Gross floor area" is defined in Section 102.9 of this Code.

### **SEC. 890.131. VEHICLE STORAGE, OPEN LOT.**

A use which provides for the storage of buses, recreational vehicles, mobile homes, trailers or boats and/or storage for more than 72 hours of other vehicles on an open lot. It shall not include rooftop storage.

### **SEC. 890.132. VEHICLE STORAGE, ENCLOSED LOT OR STRUCTURE.**

A use which provides for the storage of buses, recreational vehicles, mobile homes, trailers or boats and/or storage for more than 72 hours of other vehicles in an enclosed lot or structure. It shall not include rooftop storage.

### **SEC. 890.140. WALK-UP FACILITY.**

A structure designed for provision of pedestrian-oriented services when located on an exterior building wall, including window service, self-service operations, and automated bank teller machines (ATMs).