SAN FRANCISCO
PLANNING
DEPARTMENT

GENERAL PLANNING INFORMATION

Accessory Uses for Dwellings

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Subject: Accessory Uses for Dwellings in All Zoning Districts

Introduction

Property owners and occupants living in Residential and Neighborhood Commercial Zoning Districts may engage in uses other than residences so long as the principal use of the residence remains as a dwelling and the proposed accessory use meets the requirements and restrictions as set forth in the Planning Code.

Please note that a permit is not typically required for these types of accessory uses if they meet the limitations as specified in the Code.

Planning Code Section 204.1

Planning Code Section 204.1 outlines the restrictions for accessory uses in Residential and Neighborhood Commercial Zoning Districts. It states:

No use shall be permitted as an accessory use to a dwelling unit in any District that involves or requires any of the following:

(a) Any construction features or alterations not residential in character;

(b) The use of more than 1/3 of the total floor area of the dwelling unit, except in the case of accessory off-street parking and loading or Neighborhood Agriculture as defined by Section 102.35;

(c) The employment of any person not a resident in the dwelling unit, with the following exceptions:
(1) a domestic servant, gardener, janitor or other person concerned in the operation or maintenance of the dwelling unit; or
(2) for a Cottage Food Operation, in addition to the foregoing exceptions, the employment of one employee who is not a family member or resident of the dwelling unit.

(d) Residential occupancy by persons other than those specified in the definition of family in this Code;

(e) In RH-1(D), RH-1 and RH-1(S) Districts, the provision of any room for a roomer

or boarder with access other than from within the dwelling unit;

(f) Addition of a building manager's unit, unless such unit meets all the normal requirements of this Code for dwelling units;

(g) The maintenance of a stock in trade other than garden produce related to Neighborhood Agriculture as defined by Section 102.35 or materials and products related to a Cottage Food Operation; or

(h) The use of show windows or window displays or advertising to attract customers or clients; or

(i) The conduct of a business office open to the public other than for sales related to garden produce of Neighborhood Agriculture as defined by Section 102.35 or to the finished products of a Cottage Food Operation; or

(j) A Medical Cannabis Dispensary as defined in Section 209.3(k) and 217(k) of this Code. Provided, however, that Subsection (i) of this Section shall not exclude the maintenance within a dwelling unit of the office of a professional person who resides therein, if accessible only from within the dwelling unit; and provided, further, that Subsection (h) shall not exclude the display of signs permitted by Article 6 of this Code.

Common Accessory Uses for Dwellings

The underlying concept of accessory uses under the Code is that the accessory function is minor and incidental to the principal use of the house or apartment as a residence. Some common accessory uses (by appointment only) include the following:

- Office (for industries such as acupuncture, architecture, chiropractic, dentistry, engineering, law, massage therapy or psychiatry)
- Music rehearsal studio
- Fortune Teller or Psychic

Planning Code Interpretations

The Zoning Administrator has issued a series of interpretations addressing specific cases where it was not obvious under the language of the Code as to whether a type of accessory use was allowed. This handout has been prepared to gather together all such determinations made up to the date of this publication to provide further guidance to the public as to what types of accessory uses might be deemed permissible.

Please note that this handout contains only a summation of previously adopted interpretations by the Zoning Administrator and is provided for the convenience of the reader. Further, the language presented in the Interpretations section of the Planning Code in full is controlling in the event of any apparent inconsistency between this summary and the original text.

Code Section: 204.1
Subject: Accessory uses, ABC licenses in R Districts
Effective Date: 12/87 (Revised 1/14)
The Planning Department can approve the issuance of ABC license numbers 9 (beer and wine importer), 17 (beer and wine wholesaler) and/or 20-Limited (containing conditions imposed by ABC limiting sales to internet, phone, and/or other non-in-person sales) in residential districts for an importer, wholesaler and/or on-line merchant operating out of an office conforming to the accessory use provisions of a home office (including the stock-in-trade prohibition). Note that a use including a Type 20 license without such limitations would be considered a liquor store that could typically not be approved in residential districts.

Code Section: 204.1
Subject: Teaching in an R District dwelling
Effective Date: 7/86
A person licensed by the State to teach dental technology cannot convene a class in his dwelling. The Section 204.1 provision for allowing a business open to the public for a professional person does not extend to a class situation. This is a school—not an office.

Code Section: 204.1
Subject: Accessory uses
Effective Date: 4/2/87
Incidental accessory uses in apartment buildings in medium and high density residential districts do not require direct connection with a particular dwelling unit as long as they serve an individual or individuals residing in the building and are not open to public use. Section 204 which provides general regulations for accessory uses requires accessory uses to be on the same lot but does not say they must adjoin the specific use or unit to which they are accessory.

Code Section: 204.1
Subject: Accessory use in a dwelling
Effective Date: 3/88
A homeowner occupied one-half of his duplex. He wanted to use a large room which he would use as a music rehearsal studio in the other unit. Other rooms,

including a bedroom and kitchen would remain on this lower floor. He wanted to be able to do this without losing the nonconforming two-unit status of the building. The rehearsal activity contemplated would be "a discrete use separable from the normal activities of domestic living" and, as such would be allowed only as an accessory use. Therefore, the studio space would have to be incorporated into the unit in which the user lives and not occupy more than 1/3 of that unit's floor area.

Code Section: 204.1
Subject: Office as accessory to group housing
Effective Date: 8/88
Section 204 states that an accessory use must be on the same lot as the use served. Except as pre-established nonconforming uses, offices are allowed in residential districts only as accessory to a permitted use. The only kind of office that can be allowed as accessory to group housing is that which serves only the lawful inhabitants of the lot. It cannot serve members of the group or organization who live elsewhere. Accessory uses authorized under this Section may not employ anyone who does not live in the housing except for persons concerned in the operation or maintenance of the dwelling unit. In cases where an accessory office provides services to the residents which services are one of the chief purposes for the group housing facility, such office employees may be considered to be persons concerned in the operation of the housing and therefore may be employed in an accessory office without being resident.

Code Section: 204.1
Subject: Recreation use as accessory to dwelling
Effective Date: 9/89
A use that is accessory to a dwelling can be placed within a legally noncomplying separate structure in a rear yard (in this case, a recreation room without bathroom plumbing for a fourplex.)

Code Section: 204.1
Subject: Recreation building accessory to residence
Effective Date: 2/91
In the case where a duplex legally existed at the rear of the lot and a garage was proposed for the buildable area of the lot, a second story of the garage could house a recreation room for use by residents of the dwellings on this lot without such room being considered a dwelling provided no plumbing is introduced to this accessory building. This arrangement would not violate the "contiguity" requirement of the NCIC but would require an NSR.

Code Section: 204.1
Subject: Church as residential accessory
Effective Date: 10/94
A gathering of persons in a dwelling for formal religious observances is an accessory use to a dwelling if it does not violate any other Code provision, the most relevant of which are this Section, Section 204 and Article 6 (including but not limited to the 1/3-of-floor-area limit and the sign restrictions) except that any group or gathering claiming a tax-exempt status as a church also shall be considered a church and not an accessory use for purposes of the Planning Code. This does not preclude members of a church already treated as such under the Planning Code from having incidental or concomitant meetings in residences.

Code Section: 204.1
Subject: Accessory business in R and NC, stock in trade
Effective Date: 6/95
One of the limitations prohibits the maintenance of a stock in trade. A very literal application of the term "stock in trade" was thought to be too restrictive as it could preclude even a writer's manuscript, a programmer's software, a telecommuter's office production or hobby craft maintained for sale. The purpose of the restriction is to maintain the character of the residential and NC Districts. It was thought that a stock in trade should be allowed if the appearances and activities necessary to maintain it were not distinguishable from those normally associated with a residential area. The following are examples of the kind of material that should not be considered "stock in trade" pursuant to this Section.

(1) Catalogs or samples of merchandise to be taken elsewhere to show potential buyers provided people do not come to the residence for the purpose of viewing the samples.

(2) Materials for assembly into finished products provided these materials are not acquired, and finished products are not accumulated, in such quantities that it requires handling by any person, device, appliance or vehicle that would not be allowed as an accessory to the use in question. Section 204.5(b) defines the size limits of vehicles that can be parked in a residential district and that standard would be used as a size limit for such delivery vehicles.

(3) Clocks and other antique furniture held for possible future sale by an antique dealer who uses them at home in the meantime, provided prospective buyers do not come to the residence for the sole purpose of shopping.

Generally, **any residential accessory business activity needs to meet the test of being indistinguishable from**

those normally associated with a residential area. Therefore, excessive volume and frequency of noise accompanying a residential accessory business would not be allowed. No delivery of residential accessory business material could be with a truck exceeding ¾-ton nor could deliveries by any means be frequent.

Code Section: 204.1
Subject: Residential accessory uses, "professional person"
Effective Date: 1/96
This Section disallows a business as an accessory use in a dwelling unit in an R or NC District which would be open to the public except for the maintenance within a dwelling unit of the office of a professional person who resides therein. Before 1978, the Code defined a "professional person" as, "a person legally qualified to practice dentistry, medicine, psychiatry, chiropractic, law, architecture or engineering." The 1978 Code dropped this definition, the definition, "any person engaged in an occupation that requires licensing by the State" was considered. However, over time, more occupations had licenses or certificates associated with them. It became difficult to ascertain for which ones a license was required to be practiced legally or for which ones a license or certificate constituted simply a trade endorsement. It was noted that the purpose of the Planning Code professional exemption was not to afford some occupations greater respect but to recognize that specific occupations had been traditionally practiced in San Francisco homes before zoning and had gained some legal merit for continuing in this manner. Therefore, the exemption shall be applied to those occupations which were thought to have been traditionally practiced in the dwelling of the practitioner because that is what the law traditionally allowed. The following determinations have been made on this basis:

1995: The practice of **acupuncture** is allowed as one discipline within medicine.
1/96: The practice of **electrolysis is NOT allowed**.
5/05: **Home-based massage therapy is a medical service provided by a professional and shall be allowed out of the home as such.**

No evidence was submitted to indicate that this activity would clearly fall within the practice of medicine or whether it has traditionally required a license for legal practice.

Code Section: 204.1
Subject: Office accessory to apartment building
Effective Date: 4/96
This Section governs activities that are accessory to dwellings in R or NC Districts. It prohibits the employment of any person not resident in the dwelling unit, other than a domestic servant, gardener, janitor or other person concerned in the operation or maintenance of the dwelling unit. It also prohibits the addition of a building manager's unit, unless such unit meets all the normal requirements of the Code for dwelling units. Therefore, one dwelling unit in an apartment building can be used by a nonresident manager who does not use the premises for the management of units off the site and if the unit retains all the features required by the Code for dwellings that it had as a dwelling unit.

Letters of Determination

A Zoning Administrator Letter of Determination can be requested for potential accessory uses that have not been listed in this handout or are not included in any Planning Code Interpretations. For more information regarding Letters of Determination, please review the Letters of Determination Handout.

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