

1 [Planning Code - Conversion of Certain Limited Restaurants to Restaurants - North Beach
2 Neighborhood Commercial District]

3 **Ordinance amending the Planning Code to allow certain Limited Restaurants in the**
4 **North Beach Neighborhood Commercial District to convert to Restaurants that may**
5 **apply for liquor licenses; and affirming the Planning Department's determination under**
6 **the California Environmental Quality Act; and making findings of consistency with the**
7 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

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

16 Section 1. Findings. The Board of Supervisors of the City and County of San
17 Francisco hereby finds and determines that:

18 (a) The Planning Department has determined that the actions contemplated in this
19 ordinance comply with the California Environmental Quality Act (California Public Resources
20 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. 200673, and is incorporated herein by reference. The Board affirms
22 this determination.

23 (b) On August 27, 2020, the Planning Commission, in Resolution No. 20779,
24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
25 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
2 the Board of Supervisors in File No. 200673, and is incorporated herein by reference.

3 (c) On August 27, 2020, the Planning Commission, in Resolution No. 20779,
4 approved this legislation, recommended it for adoption by the Board of Supervisors, and
5 adopted findings that it will serve the public necessity, convenience and welfare. Pursuant to
6 Planning Code Section 302, the Board adopts these findings as its own. A copy of said
7 Resolution is on file with the Clerk of the Board of Supervisors in File No. 200673, and is
8 incorporated herein by reference herein.

9
10 Section 2. The Planning Code is hereby amended by revising Sections 722 and 780.3,
11 to read as follows:

12
13 **SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT.**

14 * * * *

15 (6) NORTH BEACH LIQUOR LICENSES FOR RESTAURANTS (Section 780.3): A
16 Restaurant Use may only add ABC license types 02, 23, 41, 47, 49, 59 or 75 as a Conditional
17 Use on the First Story if, in addition to the criteria set forth in Section 303, the Planning
18 Commission finds that the Restaurant is operating as a Bona Fide Eating Place as defined in
19 Section 102. Should a Restaurant fail to operate as a Bona Fide Eating Place for any length of
20 time, the Conditional Use authorization shall be subject to immediate revocation. To verify that
21 the Restaurant is continuing to operate as a Bona Fide Eating Place, records of the
22 Restaurant's gross receipts, showing that a minimum of 51% of its gross receipts within the
23 last year is from food sales prepared and sold to guests on the premises, shall be provided to
24 the Department upon request. All records and information shall be submitted to the
25 Department under penalty of perjury.

1 **SEC. 780.3. NORTH BEACH SPECIAL USE DISTRICT.**

2 * * * *

3 (c) Controls. The following provisions shall apply within such District:

4 * * * *

5 (2) Alcohol Licenses.

6 (A) A Restaurant may provide on-site beer, wine, and/or liquor sales
7 for drinking on the premises (with ABC license types 02, 23, 41, 47, 49, 59 or 75) as a
8 Conditional Use on the First Story if, in addition to the criteria set forth in Section 303, the
9 Planning Commission finds, based on information submitted to the Department by the
10 applicant, that the Restaurant is and will continue to operate as a Bona-Fide Eating Place as
11 defined in Section 102. Should a Restaurant fail to operate as a Bona-Fide Eating Place for
12 any length of time, the Conditional Use authorization shall be subject to immediate revocation
13 per Planning Code Section 303(f). To verify that the Restaurant is continuing to operate as a
14 Bona-Fide Eating Place, records of the Restaurant's gross receipts, showing that a minimum
15 of 51% of its gross receipts within the last year preceding the Department's request is from
16 food sales prepared and sold to guests on the premises, shall be provided to the Department
17 upon request. All records and information shall be submitted to the Department under penalty
18 of perjury.

19 (B) Subject to the requirements set forth in this subsection (B), a Limited
20 Restaurant that existed as of March 1, 2020, may apply for a permit to convert to Restaurant use within
21 three months after the effective date of the ordinance in Board File No. 200673. The application to
22 convert to Restaurant Use shall include records submitted under penalty of perjury showing that the
23 Limited Restaurant has operated as a Bona Fide Eating Place for at least four full calendar months
24 between March 1, 2019 and February 29, 2020. The Department shall reject the application if the
25 records do not support the application for such conversion; otherwise, it shall approve it. If the

1 application to convert is approved, Restaurant Use shall be principally permitted, including for
2 purposes of being eligible to apply for a Conditional Use Authorization to permit the sale of alcohol on
3 the premises under Section 780.3(c)(2)(A). This subsection 780.3(c)(2)(B) shall expire three months
4 after the effective date of the ordinance in Board File No. 200673, and the City Attorney shall
5 thereafter cause this subsection to be removed from the Planning Code and the remaining subsections
6 of this Section 780.3 to be renumbered accordingly.

7 * * * *

8
9 Section 3. Effective Date. This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor’s veto of the ordinance.

13
14 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
15 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
16 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
17 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
18 additions, and Board amendment deletions in accordance with the “Note” that appears under
19 the official title of the ordinance.

20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: /s/ Andrea Ruiz-Esquide
23 ANDREA RUIZ-ESQUIDE
24 Deputy City Attorney

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