

1 [Haight Street Alcohol Restricted Use Subdistrict]
2 AMENDING PART II, CHAPTER II OF THE SAN FRANCISCO MUNICIPAL CODE
3 (PLANNING CODE) BY AMENDING SECTIONS 186.1, 719.40, 719.41, 719.42, 719.43.
4 719.44, AND 710.40, AND BY ADDING SECTION 781.9, TO CREATE THE HAIGHT
5 STREET ALCOHOL RESTRICTED USE SUBDISTRICT (RUSD), PROHIBITING NEW
6 ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES IN THE HAIGHT STREET
7 NEIGHBORHOOD COMMERCIAL DISTRICT AND IN NC-1 DISTRICTS WITHIN ¼ MILE OF
8 THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT; AND ADDING
9 LANGUAGE TO THE NC-1 AND HAIGHT STREET NEIGHBORHOOD COMMERCIAL
10 DISTRICT USE CHARTS ANNOUNCING THIS RESTRICTED USE SUBDISTRICT AS A
11 SPECIAL PROVISION FOR THIS NEIGHBORHHOD COMMERCIAL DISTRICT; AND
12 MAKING A DETERMINATION OF CONSISTENCY WITH THE PRIORITY POLICIES OF
13 PLANNING CODE SECTION 101.1.

14 Note: Additions are underlined; deletions are in ((double parentheses)).

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

16 Section 1. Findings. There is an unusually large number of establishments dispensing
17 alcoholic beverages, including beer and wine, for both on-site and off-site consumption in the
18 Haight Ashbury neighborhood. A concentration of alcoholic beverage establishments in a
19 neighborhood disrupts the desired mix of land uses that contribute to a livable neighborhood
20 and discourages more desirable and needed commercial uses in these areas. A
21 concentration of establishments selling alcoholic beverages in an area may therefore
22 contribute to the deterioration of the neighborhood and to the concomitant devaluation of
23 property and destruction of community values and quality of life. These effects contribute to
24 peace, health, safety and general welfare problems in these areas, including loitering, littering,
25 public drunkenness, driving while intoxicated, defacement and damaging of structures,

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1 pedestrian obstructions, as well as traffic circulation, parking and noise problems on public
2 streets and neighborhood lots. The existence of such problems creates serious impacts on
3 the health, safety and welfare of residents of nearby single- and multiple-family areas. These
4 impacts include fear for the safety of children, elderly residents and visitors to the area.

5 Section 2. Part II, Chapter II of the San Francisco Municipal Code is hereby amended
6 by amending Section 186.1, to read as follows:

7 SEC. 186.1. -- EXEMPTION OF NONCONFORMING USES IN NEIGHBORHOOD
8 COMMERCIAL DISTRICTS. The purpose of this Section is to provide for the further
9 continuance in NC Districts of nonconforming uses created by adoption of Ordinance No. 69-
10 87, as herein described, and subsequent ordinances that change the uses allowed in NC
11 Districts, which are beneficial to, or can be accommodated within the neighborhood
12 commercial areas in which they are located.

13 It is hereby found and declared that certain uses which traditionally have been
14 permitted to locate in neighborhood commercial areas can be beneficial to a neighborhood
15 commercial area in small or limited numbers, but which if allowed to proliferate, can disrupt
16 the balanced mix of neighborhood-serving retail stores and services. It is further found and
17 declared that in order to prevent undesirable overconcentrations of such uses, the
18 establishment of additional such uses shall be prohibited pursuant to controls ((adopted by
19 Ordinance No. 69-87)) governing uses in NC Districts. At the same time, however, it is
20 desirable to provide for the further continuance, expansion, enlargement, alteration, changes,
21 discontinuance, and relocation of such existing uses, which are nonconforming as a result of
22 zoning controls ((established by Ordinance No. 69-87, as described herein)) governing uses
23 in NC Districts.

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1 The following provisions shall govern with respect to nonconforming uses and features
2 located in Neighborhood Commercial Districts to the extent that there is a conflict between the
3 provisions of this Section and other Sections contained in this Article 1.7.

4 (a) Expansion. A nonconforming use may expand in floor area as provided in
5 Subsection (b) below, but may not expand beyond the lot which it occupies, nor may the
6 boundaries of such lot be expanded for purposes of expanding the use; nor may the use
7 expand upward above the story or stories which it lawfully occupies, except as provided in
8 Section 186.2 below.

9 (b) Enlargements or Alteration. A nonconforming use may not be significantly altered,
10 enlarged or intensified, except upon approval of a conditional use application pursuant to the
11 provisions of Article 3 of this Code, provided that the use not have or result in a greater height,
12 bulk or floor area ratio, less required rear yard or open space, or less required off-street
13 parking space or loading space than permissible under the limitations set forth in this Code for
14 the district or districts in which such use is located.

15 No existing use or structure which fails to meet the requirements of this Code in any
16 manner as described above in this Subsection (b) shall be constructed, reconstructed,
17 enlarged, altered or relocated so as to increase the discrepancy, or to create a new
18 discrepancy, at any level of the structure, between existing conditions on the lot and the
19 required standards for new construction set forth in this Code.

20 (c) Changes in Use. A nonconforming use may be changed to another use or feature
21 as described below.

22 (1) A nonconforming use may be changed to a use listed in Article 7 of this Code as a
23 principal use for the district in which the property is located, and the new use may thereafter
24 be continued as a permitted principal use.

1 (2) A nonconforming use may be changed to a use listed in Article 7 of this Code as a
2 conditional use for the district in which the use is located, subject to the provisions of Article 3
3 of this Code, and the new use may thereafter be continued as a permitted conditional use,
4 subject to the provisions of Section 178 of this Code.

5 (3) A nonconforming use may be changed to a use which is not permitted in that
6 Neighborhood Commercial District as described below, only upon approval of a conditional
7 use application, pursuant to the provisions of Article 3 of this Code:

8 (A) Any use described in zoning categories .41, .42, .43 or .44, as defined in Sections
9 790.22, 790.92, 790.90 and 790.91, respectively, may change to another use described in
10 zoning categories .41, .42, or .44, even though such other use is not permitted in that
11 Neighborhood Commercial District, unless such other use is located in an Alcohol Restricted
12 Use Subdistrict and is prohibited by the provisions governing that Alcohol Restricted Use
13 Subdistrict.

14 (B) Any use described in zoning categories .51, .52 or .53, as defined in Sections
15 790.114, 790.116 and 790.108 respectively, may change to another use described in zoning
16 categories .51, .52 or .53, even though such other use is not permitted in that Neighborhood
17 Commercial District.

18 (C) Any use described in zoning categories .57, .58 or .59, as defined in Sections
19 790.14, 790.17 and 790.15 respectively, may be demolished and reconstructed as the same
20 use or may change to another use described in zoning categories .57, .58 or .59, even though
21 such other use is not permitted in that Neighborhood Commercial District.

22 The new use shall still be classified as a nonconforming use.

23 The changes in use described in this Paragraph 3 shall include remodeling activities
24 involving the demolition and replacement of structures which result in a change of use.
25

1 (d)((4)) Discontinuance. A nonconforming use which is discontinued for a period of
2 three years, or otherwise abandoned or changed to another use which is listed in Article 7 of
3 this Code as a principal or conditional use for the district in which the use is located shall not
4 be reestablished.

5 (e)((5)) Relocation. A nonconforming use in a Neighborhood Commercial District
6 may be reestablished at another location within that Neighborhood Commercial District only
7 upon approval of a new conditional use application pursuant to the provisions of Article 3 of
8 this Code, provided that the following conditions are met:

9 (1)((A)) The original premises shall not be occupied by an establishment of the same
10 type of use as the relocating use unless by another establishment that is relocating from
11 within the district; and

12 (2)((B)) No final permits to operate the relocated use at the new premises are
13 granted prior to the issuance of a certificate of final completion of any work to the original
14 premises which is required as conditions attached to the approval of the conditional use
15 application; and

16 (3)((C)) Deed restrictions are recorded for the original premises in the Official
17 Records of the City and County of San Francisco, which restrictions prohibit for the duration of
18 the Code sections prohibiting the use for the district in which the use is located, the
19 establishment and operation of a new use of the same type of use as the relocated use,
20 unless such new use is relocating from within the district.

21
22 Section 3. Part II, Chapter II of the San Francisco Municipal Code (Planning Code) is
23 hereby amended by adding new Section 781.9 to read as follows:

24 SEC. 781.9 HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT. There
25 is an unusually large number of establishments dispensing alcoholic beverages, including

1 beer and wine, for both on-site and off-site consumption in the Haight-Ashbury neighborhood.
2 A concentration of alcoholic beverage establishments in a neighborhood disrupts the desired
3 mix of land uses that contribute to a livable neighborhood and discourages more desirable
4 and needed commercial uses in the area. A concentration of establishments selling alcoholic
5 beverages in an area may therefore contribute to the deterioration of the neighborhood and to
6 the concomitant devaluation of property and destruction of community values and quality of
7 life. These effects contribute to peace, health, safety and general welfare problems in these
8 areas, including loitering, littering, public drunkenness, driving while intoxicated, defacement
9 and damaging of structures, pedestrian obstructions, as well as traffic circulation, parking and
10 noise problems on public streets and neighborhood lots, and other nuisance activities. The
11 existence of such problems creates serious impacts on the health, safety and welfare of
12 residents of nearby single- and multiple-family areas. These impact include fear for the safety
13 of children, elderly residents and visitors to the area.

14 (a) Haight Street Alcohol Restricted Use Subdistrict Established. In order to preserve
15 the residential character and the neighborhood-serving commercial uses of the Haight-
16 Ashbury neighborhood, the Haight Street Alcohol Restricted Use Subdistrict (Haight Street
17 Alcohol RUSD) is hereby established with boundaries coterminous with the Haight Street
18 Neighborhood Commercial District as designated on Sectional Map numbers 6 and 7. The
19 Haight Street Alcohol RUSD is designated on Section Map Numbers 6SU and 7SU.

20 (1) No new on-sale or off-sale liquor establishment shall be permitted in the Haight
21 Street RUSD.

22 (2) These controls also shall apply within ¼ mile of the Haight Street Alcohol RSUD to
23 nonconforming uses in R districts pursuant to Planning Code Section 186, and in NC-1
24 Districts, pursuant to the Special Provisions for NC-1 Districts which follows the Control Table
25 constituting Sections 710.10 through 710.95.

1 (3) The prohibition on Liquor Establishments shall not be interpreted to prohibit the
2 following:

3 (A) Temporary uses, as described in Planning Code Section 205.1 or 205.3; or

4 (B) Establishment of a Liquor Establishment if application for such Liquor
5 Establishment is on file with the California Department of Alcoholic Beverage Control prior to
6 the effective date of legislation establishing the Haight Street Alcohol RUSD.

7 (4) Continuation of existing Prohibited Liquor Establishments. In the Haight Street
8 Alcohol RUSD, any Prohibited Liquor Establishment may continue in accordance with
9 Planning Code Section 180 through 186.2, subject to the following provisions. For purposes
10 of this section, the Haight Street Alcohol RUSD shall be considered to include, pursuant to
11 Section 186 of this Code and to the Special Provisions for NC-1 Districts, the area within ¼
12 mile of the Haight Street Alcohol RUSD as mapped.

13 (A) A Prohibited Liquor Establishment lawfully existing and selling alcoholic beverages
14 as licensed by the State of California prior to the effective date of this legislation, or
15 subsequent legislation prohibiting that type of Liquor Establishment, so long as otherwise
16 lawful, may continue to operate only under the following conditions, as provided by California
17 Business and Professions Code Section 23790:

18 (1) Except as provided by Subsection (B) below, the premises shall retain the same
19 type of retail liquor license within a license classification; and

20 (2) Except as provided by Subsection (B) below, the licensed premises shall be
21 operated continuously, without substantial change in mode or character of operation.

22 (B) A break in continuous operation shall not be interpreted to include the following,
23 provided that the location of the establishment does not change, the square footage used for
24 the sale of alcoholic beverages does not increase, and the type of California Department of
25

1 Alcoholic Beverage Control liquor license ("ABC License") does not change except as
2 indicated:

3 (1) A change in ownership of a Prohibited Liquor Establishment or an owner-to-owner
4 transfer of an ABC License; or

5 (2) Re-establishment, restoration or repair of an existing Prohibited Liquor
6 Establishment on the same lot after total or partial destruction or damage due to fire, riot,
7 insurrection, toxic accident or act of God; or

8 (3) Temporary closure of an existing Prohibited Liquor Establishment for not more than
9 ninety (90) days for repair, renovation or remodeling;

10 (4) Re-location of an existing Prohibited Liquor Establishment in the Haight Street
11 Alcohol RUSD to another location within the same Haight Street Alcohol RUSD with
12 conditional use authorization from the City Planning Commission, provided that the original
13 premises shall not be occupied by a Prohibited Liquor Establishment, unless by another
14 Prohibited Liquor Establishment that is also relocating from within the Haight Street Alcohol
15 RUSD.

16 (5) A change from a Type 21 (off-sale general) to a Type 20 (off-sale beer and wine)
17 license.

18 (b) Definitions:

19 (1) A "liquor establishment" shall mean any enterprise selling alcoholic beverages, as
20 defined by California Business and Professions Code Section 23004 and 23025, pursuant to a
21 California Alcoholic Beverage Control Board license.

22 (2) An "on-sale liquor establishment" shall mean any liquor establishment which has
23 obtained Alcoholic Beverage Control Board License type 40 (on-sale beer), type 41 (on-sale
24 beer and wine eating place), type 42 (on-sale beer and wine public premises), type 47 (on-
25 sale general eating place), type 48 (on-sale general public premises) or type 57 (special on-

1 sale general) selling alcoholic beverages for consumption on the premises. Typical on-sale
2 establishments may include but are not limited to bars and restaurants serving alcoholic
3 beverages. It shall not include types 51, 52, 59, 60, 61 67, 70 or 75.

4 (3) An “off-sale liquor establishment” shall mean any liquor establishment which has
5 obtained Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type
6 21 (off-sale general) selling alcoholic beverages in an open or a closed container for
7 consumption off the premises. Typical off-sale liquor establishments may include but are not
8 limited to the following uses licensed to sell off-sale alcoholic beverages: food markets,
9 supermarkets, drugstores, liquor stores, bars and convenience markets. It shall not include
10 producers and distributor’s licenses for offices or establishments not open to the general
11 public.

12 (4) A “prohibited liquor establishment” shall mean any establishment selling alcoholic
13 beverages lawfully existing prior to the effective date of the establishment on the Haight Street
14 Alcohol RUSD and licensed by the State of California for the retail sale of alcoholic beverages
15 for on or off-site consumption, so long as otherwise lawful.

16
17 Section 4. Part II, Chapter II of the San Francisco Municipal Code (“Planning Code”),
18 is hereby amended by adding the “pound” symbol [#] after the letter “P” in the “1st” [floor]
19 column and after the letter “C” in the “2nd” [floor] column and in the “3rd+” [floor] column of
20 Section 719.40; and by adding the “pound” symbol [#] in the blank spaces under all columns
21 of Sections 719.41, 719.42, 719.43, and 719.44, in the Haight Street NCD Zoning Control
22 Table to read as follows:

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No.	Zoning Category	§ Reference	Controls by Story		
			1st	2nd	3rd
719.40	Other Retail Sales and Service	§ 790.102	P#	C#	#

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1	719.41	Bar	§ 790.102	#	#	#
	719.42	Full-Service Restaurant	§ 790.102	#	#	#
2	719.43	Large Fast Food Restaurant	§ 790.102	#	#	#
	719.44	Small Self-Service Restaurant	§ 790.102	#	#	#

3
4 Section 5. Part II, Chapter II of the San Francisco Municipal Code (“Planning Code”),
5 is hereby amended by adding language to the end of the Control Table for the Haight Street
6 Neighborhood Commercial District, creating “Specific Provisions for the Haight Street
7 Neighborhood Commercial District,” which constitutes Sections 719.10 through Section
8 719.95, so the “Specific Provisions” will read as follows:

9 SPECIFIC PROVISIONS FOR THE HAIGHT STREET DISTRICT

11	<u>Article 7</u>	<u>Other Code</u>		<u>Zoning Controls</u>
12	<u>Code Section</u>	<u>Section</u>		
13	<u>§ 719.40</u>	<u>§§ 781.9</u>	<u>Boundaries:</u>	<u>The entire Haight Street</u>
14	<u>§ 719.41</u>			<u>Neighborhood Commercial District</u>
15	<u>§ 719.42</u>		<u>Controls:</u>	<u>Retail establishments selling off-</u>
16	<u>§ 719.43</u>			<u>sale or on-sale alcoholic beverages</u>
17	<u>§ 719.44</u>			<u>are not permitted pursuant to</u>
18				<u>Sections 781.9.</u>

19 Section 6. Part II, Chapter II of the San Francisco Municipal Code (“Planning Code”),
20 is hereby amended by adding the “pound” symbol [#] after the letter “P” in the “1st” [floor]
21 column of Section 710.40 in the NC-1 Neighborhood Commercial District Zoning Control
22 Table, to read as follows:

24	No.	Zoning Category	§ Reference	Controls by Story		
25	710.40	Other Retail Sales	§ 790.102	1st	2nd	3rd

and Services

P#

Section 7. Part II, Chapter II of the San Francisco Municipal Code ("Planning Code"), is hereby amended by adding the number designation of the use, "Other Retail Sales and Services" to the "Specific Provisions for NC-1 Districts" at the end of the Control Table for the NC-1 Neighborhood Commercial District, which constitutes Sections 710.10 through Section 710.95 to read as follows:

SPECIFIC PROVISIONS FOR NC-1 DISTRICTS

Article 7 Code Section	Other Code Section	Zoning Controls	
§ 710.40 § 710.41 § 710.42		Boundaries:	All NC-1 Districts
		Controls:	P if located more than ¼ mile from any NC District, or Restricted Use Subdistrict with more restrictive controls; otherwise, same as more restrictive control
§ 710.44		Boundaries:	All NC-1 Districts
		Controls:	C if located more than ¼ mile from any NC District, or Restricted Use Subdistrict with more restrictive controls; otherwise, same as more restrictive control
§ 710.42 § 710.43 § 710.44	§ 781	TARAVAL STREET RESTAURANT AND FAST FOOD SUBDISTRICT	
		Boundaries:	Applicable only for the two Taraval Street NC-1 Districts between 40th and 41st Avenues and 45th and 47th Avenues as mapped on Sectional Map 5 SU
		Controls:	Full-service restaurants and small self-service restaurants are C; large

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fast-food restaurants are NP

Section 8. Pursuant to Planning Code Section 101.1, this Board of Supervisors adopts San Francisco Planning Commission Resolution No. 14834 approving findings related to the Eight Priority Policies of Section 101.1 of the Planning Code. A copy of this Resolution is on file with the Clerk of the Board in File No. 990991 and is incorporated by reference as though fully set forth.

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

CITY PLANNING COMMISSION

By: Audrey T. Williams
Audrey T. Williams
Deputy City Attorney

Gerald G. Green
Gerald G. Green
Director of Planning



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Ordinance

File Number: 990991

Date Passed:

Ordinance amending Part II, Chapter II of the Planning Code by amending Sections 186.1, 719.40, 719.41, 719.42, 719.43, 719.44, and 710.40, and by adding Section 781.9, to create the Haight Street Alcohol Restricted Use Subdistrict (RUSD), prohibiting new establishments selling alcoholic beverages in the Haight Street Neighborhood Commercial District and in NC-1 Districts within 1/4 mile of the Haight Street Neighborhood Commercial District; and adding language to the NC-1 and Haight Street Neighborhood Commercial District Use Charts announcing this Restricted Use Subdistrict as a special provision for this Neighborhood Commercial District; and making a determination of consistency with the priority policies of Planning Code Section 101.1.

August 2, 1999 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Yaki, Yee

Absent: 1 - Teng

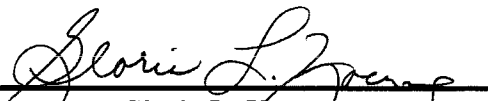
August 9, 1999 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Yaki, Yee

Absent: 2 - Katz, Teng

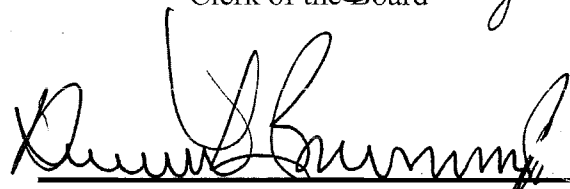
File No. 990991

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on August 9, 1999 by the Board of Supervisors of the City and County of San Francisco.


Gloria L. Young
Clerk of the Board

AUG 20 1999

Date Approved


Mayor Willie L. Brown Jr.