

1 [Zoning – New Controls for the North Beach Neighborhood Commercial District, to protect  
2 neighborhood-serving small businesses and Preserve Basic Neighborhood Services.]

3 **Draft Ordinance amending the San Francisco Planning Code by amending Section**  
4 **722.1 and the Zoning Control Table in Section 722 to protect neighborhood-serving**  
5 **small businesses in the North Beach Neighborhood Commercial District by prohibiting**  
6 **the establishment of new bars and restaurants in locations that have been occupied by**  
7 **Basic Neighborhood Services; to protect North Beach Specialty Take Out uses, such**  
8 **as traditional North Beach bakeries, delicatessens, gelato and ice cream stores, as**  
9 **defined; to prohibit the establishment of new ground-story Limited Financial and**  
10 **Business and Professional uses; to prohibit new automated bank teller machines**  
11 **(ATMs); to allow restaurants to obtain liquor licenses if they operate as a bona-fide**  
12 **eating places, as defined; and adding a new Section 790.142, to define bona-fide eating**  
13 **place; amending the definition of Basic Neighborhood Services in Section 790.68; and**  
14 **adopting findings, including environmental findings, Section 302 findings, and findings**  
15 **of consistency with the General Plan and the Priority Policies of Planning Code Section**  
16 **101.1.**

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18 Note: Additions are *single-underline italics Times New Roman*;  
19 deletions are ~~*strikethrough italics Times New Roman*~~.  
20 Board amendment additions are double underlined.  
21 Board amendment deletions are ~~strikethrough normal~~.

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

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

25 (a) The Planning Department has determined that the actions contemplated in this  
ordinance are in compliance with the California Environmental Quality Act (California Public

1 Resources Code Section 21000 et seq.). This determination is on file with the Clerk of the  
2 Board of Supervisors in File No. \_\_\_\_\_.

3 (b) At a duly noticed public hearing held on \_\_\_\_\_, the Planning  
4 Commission found in Resolution No. \_\_\_\_\_ that the proposed Planning Code  
5 amendments contained in this ordinance are consistent with the City's General Plan and with  
6 the Priority Policies of Planning Code Section 101.1. A copy of this Planning Commission  
7 Resolution is on file with the Clerk of the Board of Supervisors in File No.  
8 \_\_\_\_\_ and is incorporated herein by reference. The Board finds that the  
9 proposed Planning Code amendments contained in this ordinance are consistent with the  
10 City's General Plan and with the Section 101.1 Priority Policies for the reasons set forth in the  
11 Planning Commission Resolution cited above.

12 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this  
13 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in  
14 the Planning Commission Resolution cited above.

15 Section 2. The San Francisco Planning Code is hereby amended by amending Section  
16 722.1, to read as follows:

17 SEC. 722.1. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT.

18 The North Beach Neighborhood Commercial District is a nonlinear district centered on  
19 Columbus Avenue, located in the valley between Telegraph Hill and Nob Hill north of  
20 Broadway. North Beach functions as a neighborhood-serving marketplace, citywide specialty  
21 shopping, and dining district, and a tourist attraction, as well as an apartment and residential  
22 hotel zone. Traditionally, the district has provided most convenience goods and services for  
23 residents of North Beach and portions of Telegraph and Russian Hills. North Beach's eating,  
24 drinking, and entertainment establishments remain open into the evening to serve a much  
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1 wider trade area and attract many tourists. The balance between neighborhood-serving  
2 convenience stores and Citywide specialty businesses has shifted *gradually*, as *some*  
3 convenience stores have been replaced by *bakeries*, ice cream parlors, *and* restaurants *and*  
4 *bars*. The proliferation of *business and professional services and* financial services has also upset  
5 the district's balance of uses. The relocation of business and professional offices from  
6 downtown to North Beach threatens the loss of upper-story residential units.

7 The North Beach District controls are designed to ensure the livability and  
8 attractiveness of North Beach. Building standards limit new development to a small to  
9 moderate scale. Rear yards are protected above the ground story and at residential levels.  
10 Most new commercial development is permitted at the first two stories. Small-scale,  
11 neighborhood-serving businesses are strongly encouraged *and formula retail uses are*  
12 *prohibited. Use sizes are controlled to limit future consolidation of spaces and to encourage*  
13 *conversion back to the traditional small-scale commercial spaces. Special controls are necessary*  
14 *because an over-concentration of food and beverage service establishments limits neighborhood-*  
15 *serving small businesses in an area that needs them to thrive as a neighborhood. In order to protect*  
16 *and maintain neighborhood-serving small businesses and protect adjacent residential livability,*  
17 *additional eating and drinking establishments are prohibited in spaces that have been occupied by*  
18 *basic neighborhood services. ~~limit~~ Additional ground-story-eating and drinking, entertainment is*  
19 *limited. ~~and~~ Additional ground-story* business and professional office uses *and ground-story*  
20 *limited financial service uses are prohibited.* Financial services are prohibited from locating in the  
21 portion of the district south of Union Street, while new financial services locating in the portion  
22 of the district north of Union Street are limited. Restrictions on automobile and drive-up uses  
23 are intended to promote continuous retail frontage and maintain residential livability.

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1 In keeping with the district's existing mixed-use character, housing development in new  
 2 buildings is encouraged above the second story. Existing residential units are protected by  
 3 prohibitions of upper-story conversions and limitations on demolitions.

4 Section 3. The San Francisco Planning Code is hereby amended by amending the  
 5 Zoning Control Table of Section 722, to read as follows:

6  
 7 **SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT**  
 8 **ZONING CONTROL TABLE**

No.	Zoning Category	§ References	North Beach Controls
<b>BUILDING STANDARDS</b>			
722.10	Height and Bulk Limit	§§ 102.12, 105, 106, 250--252, 260, 270, 271	P up to 40 ft.
722.11	Lot Size [Per Development]	§§ 790.56, 121.1	P up to 4,999 sq. ft.; C 5,000 sq. ft. & above § 121.1
722.12	Rear Yard	§ 130, 134, 136	Required at the second story and above and at all residential levels § 134(a)(e)
722.13	Street Frontage		Required § 145.1
722.14	Awning	§ 790.20	P § 136.1(a)
722.15	Canopy	§ 790.26	P § 136.1(b)

1	722.16	Marquee	§ 790.58	P
2	722.17	Street Trees		§ 136.1(c) Required § 143
3				
4	<b>COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES</b>			
5	722.20	Floor Area Ratio	§§ 102.9, 102.11, 123	1.8 to 1 § 124(a) (b)
6				
7	722.21	Use Size [Nonresidential]	§ 790.130	P up to 1,999 sq. ft.; C 2,000 sq. ft. to 3,999 sq. ft. NP 4,000 sq. ft. and above § 121.2
8				
9				
10				
11	722.22	Off-Street Parking, Commercial/Institutional	§§ 150, 153--157, 159--160, 204.5	Generally, none required if occupied floor area is less than 5,000 sq. ft. §§ 151, 161(g)
12				
13	722.23	Off-Street Freight Loading	§§ 150, 153--155, 204.5	Generally, none required if gross floor area is less than 10,000 sq. ft. §§ 152, 161(b)
14				
15				
16	722.24	Outdoor Activity Area	§ 790.70	P if located in front; C if located elsewhere § 145.2(a)
17				
18	722.25	Drive-Up Facility	§ 790.30	
19	722.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft. #; C if not recessed § 145.2(b) #
20				
21	722.27	Hours of Operation	§ 790.48	P 6 a.m.--2 a.m. C 2 a.m.--6 a.m.
22				
23	722.30	General Advertising Sign	§§ 262, 602--604, 608, 609	
24				
25				

1	722.31	Business Sign	§§ 262, 602--604, 608,	P
2				§ 607.1(f)2
3	722.32	Other Signs	§§ 262, 602--604, 608,	P
4			609	§ 607.1(c) (d) (g)

				<b>North Beach</b>		
<b>No.</b>	<b>Zoning Category</b>	<b>§ References</b>	<b>Controls by Story</b>			
		§ 790.118	1st	2nd	3rd+	
7	722.38	Residential Conversion	§ 790.84	P		
8	722.39	Residential Demolition	§ 790.86	P	C C	

**Retail Sales and Services**

11	722.40	Other Retail Sales and Services [Not Listed Below]	§ 790.102	P #	P #
13	722.41	Bar	§§ 790.22, <u>790.68</u> , <u>790.142</u>	<u>C #</u>	
15	722.42	Full-Service Restaurant	§§ 790.92, <u>790.68</u> , <u>790.142</u>	<u>C #</u>	
17	722.43	Large Fast Food Restaurant	§ 790.90		
19	722.44	Small Self-Service Restaurant	§§ 790.91, <u>790.68</u> , <u>790.142</u>	<u>C #</u>	
21	722.45	Liquor Store	§ 790.55	C	
22	722.46	Movie Theater	§ 790.64	P	
23	722.47	Adult Entertainment	§ 790.36		
24	722.48	Other Entertainment	§ 790.38	C	

1	722.49	Financial Service	§ 790.110	C/NP #		
2	722.50	Limited Financial Service	§ 790.112	€	<u>P</u>	
3	722.51	Medical Service	790.114	P	P	
4	722.52	Personal Service	§ 790.116	P	P	
5	722.53	Business or Professional Service	§ 790.108	€	P	
6						
7	722.54	Massage Establishment	§ 790.60, § 1900 Health Code	C		
8						
9	722.55	Tourist Hotel	§ 790.46	C	C	C
10	722.56	Automobile Parking	§§ 790.8, 156, 160	C	C	C
11						
12	722.57	Automotive Gas Station	§ 790.14			
13	722.58	Automotive Service Station	§ 790.17			
14						
15	722.59	Automotive Repair	§ 790.15	C		
16	722.60	Automotive Wash	§ 790.18			
17	722.61	Automobile Sale or Rental	§ 790.12			
18	722.62	Animal Hospital	§ 790.6	C		
19	722.63	Ambulance Service	§ 790.2			
20	722.64	Mortuary	§ 790.62			
21	722.65	Trade Shop	§ 790.124	P#	C #	
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23	722.66	Storage	§ 790.117			
24	722.67	Video Store	§ 790.135	C	C	
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**Institutions and Non-Retail Sales and Services**

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722.70	Administrative Service	§ 790.106			
722.80	Hospital or Medical Center	§ 790.44			
722.81	Other Institutions, Large	§ 790.50	P	C	C
722.82	Other Institutions, Small	§ 790.51	P	P	P
722.83	Public Use	§ 790.80	C	C	C
722.84	Medical Cannabis Dispensary	§ 790.141	P		

**RESIDENTIAL STANDARDS AND USES**

722.90	Residential Use	§ 790.88	P	P	P
722.91	Residential Density, Dwelling Units	§§ 207, 207.1, 790.88(a)	Generally, 1 unit per sq. ft. lot area § 207.4		
722.92	Residential Density, Group Housing	§§ 207.1, 790.88(b)	Generally, 1 bedroom. per sq ft. lot area § 208		
722.93	Usable Open Space [Per Residential Unit]	§§ 135, 136	Generally, either 60 sq. ft if private, or 80 sq. ft. if common § 135(d)		
722.94	Off-Street Parking, Residential				
722.95	Community Residential Parking	§ 790.10	C	C	C

**SPECIFIC PROVISIONS FOR THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT**



1	<b>Article 7</b>		
2	<b>Code Section</b>	<b>Other Code Section</b>	<b>Zoning Controls</b>
3	<u>§ 722.26</u>	<u>§ 790.140</u>	<u>NORTH BEACH WALK UP FACILITIES</u>
4			<b><u>Boundaries: North Beach NCD</u></b>
5			<b><u>Controls: Walk-up automated bank teller machines (ATMs) are</u></b>
6			<b><u>not permitted.</u></b>
7			
8	§ 722.40	§ 790.102(n)	NORTH BEACH SPECIALTY RETAIL USES
9			<b>Boundaries: North Beach NCD</b>
10			<b>Controls: Retail coffee stores defined pursuant to Code §</b>
11			<b>790.102(n) are not permitted without conditional use</b>
12			<b>authorization except to the extent qualifying as specialty</b>
13			<b>grocery permitted pursuant to § 790.102(b)</b>
14	<u>§ 722.40</u>	<u>§ 790.102(a)</u>	<u>NORTH BEACH GENERAL GROCERY USES</u>
15			<b><u>Boundaries: North Beach NCD</u></b>
16			<b><u>Controls: In the North Beach NCD, the definition of general</u></b>
17			<b><u>grocery use under Section 790.102(a) shall include an individual</u></b>
18			<b><u>retail food establishment that contains less than 4,000 square feet</u></b>
19			<b><u>of gross floor area.</u></b>
20	<u>§ 722.40</u>		<u>SPECIALTY TAKE OUT USES</u>
21			<b><u>Boundaries: North Beach NCD</u></b>
22			<b><u>Controls: In the North Beach NCD, “North Beach Specialty Take</u></b>
23			<b><u>Out” use shall mean a traditional North Beach neighborhood</u></b>
24			<b><u>servicing retail use, including but not limited to bakeries, gelato or</u></b>
25			<b><u>ice cream stores, and delicatessens located in the North Beach</u></b>

1 an accessory to its primary function. It shall be open for  
2 operation a minimum of five days a week during daytime hours.

3 It shall not be considered to be a small self-service restaurant as  
4 defined in Section 790.91, a large fast-food restaurant as defined  
5 in Section 790.90, or a full service restaurant as defined in  
6 Section 790.92. It does not include retail grocery stores with  
7 accessory take-out food activity as described in Section  
8 703.2(b)(1)(C) or retail uses which sell prepackaged or bulk  
9 ready-to-eat-foods with no on-site food preparation area, such as  
10 confectionary or produce stores. It may provide off-site beer  
11 and/or wine sales for consumption off the premises (with ABC  
12 licenses 20 or 21). It shall not provide on-site beer and/or wine  
13 sales for drinking on the premises (with ABC licenses 40, 41, or  
14 60).

15 A North Beach Specialty Take Out use shall be a permitted use  
16 and shall be considered a Basic Neighborhood Service as defined  
17 in Section 790.68.

18 § 722.42, § 790.92, NORTH BEACH RESTAURANTS AND BARS  
19 § 722.44 & § 790.91 &  
20 § 722.41 § 790.22

21 **Boundaries: North Beach NCD**

22 **Controls: A full-service restaurant, small self-service restaurant,**  
23 **or bar may be permitted as a conditional use on the ground level**  
24 **if, in addition to the criteria set forth in Section 303, the Planning**  
25 **Commission finds that the full-service restaurant, small self-**  
26 **service restaurant, or bar does not occupy (a) a space that has**  
27 **been occupied by a Basic Neighborhood Service as defined in**  
28 **Section 790.68 since the effective date of this Section; (b) a vacant**  
29 **space whose last known use was a Basic Neighborhood Service as**  
30 **defined in Section 790.68 or a permitted use under Section 722**  
31 **(North Beach Controls); or (c) a space in which a use that is not**  
32 **permitted or is permitted only as a conditional use under Section**  
33 **722 (North Beach Controls) has been abandoned or discontinued**  
34 **pursuant to Sec. 178(d) or Sec. 186.1(d) of this Code for a period**  
35 **of 18 months or more.**

36 § 722.42 & § 790.92 & NORTH BEACH LIQUOR LICENSES FOR FULL SERVICE OR  
37 § 722.44 § 790.91 SMALL SELF SERVICE RESTAURANTS

38 **Boundaries: North Beach NCD**

1 **Controls:** (a) In order to allow full-service restaurants, as defined  
2 in § 790.92, and small self-service restaurants, as defined in §  
3 790.91 to seek or maintain an ABC license type 41, so that they  
4 may provide on-site beer and/or wine sales for drinking on the  
5 premises, the restaurant shall be required to operate as a ‘bona-  
6 fide eating place’ as defined in § 790.142.

7 (b) In order to allow full service restaurants, as defined in §  
8 790.91, to seek and maintain an ABC license type 47, so that  
9 liquor may be served for drinking on the premises, a bar use, as  
10 defined in § 790.22, may be permitted as a conditional use on the  
11 ground level if, in addition to the criteria set forth in Section 303,  
12 the Planning Commission finds that:

13 (1) The bar function is operated as an integral element of an  
14 establishment which is classified both as: (A) a full-service  
15 restaurant as defined in § 790.92 and (B) a ‘bona-fide eating  
16 place’ as defined in § 790.142; and

17 (2) The establishment maintains only an ABC license type 47, 40,  
18 41 or 60.

19 (c) The Commission may consider immediate revocation of a  
20 previous conditional use authorization should an establishment no  
21 longer comply with any of the criteria set forth above in (a) or (b)  
22 of this Section for any length of time.

23 (d) Bar use, as defined in § 790.22, shall not be allowed as a  
24 conditional use in conjunction with small self-service restaurant  
25 use as defined in § 790.91.

§ 722.42 — § 790.92 — NORTH BEACH FULL-SERVICE RESTAURANTS

~~Boundaries: Applicable to the North Beach NCD~~

~~Controls: A full-service restaurant may be permitted as a  
conditional use on the second story if, in addition to the  
criteria set forth in Section 303, the Commission finds that:~~

~~(1) The full-service restaurant is situated within the North  
Beach NCD and is within 100 feet of Columbus Avenue;  
and~~

1 ~~(2) The full-service restaurant will be located in an existing~~  
2 ~~building that is currently permitted for occupancy solely by~~  
~~commercial uses; and~~

3 ~~(3) The full-service restaurant does not require the~~  
4 ~~demolition, conversion or relocation of any lawfully~~  
~~permitted dwelling units or guest rooms; and~~

5 ~~(4) The full-service restaurant is operated in combination~~  
6 ~~with a lawfully existing nonconforming second-floor movie~~  
7 ~~theater as defined in Section 790.64 of this Code or a~~  
8 ~~lawfully existing nonconforming second floor "other~~  
~~entertainment" use as defined by Section 790.38 of this~~  
~~Code.~~

9 § 722.49 § 781.6

#### NORTH BEACH FINANCIAL SERVICE SUBDISTRICT

10 **Boundaries:** Applicable only for portions of the North  
11 Beach NCD south of Union Street as mapped on Sectional  
Map SU01a

12 **Controls:** Financial services are NP at all stories

13 § 722.65 § 236

#### GARMENT SHOP SPECIAL USE DISTRICT

14 **Boundaries:** Applicable only for the portion of North Beach  
NCD as mapped on Sectional Map SU01a

15 **Controls:** Garment shops are P at the 1st and 2nd stories

16 Section 4. The San Francisco Planning Code is hereby amended by amending Section  
17 790.68, to read as follows:

#### 18 ~~SEC. 790.68. NEIGHBORHOOD-SERVING BUSINESS.~~

19 ~~——— A neighborhood-serving business cannot be defined by the type of use, but rather by~~  
20 ~~the characteristics of its customers, types of merchandise or service, its size, trade area, and~~  
21 ~~the number of similar establishments in other neighborhoods. The primary clientele of a~~  
22 ~~"neighborhood-serving business," by definition, is comprised of customers who live and/or~~  
23 ~~work nearby.~~  
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1 ~~While a neighborhood-serving business may derive revenue from customers outside~~  
2 ~~the immediately surrounding neighborhood, it is not dependent on out-of-neighborhood~~  
3 ~~clientele.~~

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

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

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

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

1 **SEC. 790.68. BASIC NEIGHBORHOOD SERVICE.** A use within a neighborhood commercial  
2 district or within a quarter-mile from the boundaries thereof, that provides goods and/or services which  
3 are needed by residents and workers in the surrounding neighborhoods Basic neighborhood services  
4 shall be considered to include, but not be limited to the following goods and/or services: Other Retail  
5 Sales and Services as defined in Section 790.102 (including but not limited to greeting cards, office  
6 supplies, magazines, jewelry, art supplies, and pet stores), Personal Services as defined in Section  
7 790.116, Medical Services as defined in Section 790.114, Liquor Stores as defined in Section 790.55,  
8 Movie Theaters as defined in Section 790.64, Video Stores as defined in Section 790.135, Trade Shops  
9 as defined in Section 790.124 (including but not limited to shoe repair stores, tailors, upholstery stores,  
10 and printing/copying services) and Animal Hospitals as defined in Section 790.6.

11  
12  
13 Section 5. The San Francisco Planning Code is hereby amended by adding new Section  
14 790.142, to read as follows:

15 **SEC. 790.142. BONA FIDE EATING PLACE.** A “bona fide eating place” shall mean a place which  
16 is regularly and in a bona fide manner used and kept open for the service of meals to guests for  
17 compensation and which has suitable kitchen facilities connected therewith, containing conveniences  
18 for cooking of an assortment of foods which may be required for ordinary meals.

19  
20 (a) “Meals” shall mean an assortment of foods commonly ordered at various hours of the day for  
21 breakfast, lunch or dinner. Certain specialty entrees, such as pizza, fish, ribs, etc., together with an  
22 assortment of other foods, such as soups, sandwiches, salads and desserts, may be considered a meal. .  
23 Incidental food service, including but not limited to various kinds of appetizers or snacks to accompany  
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1 drinks are not meals. Incidental, sporadic or infrequent sales of meals or a mere offering of meals  
2 without actual sales is not compliance.

3 (b) "Guests" shall mean persons who, during the hours when meals are regularly served therein, come  
4 to a bona fide public eating place for the purpose of obtaining, and actually order and obtain at such  
5 time, in good faith, a meal therein. Nothing in this section, however, shall be construed to require that  
6 any food be sold or purchased with any beverage.

7 (c) Actual and substantial sales of meals are required, during the normal days and meal hours that a  
8 bona fide public eating place is open; provided that "normal days of operation" shall mean a minimum  
9 of five days a week and "normal hours" of operation for meal service shall mean, at a minimum, 7:00  
10 a.m. to 2:00 p.m. if open for breakfast and lunch; 11:00 a.m. to 10:00 p.m. if open for lunch and dinner,  
11 or 5:00 p.m. to 10:00 p.m. if open for dinner only.

12 (d) The premises must be equipped and maintained in good faith. This means the premises must  
13 possess working refrigeration and cooking devices, pots, pans, utensils, table service, condiment  
14 dispensers, menus, signs and enough goods to make substantial meals. The premises must comply with  
15 all regulations of the health department.

16 (e) A minimum of 51 percent of the restaurant's gross receipts shall be from food sales prepared and  
17 sold to guests on the premises. Records of the restaurant's gross receipts shall be provided to the  
18 Department upon request.

19 (f) A "bona fide eating place" does not include any billiard or pool hall, bowling alley, or adult  
20 entertainment business as defined in Planning Code Section 790.36.

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

By: \_\_\_\_\_  
Andrea Ruiz-Esquide  
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