

File No. 181211 Committee Item No. 6  
Board Item No.

## **COMMITTEE/BOARD OF SUPERVISORS**

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Committee: Land Use and Transportation Committee Date July 22, 2019

**Board of Supervisors Meeting**      **Date** \_\_\_\_\_  
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Completed by: Erica Major Date July 18, 2019  
Completed by: Erica Major Date

[Health, Planning, and Police Codes - Small Business Permit Streamlining]

Ordinance to streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 2 (winegrower) and Type 23 (small beer manufacturer) liquor licenses may be used in conjunction with a Bar or Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to reduce the distance measured amend the use limitation provisions for nonconforming uses in RH (Residential, House), RM (Residential Mixed), and RTO (Residential, Transit-Oriented) districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area operated between 6 a.m. to 10 p.m., to allow mechanical amusement games as a principally permitted use on the first story in the Haight Street Neighborhood Commercial District, to allow General Entertainment uses on higher floors in the Japantown Neighborhood Commercial District, and to allow Limited Restaurant use as an Accessory Use, and to revise the Upper Market Neighborhood Commercial Transit (NCT) District to allow General Entertainment as a principal use on the first and second stories; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service; affirming the Planning Department's determination under the

1        California Environmental Quality Act; and making findings of consistency with the  
2        General Plan, and the eight priority policies of Planning Code, Section 101.1, and public  
3        necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.

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

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

12      Section 1. Environmental and Land Use Findings.

13      (a)     The Planning Department has determined that the actions contemplated in this  
14      ordinance comply with the California Environmental Quality Act (California Public Resources  
15      Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
16      Supervisors in File No. 181211 and is incorporated herein by reference. The Board affirms  
17      this determination.

18      (b)     On March 7, 2019, the Planning Commission, in Resolution No. 20401, adopted  
19      findings that the actions contemplated in this ordinance are consistent, on balance, with the  
20      City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
21      adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
22      Board of Supervisors in File No. 181211, and is incorporated herein by reference.

23      (c)     Pursuant to Planning Code Section 302, this Board finds that this Planning Code  
24      Amendment will serve the public necessity, convenience, and welfare for the reasons set forth  
25      in Planning Commission Resolution No. 20401, and the Board incorporates such reasons

1 herein by reference. A copy of Planning Commission Resolution No. 20401 is on file with the  
2 Clerk of the Board of Supervisors in File No. 181211.

3

4       Section 2. Background, Purpose, and General Findings.

5       (a)    In February 2018, the Office of Economic and Workforce Development  
6 published “State of the Retail Sector: Challenges and Opportunities for San Francisco’s  
7 Neighborhood Commercial Districts” (the “Retail Study”). Prepared by Strategic Economics,  
8 the Retail Study included briefs studying: the national restructuring of the retail, restaurant,  
9 and personal services industries; the factors required to support successful San Francisco  
10 retail districts; and opportunities, costs, and challenges for retail, restaurant, and personal  
11 services businesses in San Francisco, and the adaptations that businesses are making in  
12 response to changing conditions.

13       (b)    The Retail Study identified a national trend in retail stores seeking to experiment  
14 with new strategies to capitalize on increasing consumer demand for experiences, as  
15 opposed to objects. The Retail Study observed that, to remain competitive with e-commerce  
16 businesses, retailers are increasingly seeking to incorporate food and drink sales, events, and  
17 classes into their businesses, and noted a number of San Francisco businesses  
18 experimenting with diverse offerings.

19       (c)    While San Francisco possesses many competitive advantages that benefit local  
20 retailers and restaurants, the Retail Study observed that a significant number of neighborhood  
21 commercial districts are experiencing an increase in vacancy rates. The Retail Study also  
22 found that San Francisco businesses face challenges connected to the City’s land use  
23 regulations and permitting requirements, which can add significant cost and time to the  
24 process of opening a new business and may limit retailers’ flexibility to adapt to changing  
25 economic conditions.

(d) San Francisco's nightlife and entertainment sector is an integral part of the City's vibrant commercial corridors. Nightlife and entertainment businesses attract tourists and residents to the City's diverse neighborhoods. The Retail Study found that nightlife and entertainment uses complement neighborhood retail sales and services by providing destinations and gathering spaces for potential retail customers.

(e) According to the U.S. Bureau of Labor Statistics, the nightlife and entertainment sector in San Francisco in 2017 was comprised of 3,715 restaurants, bars, live music venues, nightclubs, and other performance spaces with 63,695 employees citywide.

(f) A 2016 analysis by the Controller's Office found that nightlife generated \$6 billion in consumer spending in 2015. The nightlife sector paid approximately \$80 million in local taxes in 2015, including \$60 million in sales tax and \$20 million in payroll and gross receipts taxes.

(g) Despite these significant contributions to the local economy, nightlife and entertainment businesses often face zoning barriers, burdensome permitting requirements, and duplicative inspections. Legislation to address these challenges will reduce storefront vacancies, improve the permitting process for small businesses, enable retailers to engage in creative strategies to attract customers and diversify revenues, and support the health of San Francisco's commercial corridors.

Section 3. Article 8 of the Health Code is hereby amended by revising Sections 412 and 440.5, to read as follows:

**SEC. 412. WIRE SCREENS, ETC., IN PLACES WHERE FOOD IS SOLD.**

It shall be unlawful for any person, firm, association, or corporation engaged in maintaining, conducting, carrying on, or managing a restaurant place, kitchen, meat market, fruit store, vegetable store, delicatessen store, bakery store, street vendor's store, or any

1 other place in which or where food is prepared, sold, or disposed of for human consumption,  
2 to maintain, conduct, carry on, or manage said place or store, except in the manner provided  
3 for in this Section 412.

4 It shall be unlawful for any person, firm, association, or corporation to maintain,  
5 conduct, carry on, or manage a restaurant place or kitchen where foodstuffs are cooked, or  
6 prepared, sold or disposed of for human consumption, unless the doors, windows, apertures, or  
7 other openings to the premises or place where said restaurant or kitchen is conducted, maintained,  
8 carried on or managed food preparation occurs are effectively enclosed with finely woven wire  
9 mesh screens. Dining areas and bars are not required to be enclosed, provided that no food  
10 preparation occurs there other than adding ingredients to a beverage or dispensing into a serving  
11 container when the beverage is prepared for immediate service in response to an individual consumer  
12 order.

13 \* \* \* \*

#### 14 15 SEC. 440.5. TOILET AND HANDWASHING FACILITIES TO BE PROVIDED.

16 (a) Every food establishment permanent food facility, as defined in Section 27520113849 of  
17 the California Health and Safety Code, must provide toilet and handwashing facilities for use  
18 by employees. Every such establishment as to which construction or substantial reconstruction or  
19 rehabilitation is commenced on or after September 1, 1986, selling food for the purpose of immediate  
20 consumption without the reasonable expectation of further preparation or addition to other foods, shall  
21 make such toilet and handwashing facilities available for use by patrons without charge and. Every  
22 permanent food facility shall provide clean toilet facilities in good repair for consumers, guests, or  
23 invitees if there is onsite consumption of food or if the permanent food facility was constructed after  
24 July 1, 1984, and has more than 20,000 square feet of floor space. In addition, such toilet facilities  
25 shall comply with the Plumbing Code of the City and County of San Francisco.

(b) Provisions of this Section shall not apply to roadside stands, food establishments which are open to outside air or businesses which primarily sell at retail, meat, poultry and their by-products.

(b) For purposes of this Section 440.5, "onsite consumption of food" means the consumption of food, provided by a permanent food facility to patrons or guests, at or within the facility or within an area operated or controlled by the facility. A permanent food facility that does not offer onsite consumption of food may not have on its premises any dining tables, dining chairs, dining counters, or dining standing-tables.

Section 4. The Planning Code is hereby amended by revising Sections 102, 145.2, 145.4, 186, 303.1, 703, 710, 711, 712, 713, 714, 719, 721, 728, 754, ~~757, 758,~~ 759, 760, 764, 780.3, and 781.9, to read as follows:

## SEC. 102. DEFINITIONS.

*Amusement Game Arcade. A Retail Entertainment Arts and Recreation Use that 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 1036.23 of the Police Code as an Ancillary Use. Mechanical amusement devices are further regulated in Sections 1036 through 1036.24 of the Police Code.*

\* \* \* \*

**Arts Activities.** A retail Entertainment, Arts and Recreation Use that includes 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 glassworks, ceramics, textiles, woodworking, photography, custom-made jewelry or apparel, and other visual, performance, and sound arts and craft. It shall exclude accredited Schools and Post-Secondary Educational Institutions. It shall include

1 commercial arts and art-related business service uses including, but not limited to, recording  
2 and editing services, small-scale film and video developing and printing; titling; video and film  
3 libraries; special effects production; fashion and photo stylists; production, sale, and rental of  
4 theatrical wardrobes; and studio property production and rental companies. Arts spaces shall  
5 include studios, workshops, archives, and theaters, and other similar spaces customarily used  
6 principally for arts activities, exclusive of a Movie Theater, *Amusement Game Arcade arcades that*  
7 *provide eleven or more amusement game devices*, Adult Business, and any other establishment  
8 where liquor is customarily served during performances.

9 \* \* \* \*

10 **Bar.** A Retail Sales and Service Use that provides on-site alcoholic beverage sales for  
11 drinking on the premises, including bars serving beer, wine, and/or liquor to the customer  
12 where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC]  
13 license types 02, 23, 42, 48, or 61) and, drinking establishments serving beer where minors  
14 are present (with ABC license types 40 or 60) in conjunction with other uses such as Movie  
15 Theaters and General Entertainment, and bars serving wine operated by licensed  
16 winegrowers (with ABC license type 02). Such businesses shall operate with the specified  
17 conditions in Section 202.2(a). *A non-profit theater that provides on-site alcoholic beverage sales*  
18 *only for consumption by ticket-holding patrons on the premises, with ABC license type 64, shall not be*  
19 *considered a Bar use.*

20 \* \* \* \*

21 **Bona Fide Eating Place.** A place that is regularly and in a bona fide manner used and kept  
22 open for the service of meals to guests for compensation and that has suitable kitchen  
23 facilities connected therewith, containing conveniences for cooking of an assortment of foods  
24 that may be required for ordinary meals.

25 ///

1       (a) "Meals" shall mean an assortment of foods commonly ordered at various hours of the  
2 day for breakfast, lunch, or dinner. Incidental food service, comprised only of appetizers to  
3 accompany drinks, is not considered a meal. Incidental, sporadic, or infrequent sales of meals  
4 or a mere offering of meals without actual sales is not compliance.

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

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

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

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

21       (f) A "bona fide eating place" does not include an Adult Business as defined in this Section  
22 of the Code.

23       (g) Paragraphs (c) and (e) above do not apply to a place that has also established a  
24 Nighttime Entertainment Use and that only provides on-site alcoholic beverage sales for  
25 consumption by ticket-holding patrons on the premises during the normal hours of operation

1       of entertainment activities. For purposes of this paragraph, the "normal hours of operation"  
2       shall include two hours prior to, and one hour after, entertainment activities, but may not  
3       exceed eight total hours in a calendar day.

4       \* \* \* \*

5       **Entertainment, General.** A Retail Entertainment, Arts and Recreation Use that provides  
6       entertainment or leisure pursuits to the general public including dramatic and musical  
7       performances where alcohol is not served during performances, arcades that provide eleven or  
8       more amusement game devices (such as video games, pinball machines, or other such similar  
9       mechanical and electronic amusement devices), billiard halls, bowling alleys, skating rinks, and  
10       mini-golf, when conducted within a completely enclosed building, and which is adequately  
11       soundproofed or insulated so as to confine incidental noise to the premises. Mechanical  
12       amusement devices are further regulated in Sections 1036 through 1036.24 of the Police Code.

13       \* \* \* \*

14       **Entertainment, Arts and Recreation Use.** A Use Category that includes Amusement Game  
15       Arcade, Arts Activities, General Entertainment, Livery Stables, Movie Theater, Nighttime  
16       Entertainment, Open Recreation Area, Outdoor Entertainment, Passive Outdoor Recreation  
17       and Sports Stadiums. Adult Business is not included in this definition, except for the purposes  
18       of Development Impact Fee Calculation as described in Article 4.

19       \* \* \* \*

20       **Restaurant.** A Retail Sales and Service use that serves prepared, ready-to-eat cooked foods  
21       to customers for consumption on the premises and which has seating. As a minor and  
22       incidental use, it may serve such foods to customers for off-site consumption. It may provide  
23       on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 02,  
24       23, 41, 47, 49, 59, or 75, or 87); however, if it does so, it shall be required to operate as a  
25       Bona Fide Eating Place. It is distinct and separate from a Limited-Restaurant. Such

1 businesses shall operate with the specified conditions in Section 202.2(a)(1). It shall not be  
2 required to operate within an enclosed building so long as it is also a Mobile Food Facility. A  
3 business that is both a Restaurant use and a Nighttime Entertainment use shall not be  
4 required to operate as a Bona Fide Eating Place. Any associated outdoor seating and/or  
5 dining area is subject to regulation as an Outdoor Activity Area as set forth elsewhere in this  
6 Code.

7 \* \* \* \*

8  
9 **SEC. 145.4. REQUIRED GROUND FLOOR COMMERCIAL USES.**

10 \* \* \* \*

11 **Table 145.4**

12 <b>Reference for Commercial,</b> 13 <b>Neighborhood</b>	14 <b>Commercial, and</b> 15 <b>Residential- Commercial</b> 16 <b>Districts</b>	17 <b>Reference for Mixed Use</b> 18 <b>Districts</b>	19 <b>Use</b>
20 <i>102 N/A</i>	21 890.4	22	23 Amusement Game Arcade
24 * * * *	25	26	27

28 \* \* \* \*

29  
30 **SEC. 186. EXEMPTION OF LIMITED COMMERCIAL AND INDUSTRIAL**  
31 **NONCONFORMING USES IN RH, RM, RTO, AND RED DISTRICTS.**

32 The purpose of this Section 186 is to provide for the further continuance in RH, RM,  
33 RTO, and RED Districts of nonconforming uses of a limited commercial and industrial  
34 character, as herein described, which are beneficial to, or can be accommodated within, the

1       residential areas in which they are located. It is hereby found and declared that, despite the  
2       general incompatibility of nonconforming uses with the purposes of this Code, and with other  
3       nearby uses, these limited commercial uses may be tolerated in residential areas, and tend to  
4       provide convenience goods and services on a retail basis to meet the frequent and recurring  
5       needs of neighborhood residents within a short distance of their homes or, within the South of  
6       Market RED Districts, tend to provide jobs and continuation of small scale service and light  
7       industrial activities. These uses tend to be small in scale, to serve primarily a walk-in trade,  
8       and cause a minimum of interference with nearby streets and properties. Accordingly, this  
9       Section recognizes the public advantages of these uses and establishes conditions for their  
10      continued operation.

11      (a) **Exemption from Termination Provisions.** The following nonconforming uses in R  
12      Districts shall be exempt from the termination provisions of Section 185, provided such uses  
13      comply with all the conditions specified in subsection (b) below:

14      (1) Any nonconforming use at any Story in an RTO, RH, or RM District which is located  
15      more than one-quarter of one mile~~300 feet~~~~one-fourth mile~~ from the nearest Named  
16      Neighborhood Commercial District *or Restricted Use Subdistrict* described in Article 7 of this  
17      Code, and which complies with the use limitations specified for the First Story and below of an  
18      NC-1 District, as set forth in Section 710 of this Code.

19      (2) Any nonconforming use in an RTO, RH, or RM District which is located within one-  
20      quarter of one mile~~300 feet~~~~one-fourth mile~~ from any Individual Area Neighborhood  
21      Commercial District *or restricted use subdistrict* and which complies with the most restrictive use  
22      limitations specified for the First Story and below of:

23           (A) an NC-1 District, as set forth in Section 710 of this Code; *or*

24           ///

25           ///

(B) any the nearest Named Neighborhood Commercial District within one-quarter of one mile 300 feet one fourth mile of the use, as set forth in Sections 714 through 748 and 753 through 764 of this Code;

(C) Any Restricted Use Subdistrict within one fourth mile of the use, as set forth in Sections 781 through 781.7 of this Code.

(3) In the RED Districts, any nonconforming use which is a personal service use falling within zoning category 816.31; home and business service use falling within zoning categories 816.42 through 816.47; live/work unit falling within zoning category 816.55; wholesale sales, storage, or light manufacturing uses falling within zoning categories 816.64 through 816.67.

(b) **Conditions on Limited Nonconforming Uses.** The limited nonconforming uses described above shall meet the following conditions:

(1) The building shall be maintained in a sound and attractive condition, consistent with the general appearance of the neighborhood;

(2) Any signs on the property shall be made to comply with the requirements of Section 606(c) of this Code for Limited Commercial uses:

(3) The hours during which the use is open to the public shall be limited to the period between 6:00 a.m. and 10:00 p.m.:

(4) Public sidewalk space may be occupied in connection with the use provided that it is *only* occupied *only* with tables and chairs as permitted by this Municipal Code;

(5) Truck loading shall be limited in such a way as to avoid undue interference with sidewalks, or with crosswalks, bus stops, hydrants, and other public features;

(6) Noise, odors, and other nuisance factors shall be adequately controlled; and

(7) All other applicable provisions of this Code shall be complied with.

111

111

1       (c) **Formula Retail Uses.** All uses meeting the definition of "formula retail" use per Section  
2       303.1 shall not be permitted except by conditional use authorization under the procedures of  
3       Section 303 of this Code.

4       (d) **Street Frontage.** In addition to the requirements of Section 144 of this Code, the  
5       requirements of Section 145.1(c)(6) and (7) shall apply.

6       (e) **Awnings.** Awnings are permitted, subject to the standards in Section 136.1(a) of this  
7       Code. Canopies and marquees are not permitted.

8       (f) **Termination.** Any use affected by this Section 186 which does not comply with all of the  
9       conditions herein specified shall be subject to termination in accordance with Section 185 at  
10      the expiration of the period specified in that Section, but shall be qualified for consideration as  
11      a conditional use under Section 185(e). Any such use which is in compliance with such  
12      conditions at the expiration of such period but fails to comply therewith at any later date shall  
13      be subject to termination when it ceases to comply with any of such conditions.

14      (g) **Reactivation.** Limited commercial uses in RH, RM, RTO, and RED Districts that have  
15      been discontinued or abandoned, as defined in Section 183, may be reactivated with  
16      conditional use authorization under Section 303. In approving such a use and in addition to  
17      the findings required by Section 303, the Planning Commission shall find that:

18       (1) the subject space is located on or below the ground floor and was in commercial or  
19       industrial use prior to January 1, 1960; and

20       (2) the proposed commercial use meets all the requirements of this ~~s~~Section 186 and  
21       other applicable sections of this Code.

22      (h) **Other Applicable Provisions.** The provisions for nonconforming uses contained in  
23      Sections 180 through 183 shall continue to apply to all uses affected by this Section 186,  
24      except that the cost limit for structural alterations contained in Section 181(b)(4) shall not be  
25      applicable thereto.

1           **SEC. 303.1. FORMULA RETAIL USES.**

2           \* \* \* \*

3           (c) **"Retail Sales or Service Activity or Retail Sales or Service Establishment."** For the  
4           purposes of this Section 303.1, a retail sales or service activity or retail sales or service  
5           establishment shall include the following uses whether functioning as a Principal or Accessory  
6           Use, as defined in Articles 1, 2, 7, and 8 of this Code:

7           \* \* \* \*

8           - Amusement Game Arcade §§ 102, 890.4;

9           \* \* \* \*

10           **SEC. 703. NEIGHBORHOOD COMMERCIAL DISTRICT REQUIREMENTS.**

11           \* \* \* \*

12           (d) **Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1  
13           (Accessory Uses for Dwellings in All Districts), 204.4 (Dwelling Units Accessory to Other  
14           Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, Accessory Uses as  
15           defined in Section 102 shall be permitted when located on the same lot. Any Use that does  
16           not qualify as an Accessory Use shall be classified as a Principal or Conditional Use unless it  
17           qualifies as a temporary use under Sections 205 through 205.4 of this Code.

18           No Use will be considered accessory to a permitted Principal or Conditional Use that  
19           involves or requires any of the following:

20           (1) The use of more than one-third of the total floor area occupied by such use and the  
21           Principal or Conditional use to which it is accessory, except in the case of accessory off-street  
22           parking and loading and as specified in subsection (d)(3) below as accessory wholesaling,  
23           manufacturing, or processing of foods, goods, or commodities;

24           ///

(2) Any Bar or Restaurant, or any other retail establishment which serves liquor for consumption on-site; however, this shall not prohibit take-out food activity which operates in conjunction with a Limited Restaurant, Restaurant, General Grocery, and Specialty Grocery; *This shall also not prohibit a Limited Restaurant as an Accessory Use to a permitted Principal or Conditional Use except as specified in subsection (d)(7) below;*

(3) The wholesaling, manufacturing, or processing of foods, goods, or commodities on the premises of an establishment that does not also use or provide for retail sale of such foods, goods, or commodities at the same location where such wholesaling, manufacturing, or processing takes place, with the following exceptions:

(A) In the North Beach Special Use District where such activities are limited to 15% of the total floor area occupied by the Principal or Conditional Use to which it is accessory unless the Principal or Conditional Use is Specialty Foods Manufacturing as defined in Section 780.3 of this Code; and

(B) Notwithstanding the floor area limitation in subsection (d)(1), a Catering Use limited to food and beverage Catering shall be permitted as an Accessory Use to Limited Restaurants if the following requirements are met:

(i) The Catering Use does not operate more than 75% of the total time within the Limited Restaurant's Hours of Operation on any given day; and

(ii) The Catering Use does not distribute or deliver individual meals to customers directly from the subject lot, either by its own means, or through a third-party delivery service.

(4) Any retail Liquor Store.

(5) Medical Cannabis Dispensaries.

(6) Any General Entertainment or Nighttime Entertainment use, except for one that involves a Limited Live Performance Permit as set forth in Police Code Section 1060 et seq.

(7) Within the North Beach SUD and NCD, a Limited Restaurant.

1 \* \* \* \*

2 **SEC.710. NC-1—NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT.**

3 \* \* \* \*

4 **Table 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1**  
5 **ZONING CONTROL TABLE**

6 <b>Zoning Category</b>	7 <b>§ References</b>	8 <b>Neighborhood Commercial Cluster NCT-1</b>		
		9 <b>Controls</b>	10 <b>1st</b>	11 <b>2nd</b>
<b>NON-RESIDENTIAL USES</b>				
13 ***		14 <b>Controls by Story</b>		
15 Liquor Store	16 § 102	17 <u>P(6)(9)</u>	18 NP	19 NP
20 ***				

21 \* Not listed below

22 (1) Additional 5 feet for NC-1 parcels with a Commercial use on the ground floor within the  
23 following areas:

24 (a) Within the boundaries of Sargent Street to Orizaba Avenue to Lobos Street to Plymouth  
25 Avenue to Farellones Street to San Jose Avenue to Alemany Boulevard to 19th Avenue to  
Randolph Street to Monticello Street and back to Sargent Street.

26 (b) On Noriega, Irving, Taraval, and Judah Streets west of 19th Avenue.

27 (2) P if located more than 1/4 mile 300 feet from any NC District or Restricted Use Subdistrict with  
28 more restrictive controls; otherwise, same as more restrictive control.

29 \*\*\*

30 (9) C within that portion of the City and County bounded as follows: commencing at the  
31 intersection of Arguello Boulevard and Frederick Street, then proceeding southerly along Arguello

1 Boulevard to Carl Street, then proceeding easterly along Carl Street to Hillway Avenue, then  
2 proceeding southerly along Hillway Avenue to Parnassus Avenue, then proceeding easterly  
3 along Parnassus Avenue to Clayton Street, then proceeding northerly along Clayton Street to  
4 Frederick Street, then proceeding easterly along Frederick Street to Buena Vista Avenue West,  
5 then proceeding generally northerly along Buena Vista Avenue West to Haight Street, then  
6 proceeding easterly along Haight Street to Baker Street, then proceeding northerly along Baker  
7 Street to Oak Street, then proceeding westerly along Oak Street to Stanyan Street, then  
8 proceeding southerly along Stanyan Street to Frederick Street, then proceeding westerly along  
9 Frederick Street to the point of commencement.

10 \* \* \*

12 **SEC. 712. NC-3 – MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.**

13 \* \* \*

14 **Table 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3**  
15 **ZONING CONTROL TABLE**

16 \* \* \*

Zoning Category	§ References	Controls					
* * * *							
<b>NON-RESIDENTIAL STANDARDS</b>							
* * * *							
<b>NON-RESIDENTIAL USES</b>		<b>Controls by Story</b>					
		1st	2nd	3rd			
* * *							
<i>Amusement Game Arcade</i>	§ 102	C	NP	NP			

1 Entertainment, General	§ 102	P	P	NP
2 ****				

4 SEC. 713. NC-S – NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT.

5 \*\*\*\*

6 Table 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S  
7 ZONING CONTROL TABLE

8 \*\*\*\*

Zoning Category	§ References	Controls		
****				
<b>NON-RESIDENTIAL STANDARDS</b>				
****				
<b>NON-RESIDENTIAL USES</b>		<b>Controls by Story</b>		
		1st	2nd	3rd
****				
<i>Amusement Game Arcade</i>	§ 102	C	NP	NP
Entertainment, General	§ 102	P(1)	P(1)	NP
****				

21 SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT.

22 \*\*\*\*

23 Table 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT  
24 ZONING CONTROL TABLE

1 \* \* \* \*

Zoning Category	§ References	Controls
-----------------	--------------	----------

2 \* \* \* \*

3 **NON-RESIDENTIAL STANDARDS AND USES**

4 \* \* \* \*

	Controls by Story		
	1st	2nd	3rd
***			
<i>Amusement Game Arcade</i>	§ 102	C	NP
Entertainment, General	§ 102	P	P
***			

5 **SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

6 \* \* \* \*

7 **Table 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT**  
8 **ZONING CONTROL TABLE.**

9 \* \* \* \*

Zoning Category	§ References	Controls
***		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>		
***		
Controls by Story		
Entertainment, Arts, and Recreation Use Category	1st	2nd

1	*****				
2	<i>Amusement Game Arcade</i>	§ 102	<i>P</i>	<i>P</i>	<i>NP</i>
3	Entertainment, General	§ 102	<u>C(8)</u>	NP	NP
4	*****				

5       \*\*\*\*\*

6       (8) *Within the Haight Street Neighborhood Commercial District, that portion of an General*  
 7       *Entertainment use comprised of mechanical amusement game devices will be considered an*  
 8       *Amusement Game Arcade Use, for the purposes of the Planning Code.*

9       (8) Within the Haight Street Neighborhood Commercial District, a General Entertainment use  
 10      comprised of mechanical amusement game devices is principally permitted on the first story.

12      **SEC. 721. JAPANTOWN NEIGHBORHOOD COMMERCIAL DISTRICT.**

13       \*\*\*\*\*

14      **Table 721. JAPANTOWN NEIGHBORHOOD COMMERCIAL DISTRICT**  
 15                   **ZONING CONTROL TABLE**

16       \*\*\*\*\*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
21       *****				
22 <i>Amusement Game Arcade</i>	§ 102	<i>P</i>	<i>P</i>	<i>P</i>
23       Entertainment, General	§ 102	P(2)	P(2)	<u>P</u> (2)
24       *****				

1  
2 SEC. 728. 24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT.  
3 \* \* \* \*

4 Table 728. 24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT  
5 ZONING CONTROL TABLE

24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT NCT		
Zoning Category	§ References	Controls
* * * *		

6  
7  
8 \* \* \* \* (4) 24TH STREET – NOE VALLEY SPECIALTY RETAIL USES  
9  
10 **Boundaries:** Only the area within the 24th Street – Noe Valley Neighborhood Commercial  
11 District. The controls shall not apply to NC-1 Districts within 300 feet or nonconforming uses  
12 within 1/4 mile 300 feet one quarter of one mile of this District as set forth in Code §§ 710.10  
13 and 186.  
14 **Controls:** Formula Retail Limited-Restaurants are NP.  
15

16 SEC. 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.  
17 \* \* \* \*

18 Table 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT  
19 ZONING CONTROL TABLE  
20 \* \* \* \*

NON-RESIDENTIAL STANDARDS AND USES		
* * * *		
Entertainment, Arts, and Recreation Use Category		
* * * *		

1	<i>Amusement Game Arcade</i>	§ 102	C	NP	NP
2	Arts Activities	§ 102	P(4)	P	C
3	*****				

5 SEC. 759. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

6 \*\*\*\*

7 Table 759. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT  
8 ZONING CONTROL TABLE

9 \*\*\*\*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
*****				
<i>Amusement Game Arcade</i>	§ 102	C	NP	NP
Entertainment, General	§ 102	P	P(2)	NP
*****				

18 SEC. 760. FILLMORE STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

19 \*\*\*\*

20 Table 760. FILLMORE STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT  
21 ZONING CONTROL TABLE

22 \*\*\*\*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				

1	*****			
2	<i>Amusement Game Arcade</i>	§ 102	C	NP
3	Entertainment, General	§ 102	P	P
4	*****			NP

6  
7 SEC. 764. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT  
8 DISTRICT.  
9

10 \*\*\*\*\*  
11

12 Table 764. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT  
13 DISTRICT  
14 ZONING CONTROL TABLE  
15

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
16 *****				
17 <i>Amusement Game Arcade</i>	§ 102	C	P	NP
18 Entertainment, General	§ 102	C(8)P	NPP	NP
19 *****				

20 \*\*\*\*\*  
21

22 (8) Within the Upper Market Neighborhood Commercial Transit District, up to four mechanical  
23 amusement devices are considered an accessory use and up to ten mechanical amusement  
24 devices will be considered an Amusement Game Arcade use.  
25

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

2                   \* \* \* \*

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

4                   (1) **Restaurants, Limited Restaurants, and Bars.** Restaurant, Limited Restaurant, and  
5                   Bar uses may be permitted as a Conditional Use on the First Story through the procedures set  
6                   forth in Section 303 only if the Zoning Administrator first determines that the proposed new  
7                   Restaurant, Limited Restaurant, or Bar would occupy a space that is currently or was last  
8                   legally occupied by one of the uses described below; provided that its last use has not been  
9                   discontinued or abandoned pursuant to Sections 186.1(d) or 178(d) of this Code and that the  
10                   proposed new use will not enlarge the space; and provided further that no Conditional Use  
11                   shall be required if the use remains the same as the prior authorized use, with no enlargement  
12                   or intensification of use that the following shall apply;2

13                   (A) A Bar may occupy a space that is currently or last legally occupied by a Bar;

14                   (B) A Restaurant may occupy a space that is currently or was last legally occupied by a  
15                   Restaurant or Bar; and

16                   (C) A Limited Restaurant may occupy a space that is currently or was last legally  
17                   occupied by a Limited Restaurant, Restaurant or Bar.

18                   (D) Except as provided herein, no other use shall be allowed to convert to a Limited  
19                   Restaurant, Restaurant or Bar.

20                   (2) **Alcohol Licenses.** A Restaurant may provide on-site beer, wine, and/or liquor sales  
21                   for drinking on the premises (with ABC license types 02, 23, 41, 47, 49, 59 or 75) as a  
22                   Conditional Use on the First Story if, in addition to the criteria set forth in Section 303, the  
23                   Planning Commission finds, based on information submitted to the Department by the  
24                   applicant, that the Restaurant is and will continue to operate as a Bona-Fide Eating Place as  
25                   defined in Section 102. Should a Restaurant fail to operate as a Bona-Fide Eating Place for

1 any length of time, the Conditional Use authorization shall be subject to immediate revocation  
2 per Planning Code Section 303(f). To verify that the Restaurant is continuing to operate as a  
3 Bona-Fide Eating Place, records of the Restaurant's gross receipts, showing that a minimum  
4 of 51% of its gross receipts within the last year preceding the Department's request is from  
5 food sales prepared and sold to guests on the premises, shall be provided to the Department  
6 upon request. All records and information shall be submitted to the Department under penalty  
7 of perjury.

8 \* \* \* \*

9

10 **SEC. 781.9. HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT.**

11 \* \* \* \*

12 (b) **Boundaries.** The Haight Street Alcohol Restricted Use Subdistrict (Haight Street Alcohol  
13 RUSD) is coterminous with the Haight Street Neighborhood Commercial District as  
14 designated on Sectional Maps ZN06 and ZN07-7. The Haight Street Alcohol RUSD is  
15 designated on Sectional Maps SU06 and SU07. *These controls shall also apply within  $\frac{1}{4}$  mile of  
16 the Haight Street Alcohol RUSD to nonconforming Commercial Uses in R Districts pursuant to Section  
17 186 and in NC-I Districts pursuant to Section 710 of this Code.*

18 \* \* \* \*

19

20 ~~Section 5. Amendment of Specific Zoning Control Tables. Zoning Control Tables 712,~~  
21 ~~713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 725, 726, 729, 730, 731, 732, 733,~~  
22 ~~734, 750, 751, 752, 753, 754, 755, 756, 759, 760, 761, 762, 763, and 764 are hereby~~  
23 ~~amended identically to the amendment of Zoning Control Table 711 in Section 4 of this~~  
24 ~~ordinance, to provide in the "Controls" column that an Outdoor Activity Area is P if located in~~

1 front of building or if operated between 6 a.m. and 10 p.m.; C if located elsewhere and if  
2 operated between 10 p.m. and 6 a.m.

3  
4 Section 56. Article 15.1 of the Police Code is hereby amended by revising Sections  
5 1060 and 1060.2 to read as follows:

6 **SEC. 1060. DEFINITIONS.**

7 For the purposes of this Article 15.1, unless otherwise provided in this Article, the  
8 following words and phrases shall mean:

9 \* \* \* \*

10 "Limited Live Performance Locale." A locale with all the following features:

11 (a) The presentation of Live Performances is a secondary purpose of the locale  
12 rather than its primary purpose.

13 (b) The locale is indoors, or consists of an outdoor plaza, courtyard, or similar  
14 space, enclosed by surrounding buildings, with or without open means of public ingress and  
15 egress, with an area in which Live Performances are presented that is no greater than 200  
16 square feet. For purposes of this provision, "outdoor plaza, courtyard, or similar space" also  
17 shall include, regardless of the square footage of the Live Performance area, (1) any Plaza as  
18 identified in Administrative Code Chapter 94 or (2) any People Place as identified in  
19 Administrative Code Chapter 94A.

20 (c) Live Performances presented at the locale conclude by 10 p.m., except as  
21 otherwise provided in Section 1060.38.1.

22 (d) The locale is not a Private Residence.

23 (e) Patrons or members are admitted to the locale, ~~which serves food, beverages,~~  
24 ~~or food and beverages, including but not limited to alcoholic beverages, for consumption on the~~

1       

*premises*, except this requirement shall not apply to a Plaza as identified in Administrative  
2       Code Chapter 94 or a People Place as identified in Administrative Code Chapter 94A.

3       \* \* \* \*

4

5       **SEC. 1060.2. FILING APPLICATION AND NOTICE TO OTHER CITY DEPARTMENTS FOR**  
6       **PLACE OF ENTERTAINMENT PERMIT.**

7       (a)      Every Person seeking a Place of Entertainment permit or an amendment to a  
8       permit shall file an application with the Entertainment Commission upon a form provided by  
9       the Entertainment Commission and shall pay a filing fee as provided in Section 2.26 of this  
10      Code.

11      (b)      The Director shall send the application to the *following departments, which San*  
12      *Francisco Police Department, Fire Department, Department of Building Inspection, Department of*  
13      *Public Health, and Planning Department. Those departments* shall complete all necessary  
14      inspections *or approvals* and *shall endeavor to* report their determinations to the Entertainment  
15      Commission within 20 City business days of receiving the application:

16      (1) *The Police Department;*

17      (2) *The Planning Department;*

18      (3) *The Department of Building Inspection, except that this subsection (b)(3) shall not*  
19      *apply if the Person provides evidence of the completion of a final inspection for an issued building*  
20      *permit for the premises, as required by Chapter 1A of the San Francisco Building Code, if the*  
21      *inspection was completed in the 12 months before the date of the Person's application for a Place of*  
22      *Entertainment Permit;*

23      ///

24      (4) *The Department of Public Health, except that this subsection (b)(4) shall not apply*  
25      *if the Person provides evidence of a permit to operate a food preparation and service establishment on*

1 the premises, as required by Article 8 of the Health Code, current as of the date of the Person's  
2 application for a Place of Entertainment Permit; and

3 (5) The Fire Department, except that this subsection (b)(5) shall not apply if the Person  
4 provides evidence of a place of assembly permit for the premises, as required by Chapter 1 of the San  
5 Francisco Fire Code, current as of the date of the Person's application for a Place of Entertainment  
6 Permit.

7

8 Section 6. Changes to Ordinance. When originally introduced, this ordinance  
9 included proposed changes to Planning Code Section 145.2 to modify when a Commercial  
10 Use of an Outdoor Activity Area would be principally permitted, and also included proposed  
11 changes to the zoning control tables in Planning Code Sections 710, 711, 728, 757, and 758,  
12 to correspond to the proposed change to Section 145.2. At its meeting on June 24, 2019, the  
13 Land Use and Transportation Committee amended the ordinance to remove the proposed  
14 changes to Planning Code Section 145.2, and also to remove the corresponding proposed  
15 changes to the zoning control tables in Sections 710, 711, 728, 757, and 758. Accordingly,  
16 this ordinance no longer contains any amendment of Section 145.2, or any amendment of the  
17 zoning control tables in Sections 711, 757, and 758, and the amendments of the zoning  
18 control tables in Sections 710 and 728 contain no reference relating to Outdoor Activity Areas.

19

20 Section 7. Effective Date. This ordinance shall become effective 30 days after  
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
23 of Supervisors overrides the Mayor's veto of the ordinance.

24

25 Section 8. Scope of Ordinance. With the exception of the amendments to Zoning

1 Control Tables in Section 5 of this ordinance, in enacting this ordinance, the Board of  
2 Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections,  
3 articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the  
4 Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board  
5 amendment additions, and Board amendment deletions in accordance with the "Note" that  
6 appears under the official title of the ordinance.

7

8       Section 9. Undertaking for the General Welfare. In enacting and implementing this  
9 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not  
10 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is  
11 liable in money damages to any person who claims that such breach proximately caused injury.

12

13       Section 10. Severability. If any section, subsection, sentence, clause, phrase, or word of  
14 this ordinance, or any application thereof to any person or circumstance, is held to be invalid or  
15 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect  
16 the validity of the remaining portions or applications of the ordinance. The Board of Supervisors  
17 hereby declares that it would have passed this ordinance and each and every section, subsection,  
18 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to  
19 whether any other portion of this ordinance or application thereof would be subsequently declared  
20 invalid or unconstitutional.

21       ///

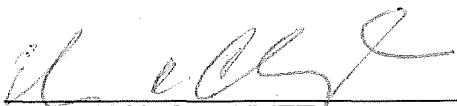
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24       ///

25       ///

1 APPROVED AS TO FORM:  
2 DENNIS J. HERRERA, City Attorney  
3

4 By: 

5 EILEEN K. CHAUVENT  
6 Deputy City Attorney  
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**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee, 6/24/2019)

[Health, Planning, and Police Codes - Small Business Permit Streamlining]

Ordinance to streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 2 (winegrower) and Type 23 (small beer manufacturer) liquor licenses may be used in conjunction with a Bar or Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to amend the use limitation provisions for nonconforming uses in RH (Residential, House), RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow mechanical amusement games as a principally permitted use on the first story in the Haight Street Neighborhood Commercial District, to allow General Entertainment uses on higher floors in the Japantown Neighborhood Commercial District; to allow Limited Restaurant use as an Accessory Use and to revise the Upper Market Neighborhood Commercial Transit (NCT) District to allow General Entertainment as a principal use on the first and second stories; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.

Existing Law

A. The California Health and Safety Code Section 114266, part of California Retail Food Code, requires that "each permanent food facility shall be fully enclosed in a building consisting of permanent floors, walls, and an overhead structure," but states explicitly that this provision "does not require the enclosure of dining areas or any other operation approved for outdoor food service." San Francisco Health Code Section 412 applies a more restrictive approach, requiring all doors, windows, apertures, or other openings in restaurant places or kitchens to be enclosed with finely woven wire mesh screens. This applies to all places where "foodstuffs are cooked, prepared, sold, or disposed of for human consumption."

Health Code Section 412 prevents San Francisco restaurants and other eating places from creating open air experiences. It also impacts manufacturing businesses that have a food or beverage component, such as breweries that include a tasting room. In those facilities, roll-up doors often must be kept open for operational purposes. Under the existing Health Code, Section 412 a roll-up door may not be kept open in a tasting room or other dining area inside a manufacturer.

B. The California Retail Food Code (California Health and Safety Code Section 114276) requires a food facility to have toilet and handwashing facilities for patrons where there is onsite food consumption, or when the facility has more than 20,000 square feet of floor space. San Francisco Health Code Section 440.5 is more restrictive by requiring that every food establishment must provide toilet and handwashing facilities for use by patrons if the establishment is “selling food for the purpose of immediate consumption without the reasonable expectation of further preparation or addition to other foods” even if those foods are not consumed onsite.

Unlike the state law, Health Code Section 440.5 requires even a very small, to-go-only food establishment with no seating to provide a restroom for customers. This restroom requirement is a barrier for retail storefronts hoping to incorporate small food establishments (such as to-go coffee or ice cream) in order to create a unique shopping experience and attract customers who might otherwise choose to shop online.

C. The Planning Code defines “Bar” and “Restaurant” uses to include a number of state liquor license types, but does not provide clear guidance regarding the treatment of businesses with several types of licenses. A business using a Type 23 brewery liquor license is defined as a “Bar,” even though this license may be used by a brewery in conjunction with either a bar or restaurant. The lack of clarity on this point has required multiple breweries to seek Letters of Determination, adding time and money in order to move projects forward. Additionally, the definitions of Bar and Restaurant do not include a Type 02 winery liquor license, even though this license may be employed by a winery with either a bar or a restaurant.

The definitions also do not mention a Type 64 liquor license, which authorizes a nonprofit theater to serve alcoholic beverages to patrons before, during, and after theatrical performances. The lack of clear guidance has led to confusion about whether such a license would create a Bar use.

D. Under existing law an entertainment venue must have both Restaurant and Nighttime Entertainment uses as principal uses in order to hold a restaurant-style liquor license and admit patrons of all ages. Under Section 102 of the Planning Code, a “Restaurant” serving alcohol must operate as a “Bona Fide Eating Place,” defined to include requirements that the business (1) must receive at least 51% of its gross receipts from food sales; and (2) must be open and serving meals at least five days a week.

Some ticketed venues may not receive 51% of their gross receipts from food sales, and may not be open five days a week.

E. Section 710 of the Planning Code (zoning table note 2) provides that in NC-1 zoning Retail Sales and Service uses, including Restaurant and Bar uses, are principally permitted, unless the business is located within one quarter mile of any neighborhood commercial district or restricted use district with more restrictive controls. In those cases, the more restrictive zoning control applies. Similarly, for nonconforming uses in RH, RM, and RTO districts under Planning Code Section 186(a), a nonconforming use may be legitimized if, among other requirements, it conforms with NC-1 zoning, or of any neighborhood commercial district or restricted use district with more restrictive controls located within one quarter mile of the proposed use.

This requirement has prevented businesses from opening due to zoning restrictions in other neighborhoods. This requirement applies even if a zoning district with more permissive zoning is located between the proposed use and the more restrictive district. The proposed change seeks to implement a recommendation from the Planning Department's 2009 report, NC @ 20, which stated that "it is recommended that a suitable relaxation of the ¼ mile radius provisions be examined" (page 66).

F. The Planning Code defines Amusement Game Arcade as any business that includes 11 or more mechanical amusement devices (including pinball machines and arcade games). A business with 10 or fewer devices is considered a Nighttime Entertainment use. Amusement Game Arcades do not fall within the category of General Entertainment, which includes "entertainment or leisure pursuits to the general public including...billiard halls, bowling alleys, skating rinks, and mini-golf." In many zoning districts, General Entertainment is either principally permitted or permitted with a Conditional Use Authorization; in many of these same districts, Amusement Game Arcades are not specifically enumerated and are, as a result, not permitted under the umbrella "Entertainment, Arts, and Recreation Use" category.

In recent years, a number of new businesses combining Amusement Game Arcade with other food, beverage, and retail uses have emerged, leading to piecemeal legislation to permit these uses on a district-by-district basis. These uses are not materially distinct from billiards halls and other General Entertainment uses. The Planning Department previously considered folding Amusement Game Arcade into the General Entertainment use.

G. Under Police Code Section 1060.2, as part of the Entertainment Commission permitting process, an application for a Place of Entertainment permit is referred to the Planning, Building, Health, and Fire Departments for inspections and signoffs. These are separate from the signoffs required to close out a building permit and sign off on the establishment of an Entertainment use. Additionally, in order to serve food or drink, a new business will also need to secure a Permit to Operate from the Department of Public Health. In order to have an occupancy above 49 people, a new business will need an assembly permit from the Fire Department.

Where a business has recently completed the process of establishing an Entertainment use, or where a business secures a health or fire permit, the requirement to undergo additional inspections is redundant and adds extra expense for new business owners.

H. A Limited Live Performance ("LLP") permit enables a business to incorporate limited entertainment performances as a secondary use alongside the business's primary purpose. Under Police Code Section 1060, one of the requirements for a permitted "LLP Locale" is that "[p]atrons or members are admitted to the locale, which serves food, beverages, or food and beverages, including but not limited to alcoholic beverages, for consumption on the premises."

This requirement prevents retailers that do not wish to serve food or drink from being able to acquire an LLP permit and offer limited entertainment to complement their retail offerings.

#### Amendments to Current Law

A. Health Code Section 412 is amended to replace the existing discussion of restaurant enclosures with language that aligns with the state standard for outdoor food service, while requiring that an establishment must be fully enclosed while the business is not operating.

B. Health Code Section 440.5 is amended to align with state law requirements for restrooms by replacing "for the purpose of immediate consumption without the reasonable expectation of further preparation or addition to other foods" with "for onsite consumption, or where the establishment has more than 20,000 square feet of floor space."

C. Planning Code Section 102 is amended to delete the definition of "Amusement Game Arcade"; change the definition of "Arts Activities" to replace a reference to "Amusement Game Arcade" with a reference to arcades with eleven or more game devices; change the definition of "Bar" to include an ABC license Type 02 winemakers license and to clarify that a non-profit theater with an ABC license Type 64 is not a "Bar" use; change the definition of "Bona Fide Eating Place" to exempt from certain requirements any place that has also established a Nighttime Entertainment Use and that only provides on-site alcoholic beverage sales for consumption by ticket-holding patrons on the premises during the normal hours of operation of entertainment activities; change the definition of "Entertainment, General" to include arcades with eleven or more game devices; change the definition of "Entertainment, Arts and Recreation Use" to delete Amusement Game Arcade; and change the definition of "Restaurant" to include a ABC license Types 02, 23, and 87 liquor license.

D. The Planning Code is amended to (1) Reduce the distance measured for Retail Sales and Services uses in NC zoning districts to any neighborhood commercial district within 300 feet and delete the distance-measuring requirement for Restricted Use districts; and (2) Amend the distance measurement provisions for nonconforming limited commercial uses in RH, RM, and RTO districts to require such a use to comply with the zoning provisions of the

nearest neighborhood commercial district within one-quarter of one mile and delete the distance-measuring requirement for Restricted Use districts.

E. Planning Code Section 703 regarding Neighborhood Commercial Districts is amended to clarify that a Limited Restaurant Use is not prohibited as an Accessory Use, except in the North Beach Special Use District and the North Beach Neighborhood Commercial District.

F. The Planning Code's Neighborhood Commercial District zoning tables are amended to delete references to Amusement Game Arcade.

G. Planning Code Section 303.1, dealing with formula retail requirements, is amended to reflect the deletion of the definition of Amusement Game Arcade from Section 102.

H. Planning Code Section 710 is amended to establish that, within NC-1 zoning, a Liquor Store requires Conditional Use Authorization in a defined area surrounding Haight Street.

I. The Planning Code is amended to establish that, within the Haight Street Commercial District, a General Entertainment use comprised of mechanical amusement game devices is principally permitted on the first story; that, within the Japantown Neighborhood Commercial District, a General Entertainment use is principally permitted on the third story and above; and that, within the Upper Market Street Neighborhood Commercial Transit District, a General Entertainment Use is principally permitted on the first and second stories.

J. Police Code Section 1060 is amended to change the definition of "Limited Live Performance Locale" to delete the requirement that food or beverages must be served on the premises.

K. Police Code Section 1060.2 is amended to establish that, when a business seeking a Place of Entertainment Permit files an application with the Entertainment Commission, the Entertainment Commission will send the application to the Police Department, the Planning Department, the Department of Building Inspection, the Department of Public Health, and the Fire Department to complete all necessary inspections or approvals, and the departments will report back to the Entertainment Commission within 20 City business days, but inspections for the Department of Public Health, the Department of Building Inspection, and the Fire Department will not be required if other required permits have been received or inspections performed, as specified in Section 1060.2.

#### Background Information

This legislation was introduced on December 11, 2018, and referred to the Planning Commission. The Planning Commission considered this legislation at a public hearing on March 7, 2019. The Planning Commission requested the following change, which had been incorporated: (1) an Outdoor Activity Area that is associated with a Bar use will continue to be conditionally permitted. The introduced version of this legislation proposed to make rear and

rooftop Outdoor Activity Areas principally permitted between the hours of 6am and 10pm. Subsequent to the Planning Commission hearing, the sponsors agreed to remove these proposed provisions from the legislation.

The sponsors proposed, and the Planning Commission approved, the following additional changes: (1) within the Haight Street Commercial District, a General Entertainment use comprised of mechanical amusement game devices is principally permitted on the first story only; and (2) within the Japantown Neighborhood Commercial District, a General Entertainment use is principally permitted on the third story and above.

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BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

December 17, 2018

File No. 181211

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On December 11, 2018, Mayor Breed introduced the following proposed legislation:

File No. 181211

Ordinance to streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 23 liquor license may be used in conjunction with a Bar or Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to reduce the distance measured for nonconforming uses in RH (Residential, House), RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an Accessory Use; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink that reads "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee  
Not defined as a project under CEQA Guidelines Sections  
15378 and 15060(c) (2) because it would not result in a

Attachment

c: Joy Navarrete, Environmental Planning  
Laura Lynch, Environmental Planning

joy navarrete

Digitally signed by Joy Navarrete  
Date: 2019.03.12 15:25:37 -07'00'  
Joy Navarrete, Environmental Planning, joy.navarrete,  
Environmental Planning, joy.navarrete,  
mailto:joy.navarrete@sfgov.org  
Date: 2019.03.12 15:25:37 -07'00'



# SAN FRANCISCO PLANNING DEPARTMENT

March 13, 2019

Ms. Angela Calvillo, Clerk  
Honorable Mayor Breed & Supervisor Brown  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Re: **Transmittal of Planning Department Case Number 2019-000048PCA:  
Small Business Permit Streamlining  
Board File No. 181211  
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo, Mayor Breed and Supervisor Brown,

On March 7, 2019, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider Mayor Breed and Supervisor Brown's Small Business Streamlining Ordinance. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

- Retain the Conditional Use Authorization requirement for Outdoor Activity Areas associated with a Bar use.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Mayor and Supervisor Brown, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

Aaron D. Starr  
Manager of Legislative Affairs

CC:

Eileen K. Chauvet, Deputy City Attorney  
Kanishka Chen, Mayor's Office  
Mawuli Tugbenyoh, Mayor's Office  
Juan Carlos Cancino, Aide to Supervisor Brown  
Erica Major, Office of the Clerk of the Board

**Attachments:**

Planning Commission Resolution  
Planning Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No. 20401

HEARING DATE: MARCH 7, 2019

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Project Name:* Small Business Permit Streamlining  
*Case Number:* 2019-000048PCA [Board File No. 181211]  
*Initiated by:* Supervisor Brown, Mayor Breed / Introduced December 11, 2018  
*Staff Contact:* Audrey Butkus, Legislative Affairs  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

RESOLUTION APPROVING WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD STREAMLINE SMALL BUSINESS PERMITTING BY, AMONG OTHER THINGS, AMENDING THE HEALTH CODE TO ALIGN REGULATION OF RESTAURANT ENCLOSURES FOR OUTDOOR FOOD SERVICE AND RESTROOM REQUIREMENTS WITH STATE STANDARDS; AMENDING THE PLANNING CODE TO CLARIFY THAT A TYPE 23 LIQUOR LICENSE MAY BE USED IN CONJUNCTION WITH A BAR OR RESTAURANT USE, TO AMEND THE DEFINITION OF A BAR TO PROVIDE FOR CONSISTENT TREATMENT OF TYPE 64 LIQUOR LICENSES, TO MODIFY NIGHTTIME ENTERTAINMENT USE FOOD SERVICE REQUIREMENTS, TO REDUCE THE DISTANCE MEASURED FOR RETAIL SALES AND SERVICES USES IN NEIGHBORHOOD COMMERCIAL ZONING DISTRICTS TO ANY NEIGHBORHOOD COMMERCIAL DISTRICT, TO REDUCE THE DISTANCE MEASURED FOR NONCONFORMING USES IN RH (RESIDENTIAL, HOUSE), RM (RESIDENTIAL, MIXED), AND RTO (RESIDENTIAL, TRANSIT-ORIENTED) DISTRICTS TO ANY NEIGHBORHOOD COMMERCIAL DISTRICT, TO AMEND THE DEFINITION OF GENERAL ENTERTAINMENT TO INCLUDE AMUSEMENT GAME ARCADE, TO ALLOW AS A PERMITTED USE AN OUTDOOR ACTIVITY AREA OPERATED BETWEEN 6 A.M. TO 10 P.M., AND TO ALLOW LIMITED RESTAURANT USE AS AN ACCESSORY USE; AMENDING THE POLICE CODE TO ELIMINATE CERTAIN DUPLICATIVE INSPECTIONS AND SIGNOFFS IN CONNECTION WITH PLACE OF ENTERTAINMENT PERMITS, AND AMENDING THE DEFINITION OF LIMITED LIVE PERFORMANCE LOCALE TO REMOVE THE REQUIREMENT FOR FOOD AND BEVERAGE SERVICE; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on December 11, 2018 Mayor Breed and Supervisor Brown introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 181211 which would streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 23 liquor license may be used in conjunction with a Bar or

Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to reduce the distance measured for nonconforming uses in RH (Residential, House), RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an Accessory Use; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on March 7, 2019; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby approves with modifications the proposed ordinance.

The Commission's proposed modification was as follows:

1. Retain the Conditional Use Authorization requirement for Outdoor Activity Areas associated with a bar use.

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds the proposed Ordinance will remove unnecessary and restrictive bureaucratic hurdles, while also maintaining reasonable controls to ensure neighborhood compatibility.

2. The changes the Ordinance makes alleviates problems identified the Retail Study and the Planning Department's 2009 Report on Neighborhood Commercial District "NC@20", as hindering the establishment of new neighborhood-serving businesses.
3. The Commission finds that while the Ordinance removes the ¼ mile buffer around NC Districts with more restrictive controls, it maintains a 300-foot buffer to ensure noncompatible or non-desirable uses are not allowed adjacent to district with their own specific controls. Further, the Ordinance removes the need for local businesses to seek a letter of determination from the Zoning Administrator by clarifying alcohol license types in the Planning Code's use definitions to align with state laws. It also eliminates an unnecessary use definition, Amusement Game Arcades, in order to align with emerging entertainment trends.
4. The Commission finds the proposed changes will help bring more commercial activity to our Neighborhood Commercial Districts, maintaining a favorable social and cultural climate in San Francisco and assisting in reducing storefront vacancies in the City's Neighborhood Commercial Districts.
5. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

## COMMERCE AND INDUSTRY ELEMENT

### OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

*The proposed Ordinance will facilitate the establishment of a retail use that provides net benefits in the form recreational and community gathering spaces. Any potential undesirable consequences may be addressed through existing regulatory controls.*

### OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

#### Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

**Policy 2.3**

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

*The proposed Ordinance clarifies alcohol license types in the Planning Code's use definitions to align with state laws and allows new commercial activity in districts where it once was prohibited by overly restrictive boundaries. This added commercial activity will help maintain a favorable social and cultural climate in San Francisco as it adds to the number of recreational activities available to employees. The Ordinance enhances San Francisco as a location for gathering places for residents and tourists alike to enjoy.*

**OBJECTIVE 6**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

**Policy 6.1**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*The proposed Ordinance will remove bureaucratic hurdles and unnecessary restrictions which were identified in the Retail Study as hindering the establishment of new neighborhood-serving businesses, while also controlling the potential negative impacts to communities that can come with unregulated business development by retaining a 300 foot buffer for non-conforming uses in Residential Districts, and Retail Sales and Service Uses that are in close proximity to a different zoning district with stricter controls.*

**Policy 6.2**

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship, and which are responsive to economic and technological innovation in the marketplace and society.

*The Ordinance will assist in streamlining the permitting process for certain types of businesses such as Bars, Restaurants, and Non-Profit Theaters, thereby assisting small businesses to establish themselves in the City in what may otherwise be a process that can currently become overly complicated, time-consuming, or expensive.*

6. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.*

4. That commuter traffic ~~not~~ impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

7. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on March 7, 2019.



Jonas P. Ionin  
Commission Secretary

**AYES:** Hillis, Johnson, Koppel, Melgar, Richards

**NOES:** Moore

**ABSENT:** None

**ADOPTED:** March 7, 2019



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary

### Planning Code Text Amendment

HEARING DATE: FEBRUARY 28, 2019

90-DAY DEADLINE: MARCH 18, 2019

1650 Mission St.

Suite 400

San Francisco,

CA 94103-2479

Reception:

**415.558.6378**

Fax:

**415.558.6409**

Planning

Information:

**415.558.6377**

*Project Name:*

**Small Business Permit Streamlining**

*Case Number:*

**2019-000048PCA** [Board File No. 181211]

*Initiated by:*

Supervisor Brown, Mayor Breed / Introduced December 11, 2018

*Staff Contact:*

Audrey Butkus, Legislative Affairs

*Reviewed by:*

Aaron Starr, Manager of Legislative Affairs

[aaron.starr@sfgov.org](mailto:aaron.starr@sfgov.org), 415-558-6362

*Recommendation:*

**Approval**

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Health, Police, and Planning Codes to create more avenues for establishment and approval of certain types of Entertainment, Bar, Restaurant, Retail Sales & Service, and Limited Commercial Uses in RH, RM, & RTO Districts, and Outdoor Activity Areas.

#### The Way It Is Now:

1. The Planning Code defines "Bar" and "Restaurant" uses to include several state liquor license types. The license types included are as follows:
  - a. "Bar": 23 (Small Beer Manufacturer), 42 (On-Sale Beer and Wine for Public Premises), 48 (On-Sale General for Public Premises), and 61 (On-Sale Beer for Public Premises).
  - b. "Restaurant": 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place), 47 ( On-Sale General for Bona Fide Public Eating Place), 49 (On-Sale General for Seasonal Business), 59 (On-Sale Beer and Wine for Seasonal Business), and 75 (On-Sale General Brew-Pub).
2. The Planning Code is silent on whether a nonprofit theater that serves alcohol during performances (allowed under state license Type 64), would require the theater to receive a use permit for a Bar.
3. An entertainment venue must have both Restaurant and Nighttime Entertainment uses as principal uses to hold a restaurant-style liquor license and admit patrons of all ages. Under the definition of a "Restaurant", this means the venue must also operate as a Bona Fide Eating Place, under which food sales must constitute at least 51% of gross receipts.
4. Certain Retail Sales & Service Uses in NC-1 Districts are permitted unless the business is located within  $\frac{1}{4}$  mile of any Neighborhood Commercial District (NCD) or Restricted Use District (RUD) with more restrictive controls.
5. Limited Commercial Uses (LCUs) in RH, RM, & RTO districts may change to another use that is permitted in a NC-1 zoning district, unless it is located within  $\frac{1}{4}$  mile of a stricter NCD or RUD with more restrictive controls.

6. The Planning Code defines Amusement Game Arcade as any business that includes 11 or more mechanical amusement devices (including pinball machines and arcade games). A business with 10 or fewer devices is considered either a General Entertainment Use or an Accessory Use.
7. In most districts an Outdoor Activity Area located in the rear or side of the property requires either neighborhood notification or a Conditional Use (CU) authorization.

**The Way It Would Be:**

1. The definitions of "Bar" and "Restaurant" would be expanded to include several new state license types:
  - a. "Bar" would now additionally include Type 02 (Winegrower).
  - b. "Restaurant" would now additionally include Type 23 (Small Beer Manufacturer), and Type 87 (Neighborhood-Restricted Special On-Sale General License).
2. The Planning Code would clarify under the "Bar" definition that a nonprofit theater that serves alcohol during performances (allowed under state license Type 64), would *not* constitute a Bar use.
3. An entertainment venue that holds both Restaurant and Nighttime Entertainment use permits as principal uses would *not* be required to operate as a Bona Fide Eating Place.
4. Certain Retail Sales & Service Uses in NC-1 Districts would be permitted unless the business is located within **300 feet** of any NCD with more restrictive controls (Please note, RUDs would be deleted from this provision)
5. LCUs in RH, RM, & RTO districts may change to another use that is permitted in a NC-1 zoning district, unless it is located within **300 feet** of a stricter NCD with more restrictive controls (Please note, RUDs would be deleted from this provision).
6. "Amusement Game Arcade" would be deleted from the Planning Code as a separate use definition. Instead, this type of use would be allowed under a General Entertainment Use.
7. NCDs where an Outdoor Activity Area currently requires a CU would be amended to Permit Outdoor Activity Areas operating between the hours of 6am-10pm. Operations outside of those hours would require a CU. If neighborhood notice is currently required, it would still be required under this amendment.

**BACKGROUND**

In February 2018, the Office of Economic and Workforce Development published "State of the Retail Sector: Challenges and Opportunities for San Francisco's Neighborhood Commercial Districts" (the "Retail Study"). Prepared by Strategic Economics, the Retail Study included briefs studying: the national restructuring of the retail, restaurant, and personal services industries; the factors required to support successful San Francisco retail districts; and opportunities, costs, and challenges for retail, restaurant, and personal services businesses in San Francisco, and the adaptations that businesses are making in response to changing conditions. Supervisor Brown and the Mayor have worked with the Office of Economic and Workforce Development to draft the proposed legislation to remedy some of the issues identified in the Retail Study, which will be discussed further below.

## **ISSUES AND CONSIDERATIONS**

### **“State of the Retail Sector” Study**

The Retail Study identified a national trend in retail stores to which San Francisco is not alone. The new trend focuses on creating “experiences” for consumers, rather than tangible objects the consumer purchases. This has taken many forms, including many retailers incorporating multiple use types, such as food and drink sales, events, and classes into one single business. While San Francisco possesses many competitive advantages that benefit local retailers and restaurants, the Retail Study observed that a significant number of Neighborhood Commercial Districts are experiencing an increase in vacancy rates. The Retail Study also found that San Francisco businesses face challenges connected to the City’s land use regulations and permitting requirements, which can add significant cost and time to the process of opening a new business and may limit retailers’ flexibility to adapt to changing economic conditions.

The Retail Study additionally found that nightlife and entertainment uses complement neighborhood retail sales and services by providing destinations and gathering spaces for potential retail customers. Despite these significant contributions to the local economy, nightlife and entertainment businesses often face zoning barriers, burdensome permitting requirements, and duplicative inspections.

### **ABC License Types versus Planning Code Definitions**

The Planning Code defines “Bar” and “Restaurant” uses to include a number of state liquor license types, but does not provide clear guidance regarding the treatment of businesses with several types of licenses. A business using a Type 23 brewery liquor license is defined as a “Bar” in the Planning Code, even though this license may be used by a brewery in conjunction with either a bar or restaurant. The lack of clarity on this point has required multiple brewpubs to seek Letters of Determination, adding time and money to move projects forward. Additionally, the definitions of Bar and Restaurant do not include a Type 02 winery liquor license, even though this license may be employed by a winery with either a bar or a restaurant.

A Type 64 license authorizes a nonprofit theater to serve alcoholic beverages to patrons no more than two hours before, during, and no later than 1 hour after theatrical performances. The Planning Code Sec. 102 does not mention a Type 64 liquor license in any of the Use definitions. The lack of clear guidance in the Planning Code has led to confusion about whether a Type 64 license would create a Bar use in these non-profit theaters.

A Type 87 license authorizes the Department to issue up to five new original neighborhood-restricted special on-sale general licenses each year, until a total of thirty new licenses within identified census tracts within the city. The licenses are neighborhood-restricted special on-sale general licenses, and businesses who possess them are required to be operated as Bona Fide Eating Place. They are additionally restricted from having any off-sale privileges and are generally non-transferable. The Planning Code does not mention the Type 87 license under any of its definitions. Adding the Type 87 to the definition of Restaurant will ensure there is no conflict with the operating conditions of the license in the State Code.

ABC License Types Guide\*

	<i>General Description</i>	<i>Allows On-Site Sales?</i>	<i>Allows Off-Site Sales?</i>	<i>Other Restrictions:</i>
02 <i>Winegrower (Winery)</i>	Wine & Brandy for production. May be duplicated for Bona Fide Eating Place (BFEP), Bar, or tasting room. If BFEP, may also sell beer and other wine.	Yes	Yes	Wine & Brandy sold must be produced by license holder
23 <i>Small Beer Manufacturer (Brew Pub or Micro-Brewery)</i>	Beer for production. May be duplicated for a Bona Fide Eating Place, Bar, or tasting room. If BFEP, may also sell other beer and wine.	Yes	Yes	Limit of 60,000 or less barrels of beer production per year
64 <i>Non-Profit Theater</i>	Alcohol sales to ticketholders no earlier than 2 hrs before & no later than 1hr after a ticketed theatrical performance.	Yes	No	Must be a 501(c)(3) Non-profit theater & performance must be a bona fide theater performance.
87 <i>Neighborhood Restricted On-Sale</i>	Non-transferable alcohol sales only issuable in identified census tracts. Must operate as a Bona Fide Eating Place	Yes	No	5 new licenses issued within census tracts identified each year until 30 are issued.

\*For additional information, please see Exhibits A, B, & C

An entertainment venue must hold both Restaurant *and* Nighttime Entertainment use permits as principal uses to have a restaurant-style liquor license *and* admit patrons of all ages. Under Section 102 of the Planning Code, a "Restaurant" serving alcohol must operate as a "Bona Fide Eating Place," defined to include requirements that the business (1) must receive at least 51% of its gross receipts from food sales; and (2) must be open and serving meals at least five days a week. The requirement to operate as a Bona Fide Eating Place places these venues in direct conflict with the Planning Code. The largest difference between a Bar and a Restaurant is the portion of sales that comes from food versus alcohol. If a venue

holds both a Bar and Restaurant use as principal uses, as is required, they logically cannot operate as both having at least 51% of gross receipts from food sales and less than 51% of gross receipts coming from food sales. A typical example of a business that operates under these two uses in San Francisco is comedy clubs. Comedy clubs usually make much of their profit from a combination of ticket sales, food sales, and alcohol sales. It is rare that this type of use earns at least 51% of its sales from food, even though serving food during performances is an integral part of the experience. This Ordinance seeks to clarify that an entertainment venue that holds both Restaurant and Nighttime Entertainment use permits, would *not* be required to operate as a Bona Fide Eating Place.

#### **Arcade Game Definition**

The Planning Code defines "Amusement Game Arcade" as any business that includes 11 or more mechanical amusement devices (including pinball machines and arcade games). A business with 10 or fewer devices is considered either a General Entertainment Use, or an Accessory Use depending on the particulars of the establishment in question. Amusement Game Arcade is distinctly differentiated from General Entertainment, even though a General Entertainment use is defined as "entertainment or leisure pursuits to the general public including...billiard halls, bowling alleys, skating rinks, and mini-golf." In many zoning districts, General Entertainment is either principally permitted or permitted with a CU authorization; however, with some exceptions, Amusement Game Arcades are generally not permitted. Amusement Game Arcade was added to Section 102 of the Planning Code in the 1980's, when there was some concern that videogame arcades may become a distraction for children who should be in school, or that this type of use could lead to gambling.

In recent years, several new businesses combining Amusement Game Arcade with other food, beverage, and retail uses have emerged. This led to a piecemeal approach to allowing these uses on a district-by-district basis, including independent Ordinances to allow Amusement Game Arcades in SLI Districts South of Market, the Haight, and Upper Market. Staff finds that these uses are not materially distinct from billiards halls and other General Entertainment uses, and therefore does not warrant a distinct land use designation. The proposed Ordinance would remove the definition of "Amusement Game Arcade" from the Planning Code. The removal means that businesses proposing to have more than 10 arcade games would be allowed anywhere that General Entertainment uses are allowed. If the business combines arcade games with a Bar, Restaurant, or any other land use, all appropriate zoning controls for operating those additional uses would remain.

#### **Limited Commercial Use**

In the 1970s when the City adopted the RH zoning districts, it prohibited all commercial uses in these new residential districts. This included small corner stores or any other low impact commercial use. To maintain neighborhood vitality and convenience, these historic uses were later "grandfathered" in and categorized as Limited Commercial Uses. The City still maintains a master list of all LCUs in the city. LCUs are typically small commercial storefronts, like corner grocery stores or coffee shops in Residential Districts. While you cannot add new spaces like this to RH Districts<sup>1</sup>, the Code allows these historic land

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<sup>1</sup> New LCUs are allowed in RTO Districts, but they are limited in size and location and are called Limited Corner Commercial Uses, or LCCUs.

uses to persist in perpetuity and allows them to be reconstituted through the Conditional Use process if they were previously abandoned.

#### **Buffer Restrictions in NC Districts**

Section 710 of the Planning Code (zoning table note 2) provides that in NC-1 zoning districts Retail Sales and Service uses, including Restaurant and Bar uses, are principally permitted, unless the business is located within one quarter mile of any neighborhood commercial district or restricted use district with more restrictive controls. In those cases, the more restrictive zoning control applies. Similarly, for Limited Commercial Uses, or LCUs, in RH, RM, and RTO districts may change to another use if that new use is allowed in an NC-1 zoning district, unless there is a more restrictive NCD or RUD located within one quarter mile of the proposed use. In those cases, the more restrictive rules would apply.

This requirement has prevented businesses from opening due to zoning restrictions in other neighborhoods. This requirement applies even if a zoning district with more permissive zoning is located between the proposed use and the more restrictive district. The proposed change seeks to implement a recommendation from the Planning Department's 2009 report, NC @ 20, which stated that "it is recommended that a suitable relaxation of the ¼ mile radius provisions be examined" (page 66).

#### **Outdoor Activity Areas**

An "Outdoor Activity Area" is defined in the Planning Code as an area "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." In many zoning districts, an Outdoor Activity Area in front of a building is principally permitted, while back patios and rooftop areas require a CU authorization. Further, in most NCDs, a change of use to establish an Outdoor Activity Area also requires Section 311 Neighborhood Notification. Outdoor patios, courtyards, and rooftops add unique character to businesses, and enhance the vibrancy of the City's commercial corridors. Despite these benefits, the CU authorization requirement creates significant time and cost barriers that may be prohibitive for small businesses. This is especially true for businesses that seek to operate an Outdoor Activity Area during normal business hours, when they pose less of an impertinence to the surrounding buildings.

#### **General Plan Compliance**

The Commerce and Industry Element of the General Plan calls for managing economic growth and change to ensure enhancement of the total city environment, maintaining a sound and diverse economic base and fiscal structure, and providing expanded employment opportunities for city residents.. Within the Element, Policies 2.1 and 2.3 focus on retaining commercial activity and attracting new activity by fostering a favorable social and cultural climate. The proposed Ordinance assists in accomplishing these policy goals by clarifying alcohol license types in the Planning Code's use definitions to align with state laws, and allowing new commercial activity in districts where it once was prohibited by overly restrictive boundaries. This added commercial activity will help maintain a favorable social and cultural climate in San Francisco as it adds to the number of recreational activities available to employees and residents. The Ordinance enhances San Francisco as a location for gathering places for residents and visitors alike to enjoy.

### **Implementation**

The Department has determined that this Ordinance will impact our current implementation procedures; however, the proposed changes can be implemented without increasing permit costs or review time.

### **RECOMMENDATION**

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

### **BASIS FOR RECOMMENDATION**

The Department supports the proposed ordinance because it will remove unnecessary and restrictive bureaucratic hurdles, while also maintaining reasonable controls to ensure neighborhood compatibility. The changes the Ordinance makes alleviates problems identified the Retail Study and the Planning Department's 2009 Report on Neighborhood Commercial District "NC@20", as hindering the establishment of new neighborhood-serving businesses. While the Ordinance removes the ¼ mile buffer around NC Districts with more restrictive controls, it maintains a 300 foot buffer to ensure noncompatible or non-desirable uses are not allowed adjacent to district with their own specific controls. Further, the Ordinance removes the need for local businesses to seek a letter of determination from the Zoning Administrator by clarifying alcohol license types in the Planning Code's use definitions to align with state laws. It also eliminates an unnecessary use definition, Amusement Game Arcades, in order to align with emerging entertainment trends. These proposed changes will help bring more commercial activity to our Neighborhood Commercial Districts, maintaining a favorable social and cultural climate in San Francisco and assisting in reducing storefront vacancies in the City's Neighborhood Commercial Districts.

### **REQUIRED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

### **ENVIRONMENTAL REVIEW**

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

### **PUBLIC COMMENT**

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

### **Attachments:**

- Exhibit A: Common ABC License Types
- Exhibit B: ABC Type 87 Description & Information
- Exhibit C: ABC Type 64 Description
- Exhibit D: Chart of NC Districts & Outdoor Activity Areas, Bars, and Restaurants
- Exhibit E: Draft Planning Commission Resolution
- Exhibit F: Board of Supervisors File No. 181211

# Exhibit A

State of California

Department of Alcoholic Beverage Control  
**COMMON ABC LICENSE TYPES  
 AND THEIR BASIC PRIVILEGES**

LICENSE TYPE	DESCRIPTION
01	<b>BEER MANUFACTURER</b> - (Large Brewery) Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	<b>WINEGROWER</b> - (Winery) Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
20	<b>OFF SALE BEER &amp; WINE</b> - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
21	<b>OFF SALE GENERAL</b> - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	<b>SMALL BEER MANUFACTURER</b> - (Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	<b>ON SALE BEER</b> - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	<b>ON SALE BEER &amp; WINE – EATING PLACE</b> - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
42	<b>ON SALE BEER &amp; WINE – PUBLIC PREMISES</b> - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	<b>ON SALE GENERAL – EATING PLACE</b> - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. Authorizes the sale of beer and wine for consumption off the licensed premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
48	<b>ON SALE GENERAL – PUBLIC PREMISES</b> - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	<b>ON SALE GENERAL – SEASONAL</b> - Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.



LICENSE TYPE	DESCRIPTION
51	<b>CLUB</b> - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required. Minors are allowed on the premises.
52	<b>VETERAN'S CLUB</b> - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guest only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
57	<b>SPECIAL ON SALE GENERAL</b> - Generally issued to certain organizations who cannot qualify for club licenses. Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guests only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
59	<b>ON SALE BEER AND WINE – SEASONAL</b> - Authorizes the same privileges as a Type 41. Issued for a specific season. Inclusive dates of operation are listed on the license certificate.
60	<b>ON SALE BEER – SEASONAL</b> - Authorizes the sale of beer only for consumption on or off the premises where sold. Issued for a specific season. Inclusive dates of operation are listed on the license certificate. Wine or distilled spirits may not be on the premises. Minors are allowed on the premises.
61	<b>ON SALE BEER – PUBLIC PREMISES</b> - (Bar, Tavern) Authorizes the sale of beer only for consumption on or off the licensed premises. Wine or distilled spirits may not be on the premises. Minors are not allowed to enter and remain (warning signs required). Food service is not required.
67	<b>BED AND BREAKFAST INN</b> - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.
70	<b>ON SALE GENERAL – RESTRICTIVE SERVICE</b> - Authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment's overnight transient occupancy guests or their invitees. This license is normally issued to "suite-type" hotels and motels, which exercise the license privileges for guests' "complimentary" happy hour. Minors are allowed on the premises.
75	<b>ON SALE GENERAL – BREWPUB</b> - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. This license does not authorize the sale of alcoholic beverages for consumption off the premises where sold. Minors are allowed on the premises.
80	<b>BED AND BREAKFAST INN – GENERAL</b> - Authorizes the sale of beer, wine and distilled spirits purchased from a licensed wholesaler or winegrower only to registered guests of the establishment for consumption on the premises. Alcoholic beverages shall not be given away to guests, but the price of the alcoholic beverage shall be included in the price of the overnight transient occupancy accommodation. Removal of alcoholic beverages from the grounds is not permitted. Minors are allowed on the premises.
86	<b>INSTRUCTIONAL TASTING LICENSE</b> - Issued to the holder of and premises of a Type 20 or Type 21 licensee, authorizes the tasting of alcoholic beverages as authorized to be sold from the off-sale premises, on a limited basis. Requires physical separation from the off-sale premises while tasting is taking place and generally requires the participation of a specifically-authorized manufacturer or wholesaler licensee.



## SPECIAL EVENTS

The Department also issues licenses and authorizations for the retail sale of beer, wine and distilled spirits on a temporary basis for special events. The most common are listed below. Other less common ones are found in Business and Professions Code Section 24045.2, et seq.

**SPECIAL DAILY BEER AND/OR WINE LICENSE** - (Form ABC-221) Authorizes the sale of beer and/or wine for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to non-profit organizations. (Rule 59, California Code of Regulations)

**DAILY ON SALE GENERAL LICENSE** - (Form ABC-221) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to political parties or affiliates supporting a candidate for public office or a ballot measure or charitable, civic, fraternal or religious organizations. (Section 24045.1 and Rule 59.5 California Code of Regulations)

**CATERING AUTHORIZATION** - (Form ABC-218) Authorizes Type 47, 48, 51, 52, 57, 75 and 78 licensees (and catering businesses that qualify under Section 24045.12) to sell beer, wine and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events. Type 47, 48 and 57 licensees may cater alcoholic beverages at any ABC-approved location in the State. Type 51 and 52 licensees may only cater alcoholic beverages at their licensed premises. All licensees wishing to cater alcoholic beverages must obtain prior written authorization from the Department for each event. At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399 and Rule 60.5 California Code of Regulations)

**EVENT AUTHORIZATION** - (Form ABC-218) Authorizes Type 41, 42, 47, 48, 49, 57, 75 and 78 licensees to sell beer, wine and distilled spirits for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. *The licensee shall obtain prior approval of the local law enforcement agency.* At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises (including any license conditions) and violations of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399)

**WINE SALES EVENT PERMIT** - (Form ABC-239) Authorizes Type 02 licensees to sell bottled wine produced by the winegrower for consumption off the premises where sold and only at fairs, festivals or cultural events sponsored by designated tax exempt organizations. The licensee must notify the city and/or county where the event is being held and obtain approval from ABC for each event (Form ABC-222). The licensee must also comply with all restrictions listed in Business and Professions Code Section 23399.6.

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### Note:

1. "Minor" means any person under 21 years of age.
2. Consult Section 25663(b) regarding age of employees in off-sale premises; consult Sections 25663(a) and 25663.5 regarding age of employees in on-sale premises.
3. In certain situations, ABC may place reasonable conditions upon a license, such as restrictions as to hours of sale, employment of designated persons, display of signs, restrictions on entertainment or dancing, etc. If a license has been conditioned, it will be endorsed as such on the face of the license. (Conditional licenses, Sections 23800-23805.)

4. Licensees whose license allows minors on the premises may have a "house policy" restricting minors from entering certain areas of the premises or prohibiting minors in the premises during certain hours.
5. This handout contains only abbreviated information. Contact your local ABC office for full information before doing anything which may jeopardize your license. Also available from the ABC: Quick Summary of Selected ABC Laws (form ABC-608); Alcoholic Beverage Control Act (complete laws); Rules & Regulations; and P-90 (describes privileges of non-retail licenses).

**State of California**

**BUSINESS AND PROFESSIONS CODE**

**Section 23826.13**

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23826.13. (a) Notwithstanding any other provision of this chapter, in any county of the sixth class, the department may issue no more than a total of five new original neighborhood-restricted special on-sale general licenses to premises located in any of the census tracts listed in subdivision (b) per year beginning on January 1, 2017, until a total of 30 new licenses authorized by this section are issued.

(b) To qualify for a license issued pursuant to this section, the premises for which the license would apply shall be located within one of the following United States Bureau of Census census tracts located within the City and County of San Francisco, subject to the following limitations:

(1) United States Bureau of the Census census tract 612000, 232000, 234000, 233000, or 230030. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(2) United States Bureau of the Census census tract 258000 or 257020. No more than a total of four neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(3) United States Bureau of the Census census tract 264030. No more than a total of two neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within this tract.

(4) United States Bureau of the Census census tract 255000, 256000, 260020, 260010, 260040, 261000, or 263010. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(5) United States Bureau of the Census census tract 309000, 310000, or 312010. No more than a total of four neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(6) United States Bureau of the Census census tract 330000, 329010, 328010, 353000, or 354000. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(7) United States Bureau of the Census census tract 328020, 329020, 351000, or 352010. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(c) In issuing the licenses pursuant to this section, the department shall follow the procedure set forth in Section 23961. A license shall not be issued pursuant to this

section to an applicant until any existing on-sale licenses issued to the applicant for the same premises are canceled.

(d) (1) A person who currently holds an on-sale general license for a premises, who currently holds any interest in an on-sale general license for a premises, who has held an on-sale general license for a premises within the 12 months prior to the date of the drawing required by Section 23961, or who has held any interest in an on-sale general license for a premises within the 12 months prior to the date of the drawing required by Section 23961, shall not apply for a license issued pursuant to this section for that licensed premises.

(2) In addition to the other requirements of this section, an application for a neighborhood-restricted on-sale general license shall be subject to all the requirements that apply to an on-sale general license for a bona fide eating place.

(3) Prior to submitting an application for a license issued pursuant to this section, the applicant shall conduct a minimum of one preapplication meeting to discuss the application with neighbors and members of the community within the census tract in which the premises are located.

(A) The applicant shall hold the meeting either on the premises or at an alternate location within a one-mile radius of the premises.

(B) The applicant shall mail notification of the preapplication meeting to all of the following individuals and organizations at least 14 calendar days before the meeting:

(i) Each resident within a 500-foot radius of the premises for which the license is to be issued.

(ii) Any relevant neighborhood associations for the neighborhood in which the premises is located, as identified on a list maintained by the Planning Department of the City and County of San Francisco.

(iii) The Chief of Police for the San Francisco Police Department.

(C) Applicants for a neighborhood-restricted special on-sale general license shall submit, on a form provided by the department, signed verification by the local governing body of the area in which the applicant premises are located, or its designated subordinated officer or body, that states the applicant has completed the preapplication meeting pursuant to this section.

(e) (1) A license issued pursuant to this section shall not be transferred between counties.

(2) A license issued pursuant to this section shall not be transferred to any other premises. This provision shall not apply to any licensee whose premises have been destroyed as a result of fire or any act of God or other force beyond the control of the licensee, for whom the provisions of Section 24081 shall apply.

(3) A license issued pursuant to this section shall not be transferred to any person, partnership, limited partnership, limited liability company, or corporation. This provision shall not apply to licenses transferred under Section 24071, 24071.1, or 24071.2.

(f) Following the cancellation or revocation of a license issued pursuant to this section, the department may issue one additional new original neighborhood-restricted

special on-sale general license following the procedure set forth in Section 23961 and the provisions of this section.

(g) A person that holds a neighborhood-restricted special on-sale general license issued pursuant to this section shall not exchange his or her license for an on-sale license for public premises.

(h) Except as specified herein, a neighborhood-restricted special on-sale general license may exercise all of the privileges, and is subject to all the restrictions, of an on-sale general license for a bona fide eating place.

(i) A neighborhood-restricted special on-sale general license issued pursuant to this section shall not, with respect to beer and wine, authorize the exercise of the rights and privileges granted by an off-sale beer and wine license.

(j) (1) The original and annual fees, and any additional fees and surcharges, shall be the same as those imposed upon an on-sale general license for a bona fide eating place.

(2) All moneys collected from the fees imposed pursuant to this section shall be deposited in the Alcohol Beverage Control Fund, pursuant to Section 25761.

(k) The department shall adopt rules and regulations to enforce the provisions of this section.

(Amended by Stats. 2017, Ch. 442, Sec. 2. (AB 471) Effective January 1, 2018.)

**State of California**

**BUSINESS AND PROFESSIONS CODE**

**Section 24045.7**

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24045.7. (a) (1) The department may issue a special on-sale general license to any nonprofit theater company that is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States. Any special on-sale general license issued to a nonprofit theater company pursuant to this subdivision shall be for a single specified premises only.

(2) Theater companies holding a license under this subdivision may, subject to Section 25631, sell and serve alcoholic beverages to ticketholders only during, and two hours prior to and one hour after, a bona fide theater performance of the company.

(3) Notwithstanding any other provision in this division, a licensed manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, employee, or agent of that person, may serve on the board of trustees or as an officer, director, or employee of a nonprofit theater company operating a theater in Napa County or the City of Livermore licensed pursuant to this subdivision.

(4) An applicant for such a license shall accompany the application with an original issuance fee of one thousand dollars (\$1,000) and shall pay an annual renewal fee as provided in Section 23320.

(5) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exceptions established by this subdivision to the general prohibition against tied interests must be limited to their express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

(b) (1) The department may issue a special on-sale beer and wine license to any nonprofit theater company which has been in existence for at least eight years, which for at least six years has performed in facilities leased or rented from a local county fair association, and which is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States.

(2) Theater companies holding a license under this subdivision may, subject to Section 25631, sell and serve beer and wine to ticketholders only during, and two hours prior to, a bona fide theater performance of the company. Beer and wine may

be sold from an open-air concession stand which is not attached to the theater building itself, if the concession stand is located on fair association property within 30 feet of the theater building and the alcoholic beverages sold are consumed only in the theater building itself, or within a designated outdoor area in front of and between the concession stand and the main public entrance to the theater building. Nothing in this section permits a theater company to sell beer or wine during the run of a county fair.

(3) An applicant for a license under this subdivision shall accompany the application with an original issuance fee equal to the annual renewal fee and shall pay an annual renewal fee as provided in Section 23320.

(Amended by Stats. 2010, Ch. 273, Sec. 2. (AB 2793) Effective January 1, 2011.)

Exhibit D

Chart of NC Districts & Outdoor Activity Areas, Bars, and Restaurants

	OUTDOOR ACTIVITY AREA IN REAR OR SIDE YARDS	BAR	RESTAURANT	LIMITED RESTAURANT
NC-1	C	P( generally)	P( generally)	P( generally)
NC-2	C	P( generally)	P( generally)	P( generally)
NC-3	C	P( generally)	P( generally)	P( generally)
NC-S	C	P( generally)	P( generally)	P( generally)
Broadway	C	C	P( generally)	P( generally)
Castro	C	NP	C	P( generally)
Inner Clement	C	C	C	P
Outer Clement	C	C	C	C
Upper Fillmore	C	C	C	P
Haight	C	NP	NP	P
Excelsior	C	P	P	P
Japantown	C	P (noise controls)	P (noise controls)	P (noise controls)
North Beach	C	C	C	C
Polk Street	C	C	C	P
Sacramento St	P	NP	C	P
Union Street	C	NP	C	C
Pacific Ave	C	NP	C	P
24 <sup>TH</sup> Street	C	C	C	P( generally)
West Portal Ave	C	C	C	C
Inner Sunset	C	C	C	C
Noriega Street	C	C	P( generally)	P( generally)
Irving Street	C	C	P( generally)	P( generally)
Taraval Street	C	C	P( generally)	P( generally)
Judah Street	C	C	P( generally)	P( generally)

\*Change of Use to establish an Outdoor Activity Area, Bar, Restaurant, or Limited Restaurant require neighborhood notice in all of these Zoning Districts, except when located in Supervisorial Districts 4 and 11.



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Draft Resolution

HEARING DATE FEBRUARY 28, 2019

*Project Name:* Small Business Permit Streamlining  
*Case Number:* 2019-000048PCA [Board File No. 181211]  
*Initiated by:* Supervisor Brown, Mayor Breed / Introduced December 11, 2018  
*Staff Contact:* Audrey Butkus, Legislative Affairs  
*Reviewed by:* Audrey.Butkus@sfgov.org, 415-575-9129  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
*Reviewed by:* aaron.starr@sfgov.org, 415-558-6362

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD STREAMLINE SMALL BUSINESS PERMITTING BY, AMONG OTHER THINGS, AMENDING THE HEALTH CODE TO ALIGN REGULATION OF RESTAURANT ENCLOSURES FOR OUTDOOR FOOD SERVICE AND RESTROOM REQUIREMENTS WITH STATE STANDARDS; AMENDING THE PLANNING CODE TO CLARIFY THAT A TYPE 23 LIQUOR LICENSE MAY BE USED IN CONJUNCTION WITH A BAR OR RESTAURANT USE, TO AMEND THE DEFINITION OF A BAR TO PROVIDE FOR CONSISTENT TREATMENT OF TYPE 64 LIQUOR LICENSES, TO MODIFY NIGHTTIME ENTERTAINMENT USE FOOD SERVICE REQUIREMENTS, TO REDUCE THE DISTANCE MEASURED FOR RETAIL SALES AND SERVICES USES IN NEIGHBORHOOD COMMERCIAL ZONING DISTRICTS TO ANY NEIGHBORHOOD COMMERCIAL DISTRICT, TO REDUCE THE DISTANCE MEASURED FOR NONCONFORMING USES IN RH (RESIDENTIAL, HOUSE), RM (RESIDENTIAL, MIXED), AND RTO (RESIDENTIAL, TRANSIT-ORIENTED) DISTRICTS TO ANY NEIGHBORHOOD COMMERCIAL DISTRICT, TO AMEND THE DEFINITION OF GENERAL ENTERTAINMENT TO INCLUDE AMUSEMENT GAME ARCADE, TO ALLOW AS A PERMITTED USE AN OUTDOOR ACTIVITY AREA OPERATED BETWEEN 6 A.M. TO 10 P.M., AND TO ALLOW LIMITED RESTAURANT USE AS AN ACCESSORY USE; AMENDING THE POLICE CODE TO ELIMINATE CERTAIN DUPLICATIVE INSPECTIONS AND SIGNOFFS IN CONNECTION WITH PLACE OF ENTERTAINMENT PERMITS, AND AMENDING THE DEFINITION OF LIMITED LIVE PERFORMANCE LOCALE TO REMOVE THE REQUIREMENT FOR FOOD AND BEVERAGE SERVICE; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on December 11, 2018 Mayor Breed and Supervisor Brown introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 181211 which would streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 23 liquor license may be used in conjunction with a Bar or Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance

measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to reduce the distance measured for nonconforming uses in RH (Residential, House), RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an Accessory Use; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 28, 2019; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves** the proposed ordinance.

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds the proposed Ordinance will remove unnecessary and restrictive bureaucratic hurdles, while also maintaining reasonable controls to ensure neighborhood compatibility.
2. The changes the Ordinance makes alleviates problems identified the Retail Study and the Planning Department's 2009 Report on Neighborhood Commercial District "NC@20", as hindering the establishment of new neighborhood-serving businesses.
3. The Commission finds that while the Ordinance removes the ¼ mile buffer around NC Districts with more restrictive controls, it maintains a 300 foot buffer to ensure noncompatible or non-desirable uses are not allowed adjacent to district with their own specific controls. Further, the Ordinance removes the need for local businesses to seek a letter of determination from the Zoning Administrator by clarifying alcohol license types in the Planning Code's use definitions

to align with state laws. It also eliminates an unnecessary use definition, Amusement Game Arcades, in order to align with emerging entertainment trends.

4. The Commission finds the proposed changes will help bring more commercial activity to our Neighborhood Commercial Districts, maintaining a favorable social and cultural climate in San Francisco and assisting in reducing storefront vacancies in the City's Neighborhood Commercial Districts.
5. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

## COMMERCE AND INDUSTRY ELEMENT

### OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

*The proposed Ordinance will facilitate the establishment of a retail use that provides net benefits in the form recreational and community gathering spaces. Any potential undesirable consequences may be addressed through existing regulatory controls.*

### OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

#### Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

#### Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

*The proposed Ordinance clarifies alcohol license types in the Planning Code's use definitions to align with state laws, and allows new commercial activity in districts where it once was prohibited by overly restrictive boundaries. This added commercial activity will help maintain a favorable social and cultural climate in San Francisco as it adds to the number of recreational activities available to employees. The Ordinance enhances San Francisco as a location for gathering places for residents and tourists alike to enjoy.*

## OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

### Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*The proposed Ordinance will remove bureaucratic hurdles and unnecessary restrictions which were identified in the Retail Study as hindering the establishment of new neighborhood-serving businesses, while also controlling the potential negative impacts to communities that can come with unregulated business development by retaining a 300 foot buffer for non-conforming uses in Residential Districts, and Retail Sales and Service Uses that are in close proximity to a different zoning district with stricter controls.*

### Policy 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

*The Ordinance will assist in streamlining the permitting process for certain types of businesses such as Bars, Restaurants, and Non-Profit Theaters, thereby assisting small businesses to establish themselves in the City in what may otherwise be a process that can currently become overly complicated, time-consuming, or expensive.*

6. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

7. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 28, 2019.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: February 28, 2019

1 [Health, Planning, and Police Codes - Small Business Permit Streamlining]

2

3 **Ordinance to streamline small business permitting by, among other things, amending**

4 **the Health Code to align regulation of restaurant enclosures for outdoor food service**

5 **and restroom requirements with state standards; amending the Planning Code to**

6 **clarify that a Type 23 liquor license may be used in conjunction with a Bar or**

7 **Restaurant use, to amend the definition of a Bar to provide for consistent treatment of**

8 **Type 64 liquor licenses, to modify Nighttime Entertainment use food service**

9 **requirements, to reduce the distance measured for Retail Sales and Services uses in**

10 **Neighborhood Commercial zoning districts to any neighborhood commercial district,**

11 **to reduce the distance measured for nonconforming uses in RH (Residential, House),**

12 **RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any**

13 **neighborhood commercial district, to amend the definition of General Entertainment to**

14 **include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area**

15 **operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an**

16 **Accessory Use; amending the Police Code to eliminate certain duplicative inspections**

17 **and signoffs in connection with Place of Entertainment permits, and amending the**

18 **definition of Limited Live Performance Locale to remove the requirement for food and**

19 **beverage service; affirming the Planning Department's determination under the**

20 **California Environmental Quality Act; and making findings of consistency with the**

21 **General Plan, and the eight priority policies of Planning Code, Section 101.1, and public**

22 **necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.**

23       **NOTE: Unchanged Code text and uncodified text are in plain Arial font.**

24       **Additions to Codes are in single-underline italics Times New Roman font.**

25       **Deletions to Codes are in strikethrough italics Times New Roman font.**

**Board amendment additions are in double-underlined Arial font.**

**Board amendment deletions are in strikethrough Arial font.**

**Asterisks (\* \* \* \*) indicate the omission of unchanged Code subsections or parts of tables.**

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

## Section 1. Environmental and Land Use Findings.

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

(b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code Amendment will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. \_\_\_\_\_ is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

## Section 2. Background, Purpose, and General Findings.

(a) In February 2018, the Office of Economic and Workforce Development published “State of the Retail Sector: Challenges and Opportunities for San Francisco’s

1      Neighborhood Commercial Districts" (the "Retail Study"). Prepared by Strategic Economics,  
2      the Retail Study included briefs studying: the national restructuring of the retail, restaurant,  
3      and personal services industries; the factors required to support successful San Francisco  
4      retail districts; and opportunities, costs, and challenges for retail, restaurant, and personal  
5      services businesses in San Francisco, and the adaptations that businesses are making in  
6      response to changing conditions.

7                (b)     The Retail Study identified a national trend in retail stores seeking to experiment  
8      with new strategies to capitalize on increasing consumer demand for experiences, as  
9      opposed to objects. The Retail Study observed that, to remain competitive with e-commerce  
10     businesses, retailers are increasingly seeking to incorporate food and drink sales, events, and  
11     classes into their businesses, and noted a number of San Francisco businesses  
12     experimenting with diverse offerings.

13               (c)     While San Francisco possesses many competitive advantages that benefit local  
14     retailers and restaurants, the Retail Study observed that a significant number of neighborhood  
15     commercial districts are experiencing an increase in vacancy rates. The Retail Study also  
16     found that San Francisco businesses face challenges connected to the City's land use  
17     regulations and permitting requirements, which can add significant cost and time to the  
18     process of opening a new business and may limit retailers' flexibility to adapt to changing  
19     economic conditions.

20               (d)     San Francisco's nightlife and entertainment sector is an integral part of the City's  
21     vibrant commercial corridors. Nightlife and entertainment businesses attract tourists and  
22     residents to the City's diverse neighborhoods. The Retail Study found that nightlife and  
23     entertainment uses complement neighborhood retail sales and services by providing  
24     destinations and gathering spaces for potential retail customers.

25

(e) According to the U.S. Bureau of Labor Statistics, the nightlife and entertainment sector in San Francisco in 2017 was comprised of 3,715 restaurants, bars, live music venues, nightclubs, and other performance spaces with 63,695 employees citywide.

(f) A 2016 analysis by the Controller's Office found that nightlife generated \$6 billion in consumer spending in 2015. The nightlife sector paid approximately \$80 million in local taxes in 2015, including \$60 million in sales tax and \$20 million in payroll and gross receipts taxes.

(g) Despite these significant contributions to the local economy, nightlife and entertainment businesses often face zoning barriers, burdensome permitting requirements, and duplicative inspections. Legislation to address these challenges will reduce storefront vacancies, improve the permitting process for small businesses, enable retailers to engage in creative strategies to attract customers and diversify revenues, and support the health of San Francisco's commercial corridors.

Section 3. Article 8 of the Health Code is hereby amended by revising Sections 412 and 440.5, to read as follows:

**SEC. 412. WIRE SCREENS, ETC., IN PLACES WHERE FOOD IS SOLD.**

It shall be unlawful for any person, firm, association, or corporation engaged in maintaining, conducting, carrying on, or managing a restaurant place, kitchen, meat market, fruit store, vegetable store, delicatessen store, bakery store, street vendor's store, or any other place in which or where food is prepared, sold, or disposed of for human consumption, to maintain, conduct, carry on, or manage said place or store, except in the manner provided for in this Section 412.

It shall be unlawful for any person, firm, association, or corporation to maintain, conduct, carry on, or manage a restaurant place or kitchen where foodstuffs are cooked, or

1 prepared, ~~sold or disposed of~~ for human consumption, unless the doors, windows, apertures, or  
2 other openings to the ~~premises or~~ place where ~~said restaurant or kitchen is conducted, maintained,~~  
3 ~~carried on or managed~~food preparation occurs are effectively enclosed with finely woven wire  
4 mesh screens. Dining areas and bars are not required to be enclosed, provided that no food  
5 preparation occurs there other than adding ingredients to a beverage or dispensing into a serving  
6 container when the beverage is prepared for immediate service in response to an individual consumer  
7 order.

8 \* \* \* \*

9

10 **SEC. 440.5. TOILET AND HANDWASHING FACILITIES TO BE PROVIDED.**

11 (a) Every ~~food establishment~~permanent food facility, as defined in Section ~~27520113849~~ of  
12 the California Health and Safety Code, must provide toilet and handwashing facilities for use  
13 by employees. ~~Every such establishment as to which construction or substantial reconstruction or~~  
14 ~~rehabilitation is commenced on or after September 1, 1986, selling food for the purpose of immediate~~  
15 ~~consumption without the reasonable expectation of further preparation or addition to other foods, shall~~  
16 ~~make such toilet and handwashing facilities available for use by patrons without charge and.~~ Every  
17 permanent food facility shall provide clean toilet facilities in good repair for consumers, guests, or  
18 invitees if there is onsite consumption of food or if the permanent food facility was constructed after  
19 July 1, 1984, and has more than 20,000 square feet of floor space. In addition, such toilet facilities  
20 shall comply with the Plumbing Code of the City and County of San Francisco.

21 ~~(b) Provisions of this Section shall not apply to roadside stands, food establishments which~~  
22 ~~are open to outside air or businesses which primarily sell at retail, meat, poultry and their by products.~~

23 (b) For purposes of this Section 440.5, "onsite consumption of food" means the  
24 consumption of food, provided by a permanent food facility to patrons or guests, at or within the facility  
25 or within an area operated or controlled by the facility. A permanent food facility that does not offer

1        onsite consumption of food may not have on its premises any dining tables, dining  
2        counters, or dining standing-tables.

3

4        Section 4. The Planning Code is hereby amended by revising Sections 102, 145.2,  
5        145.4, 186, 303.1, 703, 710, 711, 712, 713, 714, 719, 721, 728, 754, 757, 758, 759, 760, 764,  
6        and 781.9, to read as follows:

7        **SEC. 102. DEFINITIONS.**

8        \* \* \* \*

9        ~~Amusement Game Arcade. A Retail Entertainment Arts and Recreation Use that provides eleven or~~  
10        ~~more amusement game devices such as video games, pinball machines, or other such similar~~  
11        ~~mechanical and electronic amusement devices, in a quantity which exceeds that specified in Section~~  
12        ~~1036.23 of the Police Code as an Ancillary Use. Mechanical amusement devices are further regulated~~  
13        ~~in Sections 1036 through 1036.24 of the Police Code.~~

14        \* \* \* \*

15        **Arts Activities.** A retail Entertainment, Arts and Recreation Use that includes performance,  
16        exhibition (except exhibition of films), rehearsal, production, post-production and some  
17        schools of any of the following: Dance, music, dramatic art, film, video, graphic art, painting,  
18        drawing, sculpture, small-scale glassworks, ceramics, textiles, woodworking, photography,  
19        custom-made jewelry or apparel, and other visual, performance, and sound arts and craft. It  
20        shall exclude accredited Schools and Post-Secondary Educational Institutions. It shall include  
21        commercial arts and art-related business service uses including, but not limited to, recording  
22        and editing services, small-scale film and video developing and printing; titling; video and film  
23        libraries; special effects production; fashion and photo stylists; production, sale, and rental of  
24        theatrical wardrobes; and studio property production and rental companies. Arts spaces shall  
25        include studios, workshops, archives, and theaters, and other similar spaces customarily used

1 principally for arts activities, exclusive of a Movie Theater, *Amusement Game Arcades that*  
2 *provide eleven or more amusement game devices*, Adult Business, and any other establishment  
3 where liquor is customarily served during performances.

4 \* \* \* \*

5 **Bar.** A Retail Sales and Service Use that provides on-site alcoholic beverage sales for  
6 drinking on the premises, including bars serving beer, wine, and/or liquor to the customer  
7 where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC]  
8 license types 02, 23, 42, 48, or 61) and drinking establishments serving beer where minors  
9 are present (with ABC license types 40 or 60) in conjunction with other uses such as Movie  
10 Theaters and General Entertainment. Such businesses shall operate with the specified  
11 conditions in Section 202.2(a). *A non-profit theater that provides on-site alcoholic beverage sales*  
12 *only for consumption by ticket-holding patrons on the premises, with ABC license type 64, shall not be*  
13 *considered a Bar use.*

14 \* \* \* \*

15 **Entertainment, General.** A Retail Entertainment, Arts and Recreation Use that provides  
16 entertainment or leisure pursuits to the general public including dramatic and musical  
17 performances where alcohol is not served during performances, *arcades that provide eleven or*  
18 *more amusement game devices (such as video games, pinball machines, or other such similar*  
19 *mechanical and electronic amusement devices)*, billiard halls, bowling alleys, skating rinks, and  
20 mini-golf, when conducted within a completely enclosed building, and which is adequately  
21 soundproofed or insulated so as to confine incidental noise to the premises. *Mechanical*  
22 *amusement devices are further regulated in Sections 1036 through 1036.24 of the Police Code.*

23 \* \* \* \*

24 **Entertainment, Arts and Recreation Use.** A Use Category that includes *Amusement Game*  
25 *Arcade*, Arts Activities, General Entertainment, Livery Stables, Movie Theater, Nighttime

1 Entertainment, Open Recreation Area, Outdoor Entertainment, Passive Outdoor Recreation  
2 and Sports Stadiums. Adult Business is not included in this definition, except for the purposes  
3 of Development Impact Fee Calculation as described in Article 4.

4 \* \* \* \*

5 ***Restaurant.*** A Retail Sales and Service use that serves prepared, ready-to-eat cooked foods  
6 to customers for consumption on the premises and which has seating. As a minor and  
7 incidental use, it may serve such foods to customers for off-site consumption. It may provide  
8 on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 02,  
9 23, 41, 47, 49, 59, ~~or~~ 75, or 87); however, if it does so, it shall be required to operate as a  
10 Bona Fide Eating Place. It is distinct and separate from a Limited-Restaurant. Such  
11 businesses shall operate with the specified conditions in Section 202.2(a)(1). It shall not be  
12 required to operate within an enclosed building so long as it is also a Mobile Food Facility. A  
13 business that is both a Restaurant use and a Nighttime Entertainment use shall not be required to  
14 operate as a Bona Fide Eating Place. Any associated outdoor seating and/or dining area is  
15 subject to regulation as an Outdoor Activity Area as set forth elsewhere in this Code.

16 \* \* \* \*

17

## 18 **SEC. 145.2. OUTDOOR ACTIVITY AREAS IN NC DISTRICTS.**

19 The following provisions governing Outdoor Activity Areas shall apply in NC Districts.

20 In order to provide for limited commercial Outdoor Activity Areas, which promote  
21 active street life, but do not detract from the livability of surrounding uses, Outdoor Activity  
22 Areas in NC Districts shall be regulated below, except in the Outer Clement Street  
23 Neighborhood Commercial District, where Outdoor Activity Areas shall be a Principally  
24 Permitted Use if they existed prior to 1985. These provisions shall not apply to those Uses  
25 excepted from the requirement for location in an enclosed building.

(a) An Outdoor Activity Area operated by a Commercial Use is permitted as a Principal Use if located outside a building and contiguous to the front property line of the lot on which the Commercial Use is located, *or if the Outdoor Activity Area is operated only between the hours of 6 a.m. and 10 p.m.*

In NC-S Districts, an Outdoor Activity Area is permitted as a Principal Use if located within the boundaries of the property and in front of the primary facades which contain customer entrances and if it does not obstruct pedestrian traffic flow between store entrances and parking facilities, *or if the Outdoor Activity Area is operated only between the hours of 6 a.m. and 10 p.m.*

(b) An Outdoor Activity Area which does not comply with the provisions of Paragraph 1 of this subsection (b) is permitted as a Conditional Use.

In addition to the criteria of Section 303(c) of this Code, the Planning Commission shall find that:

(1) The nature of the activity operated in the Outdoor Activity Area is compatible with surrounding uses;

(2) The operation and design of the Outdoor Activity Area does not significantly disturb the privacy or affect the livability of adjoining or surrounding residences;

(3) The Hours of Operation of the activity operated in the Outdoor Activity Area are limited so that the activity does not disrupt the viability of surrounding uses.

#### SEC. 145.4. REQUIRED GROUND FLOOR COMMERCIAL USES.

\* \* \* \*

Table 145.4

Reference for Commercial, Neighborhood	Reference for Mixed Use Districts	Use
--	-----------------------------------	-----

1	<b>Commercial, and</b>		
2	<b>Residential- Commercial</b>		
3	<b>Districts</b>		
4	<u>102-N/A</u>	890.4	Amusement Game Arcade
5	* * * *		

6 \* \* \* \*

7

8 **SEC. 186. EXEMPTION OF LIMITED COMMERCIAL AND INDUSTRIAL**

9 **NONCONFORMING USES IN RH, RM, RTO, AND RED DISTRICTS.**

10 The purpose of this Section 186 is to provide for the further continuance in RH, RM,  
 11 RTO, and RED Districts of nonconforming uses of a limited commercial and industrial  
 12 character, as herein described, which are beneficial to, or can be accommodated within, the  
 13 residential areas in which they are located. It is hereby found and declared that, despite the  
 14 general incompatibility of nonconforming uses with the purposes of this Code, and with other  
 15 nearby uses, these limited commercial uses may be tolerated in residential areas, and tend to  
 16 provide convenience goods and services on a retail basis to meet the frequent and recurring  
 17 needs of neighborhood residents within a short distance of their homes or, within the South of  
 18 Market RED Districts, tend to provide jobs and continuation of small scale service and light  
 19 industrial activities. These uses tend to be small in scale, to serve primarily a walk-in trade,  
 20 and cause a minimum of interference with nearby streets and properties. Accordingly, this  
 21 Section recognizes the public advantages of these uses and establishes conditions for their  
 22 continued operation.

23 (a) **Exemption from Termination Provisions.** The following nonconforming uses in R  
 24 Districts shall be exempt from the termination provisions of Section 185, provided such uses  
 25 comply with all the conditions specified in subsection (b) below:

(1) Any nonconforming use at any Story in an RTO, RH, or RM District which is located more than ~~one fourth mile~~ 300 feet from the nearest Named Neighborhood Commercial District ~~or Restricted Use Subdistrict~~ described in Article 7 of this Code, and which complies with the use limitations specified for the First Story and below of an NC-1 District, as set forth in Section 710 of this Code.

(2) Any nonconforming use in an RTO, RH, or RM District which is located within ~~one-fourth mile~~ ~~300 feet~~ from any Individual Area Neighborhood Commercial District ~~or restricted use subdistrict~~ and which complies with the most restrictive use limitations specified for the First Story and below of:

(A) an NC-1 District, as set forth in Section 710 of this Code; or

(B) any Named Neighborhood Commercial District within ~~one fourth mile 300 feet~~ of the as set forth in Sections 714 through 748 and 753 through 764 of this Code; ;

(C) Any Restricted Use Subdistrict within one fourth mile of the use, as set forth in Sections 781 through 781.7 of this Code.

(3) In the RED Districts, any nonconforming use which is a personal service use falling within zoning category 816.31; home and business service use falling within zoning categories 816.42 through 816.47; live/work unit falling within zoning category 816.55; wholesale sales, storage, or light manufacturing uses falling within zoning categories 816.64 through 816.67.

(b) **Conditions on Limited Nonconforming Uses.** The limited nonconforming uses described above shall meet the following conditions:

(1) The building shall be maintained in a sound and attractive condition, consistent with the general appearance of the neighborhood;

(2) Any signs on the property shall be made to comply with the requirements of Section 606(c) of this Code for Limited Commercial uses;

(3) The hours during which the use is open to the public shall be limited to the period between 6:00 a.m. and 10:00 p.m.;

(4) Public sidewalk space may be occupied in connection with the use provided that it is only occupied only with tables and chairs as permitted by this Municipal Code;

(5) Truck loading shall be limited in such a way as to avoid undue interference with sidewalks, or with crosswalks, bus stops, hydrants, and other public features;

(6) Noise, odors, and other nuisance factors shall be adequately controlled; and

(7) All other applicable provisions of this Code shall be complied with.

(c) **Formula Retail Uses.** All uses meeting the definition of "formula retail" use per Section 03.1 shall not be permitted except by conditional use authorization under the procedures of Section 303 of this Code.

(d) **Street Frontage.** In addition to the requirements of Section 144 of this Code, the requirements of Section 145.1(c)(6) and (7) shall apply.

(e) **Awnings.** Awnings are permitted, subject to the standards in Section 136.1(a) of this Code. Canopies and marquees are not permitted.

(f) **Termination.** Any use affected by this Section 186 which does not comply with all of the conditions herein specified shall be subject to termination in accordance with Section 185 at the expiration of the period specified in that Section, but shall be qualified for consideration as a conditional use under Section 185(e). Any such use which is in compliance with such conditions at the expiration of such period but fails to comply therewith at any later date shall be subject to termination when it ceases to comply with any of such conditions.

(g) **Reactivation.** Limited commercial uses in RH, RM, RTO, and RED Districts that have been discontinued or abandoned, as defined in Section 183, may be reactivated with conditional use authorization under Section 303. In approving such a use and in addition to the findings required by Section 303, the Planning Commission shall find that:

1       (1) the subject space is located on or below the ground floor and was in commercial or  
2 industrial use prior to January 1, 1960; and

3       (2) the proposed commercial use meets all the requirements of this ~~§~~Section 186 and  
4 other applicable sections of this Code.

5       (h) **Other Applicable Provisions.** The provisions for nonconforming uses contained in  
6 Sections 180 through 183 shall continue to apply to all uses affected by this Section 186,  
7 except that the cost limit for structural alterations contained in Section 181(b)(4) shall not be  
8 applicable thereto.

9

10 **SEC. 303.1. FORMULA RETAIL USES.**

11 \* \* \* \*

12       (c) **"Retail Sales or Service Activity or Retail Sales or Service Establishment."** For the  
13 purposes of this Section 303.1, a retail sales or service activity or retail sales or service  
14 establishment shall include the following uses whether functioning as a Principal or Accessory  
15 Use, as defined in Articles 1, 2, 7, and 8 of this Code:

16 \* \* \* \*

17       - Amusement Game Arcade ~~§§ 102~~, 890.4;

18 \* \* \* \*

19

20 **SEC. 703. NEIGHBORHOOD COMMERCIAL DISTRICT REQUIREMENTS.**

21 \* \* \* \*

22       (d) **Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1  
23 (Accessory Uses for Dwellings in All Districts), 204.4 (Dwelling Units Accessory to Other  
24 Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, Accessory Uses as  
25 defined in Section 102 shall be permitted when located on the same lot. Any Use that does

1 not qualify as an Accessory Use shall be classified as a Principal or Conditional Use unless it  
2 qualifies as a temporary use under Sections 205 through 205.4 of this Code.

3 No Use will be considered accessory to a permitted Principal or Conditional Use that  
4 involves or requires any of the following:

5 (1) The use of more than one-third of the total floor area occupied by such use and the  
6 Principal or Conditional use to which it is accessory, except in the case of accessory off-street  
7 parking and loading and as specified in subsection (d)(3) below as accessory wholesaling,  
8 manufacturing, or processing of foods, goods, or commodities;.

9 (2) Any Bar or Restaurant, or any other~~r~~ retail establishment which serves liquor for  
10 consumption on-site; however, this shall not prohibit take-out food activity which operates in  
11 conjunction with a Limited Restaurant, Restaurant, General Grocery, and Specialty Grocery;.

12 This shall also not prohibit a Limited Restaurant as an Accessory Use to a permitted Principal or  
13 Conditional Use except as specified in subsection (d)(7) below;

14 (3) The wholesaling, manufacturing, or processing of foods, goods, or commodities on  
15 the premises of an establishment that does not also use or provide for retail sale of such  
16 foods, goods, or commodities at the same location where such wholesaling, manufacturing, or  
17 processing takes place, with the following exceptions:

18 (A) In the North Beach Special Use District where such activities are limited to 15% of  
19 the total floor area occupied by the Principal or Conditional Use to which it is accessory unless  
20 the Principal or Conditional Use is Specialty Foods Manufacturing as defined in Section 780.3  
21 of this Code; and

22 (B) Notwithstanding the floor area limitation in subsection (d)(1), a Catering Use limited  
23 to food and beverage Catering shall be permitted as an Accessory Use to Limited Restaurants  
24 if the following requirements are met:

- (i) The Catering Use does not operate more than 75% of the total time within the Limited Restaurant's Hours of Operation on any given day; and
- (ii) The Catering Use does not distribute or deliver individual meals to customers directly from the subject lot, either by its own means, or through a third-party delivery service.

(4) Any retail Liquor Store.

(5) Medical Cannabis Dispensaries.

(6) Any General Entertainment or Nighttime Entertainment use, except for one that involves a Limited Live Performance Permit as set forth in Police Code Section 1060 et seq.

(7) Within the North Beach SUD and NCD, a Limited Restaurant.

## **SEC.710. NC-1—NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT.**

**Table 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1  
ZONING CONTROL TABLE**

<u>Neighborhood Commercial Cluster NCT-1</u>		
<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
***		
<b><u>NON-RESIDENTIAL STANDARDS</u></b>		
<b><u>COMMERCIAL USES CHARACTERISTICS</u></b>		
***		
Outdoor Activity Area	§ 102, 145.2	P if located in front of building <u>or if operated</u> <u>between 6 a.m. and 10 p.m.</u> ; C if located elsewhere <u>and operated between 10 p.m. and 6 a.m.</u>
***		

\* Not listed below

(1) Additional 5 feet for NC-1 parcels with a Commercial use on the ground floor within the following areas:

- (a) Within the boundaries of Sargent Street to Orizaba Avenue to Lobos Street to Plymouth Avenue to Farellones Street to San Jose Avenue to Alemany Boulevard to 19th Avenue to Randolph Street to Monticello Street and back to Sargent Street.
- (b) On Noriega, Irving, Taraval, and Judah Streets west of 19th Avenue.

(2) P if located more than ~~1/4 mile 300 feet~~ from any NC District *or Restricted Use Subdistrict* with more restrictive controls; otherwise, same as more restrictive control.

(3) [Note deleted.]

(4) C required for 7 or more persons.

(5) C if a Macro WTS Facility; P if a Micro WTS Facility.

(6) C in Supervisorial District 4.

**SEC. 711. NC-2—SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.**

\* \* \* \*

**Table 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2  
ZONING CONTROL TABLE**

<u>SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NCT-2</u>		
<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
* * * *		
<b><u>NON-RESIDENTIAL STANDARDS AND USES</u></b>		
<b><u>COMMERCIAL USE CHARACTERISTICS</u></b>		
* * * *		
Outdoor Activity Area	§§ 102, 145.2	P if located in front <i>or if operated between 6 a.m. and 10 p.m.</i> ; C if located elsewhere <i>and operated between 10 p.m. and 6 a.m.</i>
* * * *		

1 SEC. 712. NC-3 – MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.

2 \* \* \* \*

3 Table 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3

4 ZONING CONTROL TABLE

5 \* \* \* \*

Zoning Category	§ References	Controls					
* * * *							
<b>NON-RESIDENTIAL STANDARDS</b>							
* * * *							
NON-RESIDENTIAL USES		Controls by Story					
		1st	2nd	3rd			
* * * *							
<i>Amusement Game Arcade</i>	§ 102	E	NP	NP			
Entertainment, General	§ 102	P	P	NP			
* * * *							

17 SEC. 713. NC-S – NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT.

18 \* \* \* \*

19 Table 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S

20 ZONING CONTROL TABLE

21 \* \* \* \*

Zoning Category	§ References	Controls
* * * *		

1                   **NON-RESIDENTIAL STANDARDS**

2                   \* \* \* \*

3                   **NON-RESIDENTIAL USES**

4                   **Controls by Story**

5                   **1st           2nd           3rd**

6                   * * * *	7	8	9	10
<i>Amusement Game Arcade</i>	§ 102	€	NP	NP
Entertainment, General	§ 102	P(1)	P(1)	NP
* * * *				

11                   **SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT.**

12                   \* \* \* \*

13                   **Table 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT**  
14                   **ZONING CONTROL TABLE**

15                   \* \* \* \*

16 <b>Zoning Category</b>	17 <b>§ References</b>	18 <b>Controls</b>		
* * * *				
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
* * * *				
		<b>Controls by Story</b>		
		<b>1st           2nd           3rd</b>		
* * * *				
<i>Amusement Game Arcade</i>	§ 102	€	NP	NP
Entertainment, General	§ 102	P	P	NP

1	*****				
---	-------	--	--	--	--

2  
3 SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

4 \*\*\*\*\*

5 Table 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
6 ZONING CONTROL TABLE

7 \*\*\*\*\*

Zoning Category	§ References	Controls					
*****							
<b>NON-RESIDENTIAL STANDARDS AND USES</b>							
*****							
Controls by Story							
		1st	2nd	3rd			
*****							
<i>Amusement Game Arcade</i>	§ 102	P	P	NP			
Entertainment, General	§ 102	C	NP	NP			
*****							

19 \*\*\*\*\*

20 (8) *Within the Haight Street Neighborhood Commercial District, that portion of an General*  
21 *Entertainment use comprised of mechanical amusement game devices will be considered an*  
22 *Amusement Game Arcade Use, for the purposes of the Planning Code.*

23  
24 SEC. 721. JAPANTOWN NEIGHBORHOOD COMMERCIAL DISTRICT.

25 \*\*\*\*\*

**Table 721. JAPANTOWN NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

Zoning Category		§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>					
***					
<i>Amusement Game Arcade</i>		§ 102	P	P	P
Entertainment, General		§ 102	P(2)	P(2)	C(2)
***					

**SEC. 728. 24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT.**

**Table 728. 24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

<u><b>24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT NCT</b></u>		
<u><b>Zoning Category</b></u>	<u><b>§ References</b></u>	<u><b>Controls</b></u>
* * * *		
<b><u>NON-RESIDENTIAL STANDARDS AND USES</u></b>		
<b><u>COMMERCIAL USE CHARACTERISTICS</u></b>		
* * * *		
Outdoor Activity Area	§§ 102, 145.2	P if located in front <i>or if operated between 6 a.m.</i> <i>and 10 p.m.;</i> C if located elsewhere <i>and operated</i> <i>between 10 p.m. and 6 a.m.</i>
* * * *		

1 \* \* \* \*

2 (4) 24TH STREET – NOE VALLEY SPECIALTY RETAIL USES

3 Boundaries: Only the area within the 24th Street – Noe Valley Neighborhood Commercial  
4 District. The controls shall not apply to NC-1 Districts or nonconforming uses within ~~1/4 mile 300~~  
~~feet~~ of this District as set forth in Code §§ 710.10 and 186.

5 **Controls:** Formula Retail Limited-Restaurants are NP.

7 **SEC. 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.**

8 \* \* \* \*

9 **Table 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**  
10 **ZONING CONTROL TABLE**

11 \* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
****				
<i>Amusement Game Arcade</i>	§ 102	C	NP	NP
Arts Activities	§ 102	P(4)	P	C
****				

20 **SEC. 757. FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.**

21 \* \* \* \*

22 **Table 757. FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**  
23 **ZONING CONTROL TABLE**

		<b><i>FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT NCT</i></b>
--	--	--

<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
* * * *		
<b><u>NON-RESIDENTIAL STANDARDS AND USES</u></b>		
<b><u>COMMERCIAL USE CHARACTERISTICS</u></b>		
* * * *		
Outdoor Activity Area	§§ 102, 145.2	P at 1st and 2nd Floors if located in front <i>or</i> <i>operated between 6 a.m. and 10 p.m.</i> ; C if located elsewhere <i>and operated between 10 p.m. and 6</i> <i>a.m.</i>
* * * *		

SEC. 758 REGIONAL COMMERCIAL DISTRICT.

\* \* \* \*

Table 758. REGIONAL COMMERCIAL DISTRICT  
ZONING CONTROL TABLE

<u>REGIONAL COMMERCIAL DISTRICT</u> <u>ZONING CONTROL TABLE NCT</u>		
<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
* * * *		
<b><u>NON-RESIDENTIAL STANDARDS AND USES</u></b>		
<b><u>COMMERCIAL USE CHARACTERISTICS</u></b>		
* * * *		
Outdoor Activity Area	§§ 102, 145.2	P at 1st and 2nd Floors if located in front <i>or</i> <i>operated between 6 a.m. and 10 p.m.</i> ; C if located elsewhere <i>and operated between 10 p.m. and 6</i> <i>a.m.</i>
* * * *		

SEC. 759. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.

\* \* \* \*

Table 759. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT

## ZONING CONTROL TABLE

\* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
***				
<i>Amusement Game Arcade</i>	§ 102	€	NP	NP
Entertainment, General	§ 102	P	P(2)	NP
***				

**SEC. 760. FILLMORE STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.**

\* \* \* \*

**Table 760. FILLMORE STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT  
ZONING CONTROL TABLE**

\* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
***				
<i>Amusement Game Arcade</i>	§ 102	C	NP	NP
Entertainment, General	§ 102	P	P	NP
***				

1      **SEC. 764. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT**  
2      **DISTRICT.**

3      \* \* \* \*

4      **Table 764. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT**  
5      **DISTRICT**  
6      **ZONING CONTROL TABLE**

7      \* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
* * * *				
<i>Amusement Game Arcade</i>	§ 102	C	P	NP
Entertainment, General	§ 102	C(8)	NP	NP
* * * *				

15      \* \* \* \*

16      (8) Within the Upper Market Neighborhood Commercial Transit District, up to four mechanical  
17      amusement devices are considered an accessory use ~~and up to ten mechanical amusement~~  
18      ~~devices will be considered an Amusement Game Arcade use.~~

20      **SEC. 781.9. HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT.**

21      \* \* \* \*

22      (b) **Boundaries.** The Haight Street Alcohol Restricted Use Subdistrict (Haight Street Alcohol  
23      RUSD) is coterminous with the Haight Street Neighborhood Commercial District as  
24      designated on Sectional Maps ZN06 and ZN07. The Haight Street Alcohol RUSD is  
25      designated on Sectional Maps SU06 and SU07. ~~These controls shall also apply within 1/4 mile of~~

1       *the Haight Street Alcohol RUSD to nonconforming Commercial Uses in R Districts pursuant to Section*  
2       *186 and in NC-1 Districts pursuant to Section 710 of this Code.*

3       \* \* \* \*

4

5           Section 5. Amendment of Specific Zoning Control Tables. Zoning Control Tables 712,  
6       713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 725, 726, 729, 730, 731, 732, 733,  
7       734, 750, 751, 752, 753, 754, 755, 756, 759, 760, 761, 762, 763, and 764 are hereby  
8       amended identically to the amendment of Zoning Control Table 711 in Section 4 of this  
9       ordinance, to provide in the "Controls" column that an Outdoor Activity Area is P if located in  
10      front of building or if operated between 6 a.m. and 10 p.m.; C if located elsewhere and if  
11      operated between 10 p.m. and 6 a.m.

12

13           Section 6. Article 15.1 of the Police Code is hereby amended by revising Sections 1060  
14      and 1060.2 to read as follows:

15           **SEC. 1060. DEFINITIONS.**

16           For the purposes of this Article 15.1, unless otherwise provided in this Article, the  
17      following words and phrases shall mean:

18       \* \* \* \*

19           " Limited Live Performance Locale." A locale with all the following features:

20           (a) The presentation of Live Performances is a secondary purpose of the locale  
21      rather than its primary purpose.

22           (b) The locale is indoors, or consists of an outdoor plaza, courtyard, or similar  
23      space, enclosed by surrounding buildings, with or without open means of public ingress and  
24      egress, with an area in which Live Performances are presented that is no greater than 200  
25      square feet. For purposes of this provision, "outdoor plaza, courtyard, or similar space" also

1 shall include, regardless of the square footage of the Live Performance area, (1) any Plaza as  
2 identified in Administrative Code Chapter 94 or (2) any People Place as identified in  
3 Administrative Code Chapter 94A.

4 (c) Live Performances presented at the locale conclude by 10 p.m., except as  
5 otherwise provided in Section 1060.38.1.

6 (d) The locale is not a Private Residence.

7 (e) Patrons or members are admitted to the locale, *which serves food, beverages,*  
8 *or food and beverages, including but not limited to alcoholic beverages, for consumption on the*  
9 *premises*, except this requirement shall not apply to a Plaza as identified in Administrative  
10 Code Chapter 94 or a People Place as identified in Administrative Code Chapter 94A.

11 \* \* \* \*

12

13 **SEC. 1060.2. FILING APPLICATION AND NOTICE TO OTHER CITY DEPARTMENTS FOR**  
14 **PLACE OF ENTERTAINMENT PERMIT.**

15 (a) Every Person seeking a Place of Entertainment permit or an amendment to a  
16 permit shall file an application with the Entertainment Commission upon a form provided by  
17 the Entertainment Commission and shall pay a filing fee as provided in Section 2.26 of this  
18 Code.

19 (b) The Director shall send the application to the *following departments, which San*  
20 *Francisco Police Department, Fire Department, Department of Building Inspection, Department of*  
21 *Public Health, and Planning Department. Those departments* shall complete all necessary  
22 *inspections or approvals and shall endeavor to* report their determinations to the Entertainment  
23 Commission within 20 City business days of receiving the application:

24 (1) The Police Department;

25 (2) The Planning Department;

(3) The Department of Building Inspection, except that this subsection (b)(3) shall not apply if the Person provides evidence of the completion of a final inspection for an issued building permit for the premises, as required by Chapter 1A of the San Francisco Building Code, if the inspection was completed in the 12 months before the date of the Person's application for a Place of Entertainment Permit;

(4) The Department of Public Health, except that this subsection (b)(4) shall not apply if the Person provides evidence of a permit to operate a food preparation and service establishment on the premises, as required by Article 8 of the Health Code, current as of the date of the Person's application for a Place of Entertainment Permit; and

(5) The Fire Department, except that this subsection (b)(5) shall not apply if the Person provides evidence of a place of assembly permit for the premises, as required by Chapter 1 of the San Francisco Fire Code, current as of the date of the Person's application for a Place of Entertainment Permit.

Section 7. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 8. Scope of Ordinance. With the exception of the amendments to Zoning Control Tables in Section 5 of this ordinance, in enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the

1      Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board  
2      amendment additions, and Board amendment deletions in accordance with the "Note" that  
3      appears under the official title of the ordinance.

4

5              Section 9. Undertaking for the General Welfare. In enacting and implementing this  
6      ordinance, the City is assuming an undertaking only to promote the general welfare. It is not  
7      assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is  
8      liable in money damages to any person who claims that such breach proximately caused injury.

9

10              Section 10. Severability. If any section, subsection, sentence, clause, phrase, or word of  
11      this ordinance, or any application thereof to any person or circumstance, is held to be invalid or  
12      unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect  
13      the validity of the remaining portions or applications of the ordinance. The Board of Supervisors  
14      hereby declares that it would have passed this ordinance and each and every section, subsection,  
15      sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to  
16      whether any other portion of this ordinance or application thereof would be subsequently declared  
17      invalid or unconstitutional.

18

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

21      By: \_\_\_\_\_  
22              EILEEN K. CHAUVET  
23              Deputy City Attorney  
24              n:\legana\as2018\1800687\01306252.docx

25



## OFFICE OF SMALL BUSINESS

181211  
LAWED VERSION  
CITY AND COUNTY OF SAN FRANCISCO  
LONDON BREED, MAYOR

3/1/19  
SUBMITTED  
OFFICE OF SMALL BUSINESS  
REGINA DICK-ENDRIZZI, DIRECTOR

January 29, 2019

Ms. Angela Calvillo, Clerk of the Board  
City Hall Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

RE: BOS File No. 181211 – Health, Planning, and Police Codes - Small Business Permit Streamlining

Small Business Commission Recommendation to the Board of Supervisors: **Approval**.

This motion passed unanimously (7 to 0).

Dear Ms. Calvillo,

On January 28, 2019 the Small Business Commission (SBC) heard BOS File No. 181211 – Health, Planning, and Police Codes - Small Business Permit Streamlining. Mr. Juan Carlos Cancino, aide to Supervisor Brown and Mr. Ben Van Houten of the Office of Economic and Workforce Development, provided the SBC with an overview of the legislation.

The SBC enthusiastically supports the intent of this legislation which will enable retail businesses to diversify offerings to strengthen existing businesses and attract new business models to vacant storefronts by:

- Reducing costs and barriers for retail businesses to more easily offer to-go food service by aligning local health code with state requirements.
- Help retail businesses incorporate entertainment and events by eliminating unnecessary permitting requirements.

The legislation also increases opportunities for retail, restaurant, and nightlife businesses to fill vacant storefronts and enhance neighborhood vibrancy by:

- Allowing businesses to save time and money to open patios and other outdoor spaces by streamlining permitting process for outdoor uses.
- Increasing opportunities for appropriate retail, restaurant, and nightlife businesses in NC-1 zoning.
- Supporting open air food service in retail, restaurant, and nightlife businesses by aligning local health code with state requirements.
- Increasing opportunities for arcade uses in retail and nightlife businesses by reducing zoning barriers.

San Francisco existing live music venues and support new venues are strengthened by reducing duplicative and otherwise burdensome requirements by:

- Reducing delays and costs for new entertainment businesses by eliminating duplicative inspections.
- Supporting all-ages music venues by better aligning requirements for entertainment venues that also operate as restaurants.

And lastly it fixes ambiguous Planning Code provisions and brings consistency to the permitting process for retail, restaurants, and nightlife businesses by:

- Saving new businesses time and money in navigating the permitting process by clarifying definitions of restaurant and bar uses.
- Supporting retail businesses' ability to incorporate food uses by clarifying accessory use provisions of the Planning Code.

The SBC thanked Mayor Breed and Supervisor Brown for originating this extensive package of streamlining changes. The SBC also extended its appreciation to the Office of Economic and Workforce Development for taking the department lead, and the Department of Building Inspection, Entertainment Commission, Planning and Health Departments for their input on how best to accomplish the much needed changes. These streamlining efforts will help new businesses save time and money, help fill storefront vacancies more quickly, and to help strengthen existing businesses through allowing them to evolve, adapt, and expand with greater ease.

Thank you for considering the Commission's recommendation. Please feel free to contact me should you have any questions.

Sincerely,



Regina Dick-Endrizzi  
Director, Office of Small Business

cc: Kanishka Karunaratne Cheng, Mayor's Liaison to the Board of Supervisors  
Vallie Brown, Member, Board of Supervisors,  
John Rahaim, Director, Planning Department  
Stephanie Cushing, Director, Environmental Health, Department of Public Health  
Maggie Weiland, Director, Entertainment Commission  
Lisa Pagan, Office of Economic and Workforce Development  
Erica Major, Clerk, Land Use and Transportation Committee



## OFFICE OF SMALL BUSINESS

SUMMER  
3/1/2019  
181211  
CITY AND COUNTY OF SAN FRANCISCO  
LONDON BREED, MAYOR

OFFICE OF SMALL BUSINESS  
REGINA DICK-ENDRIZZI, DIRECTOR

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The SBC enthusiastically supports the intent of this legislation which will enable retail businesses to diversify offerings to strengthen existing businesses and attract new business models to vacant storefronts by:

- Reducing costs and barriers for retail businesses to more easily offer to-go food service by aligning local health code with state requirements.
- Help retail businesses incorporate entertainment and events by eliminating unnecessary permitting requirements.

The legislation also increases opportunities for retail, restaurant, and nightlife businesses to fill vacant storefronts and enhance neighborhood vibrancy by:

- Allowing businesses to save time and money to open patios and other outdoor spaces by streamlining permitting process for outdoor uses.
- Increasing opportunities for appropriate retail, restaurant, and nightlife businesses in NC-1 zoning.
- Supporting open air food service in retail, restaurant, and nightlife businesses by aligning local health code with state requirements.
- Increasing opportunities for arcade uses in retail and nightlife businesses by reducing zoning barriers.

San Francisco existing live music venues and support new venues are strengthened by reducing duplicative and otherwise burdensome requirements by:

- Reducing delays and costs for new entertainment businesses by eliminating duplicative inspections.
- Supporting all-ages music venues by better aligning requirements for entertainment venues that also operate as restaurants.

And lastly it fixes ambiguous Planning Code provisions and brings consistency to the permitting process for retail, restaurants, and nightlife businesses by:

- Saving new businesses time and money in navigating the permitting process by clarifying definitions of restaurant and bar uses.
- Supporting retail businesses' ability to incorporate food uses by clarifying accessory use provisions of the Planning Code.

The Small Business Commission thanks the Office of Economic and Workforce Development in taking the lead to work on this extensive package of legislative changes with the corresponding departments. These changes are very much needed and will help new businesses save time and money through a more streamlined permitting process. These streamlining efforts should help fill storefront vacancies more quickly, and to help strengthen existing businesses through allowing them to evolve, adapt, and expand with greater ease.

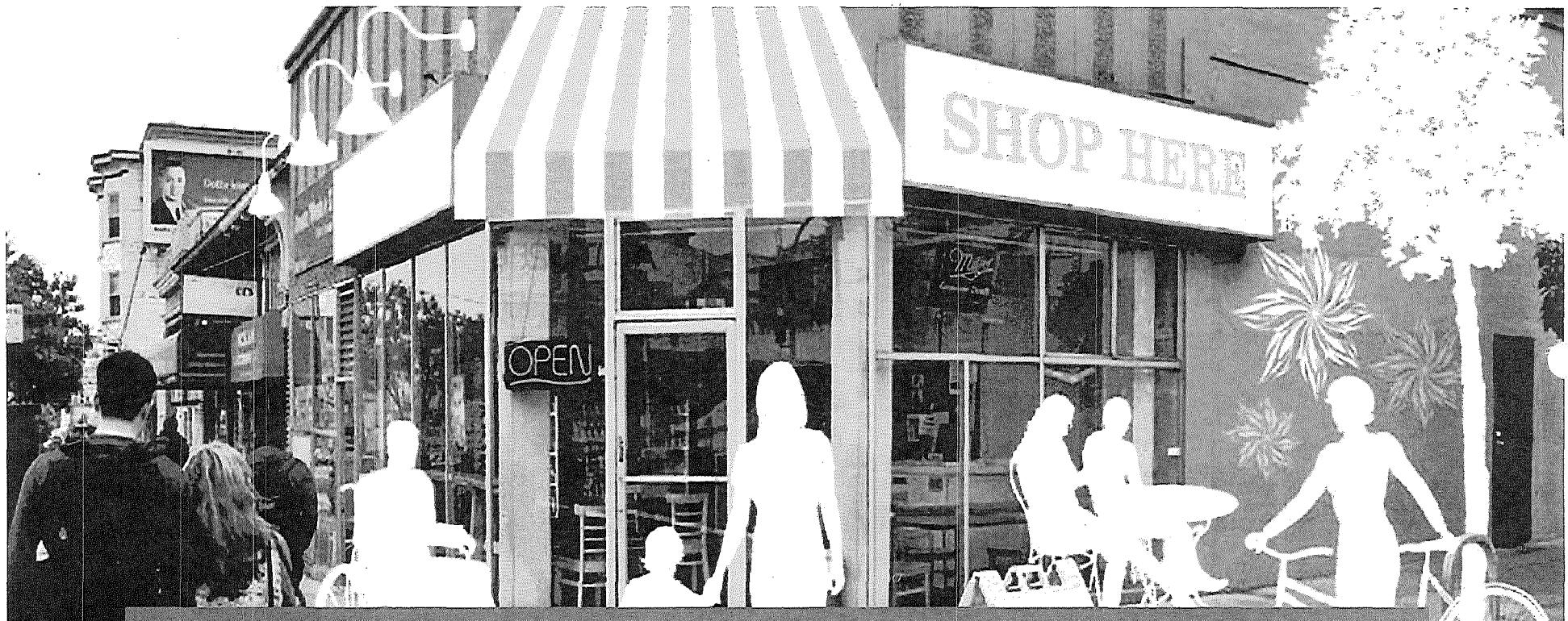
Thank you for considering the Commission's recommendation. Please feel free to contact me should you have any questions.

Sincerely,



Regina Dick-Endrizzi  
Director, Office of Small Business

cc: Kanishka Karunaratne Cheng, Mayor's Liaison to the Board of Supervisors  
Vallie Brown, Member, Board of Supervisors,  
John Rahaim, Director, Planning Department  
Stephanie Cushing, Director, Environmental Health, Department of Public Health  
Maggie Weiland, Director, Entertainment Commission  
Lisa Pagan, Office of Economic and Workforce Development  
Erica Major, Clerk, Land Use and Transportation Committee



# Small Business Streamlining Legislation

San Francisco Board of Supervisors  
July 8, 2019

# BACKGROUND

- February 2018 Release of OEWD Retail Study
- Informed by Experiences of Direct Small Business Assistance
- Developed and Refined in Consultation with City Permitting Departments
- Goals:
  - Help new businesses save time and money in the permitting process in order to fill vacancies more quickly and position businesses for success.
  - Strengthen existing businesses by enabling them to adapt and expand offerings that are responsive to consumer demands.

# STREAMLINING LEGISLATION

1. Enable Existing Retail Businesses to Diversify Offerings and Attract New Business Models to Vacant Storefronts.
2. Increase Opportunities for Retail, Restaurant, and Nightlife Businesses to Fill Vacant Storefronts and Enhance Neighborhood Vibrancy.
3. Strengthen Existing Live Music Venues and Support New Venues by Reducing Duplicative and Otherwise Burdensome Requirements.
4. Clarify Ambiguous Planning Code Provisions to Bring Consistency to the Permitting Process for Retail, Restaurants, and Nightlife Businesses.

# AMENDMENTS

- Removing any proposed changes to Outdoor Activity Areas
- Revising buffers around Limited Commercial Uses
- Narrowed approach to Bona Fide Eating Place for entertainment venues
- Clarifying amendments
  - Bar Use with winemaker's license
  - Reconciling Amusement Game Arcade and General Entertainment zoning in Japantown, Haight Street, Upper Market

# DIVERSIFYING OFFERINGS

## *1. Enable Existing Retail Businesses to Diversify Offerings and Attract New Business Models to Vacant Storefronts.*

- Reduce costs and barriers for retail businesses to more easily offer to-go food service by aligning local health code with state requirements.
- Help retail businesses incorporate entertainment and events by eliminating unnecessary permitting requirements.

# INCREASING OPPORTUNITIES

## *2. Increase Opportunities for Retail, Restaurant, and Nightlife Businesses to Fill Vacant Storefronts and Enhance Neighborhood Vibrancy.*

- Increase opportunities for appropriate retail, restaurant, and nightlife businesses in NC-1 zoning and Limited Commercial Uses ("LCUs").
  - Existing buffer rule for uses in NC-1 and LCUs: Apply the most restrictive controls of any Named Neighborhood Commercial District ("NCD") within one-quarter mile, any Restricted Use District within one-quarter mile, or NC-1
  - Proposed buffers:
    - NC-1: Any Named NCD within 300 feet or NC-1
    - LCUs: The *nearest* Named NCD within  $\frac{1}{4}$  mile or NC-1

# INCREASING OPPORTUNITIES

From the Planning Department's NC @ 20 report:

"Under current Code provisions, [NC-1s and LCUs] are subject to a much greater level of scrutiny than perhaps is appropriate. Accordingly, it is recommended that a suitable relaxation of the  $\frac{1}{4}$  mile radius provisions be examined. While the premise of extending specially tailored land use regulations to close-by areas is sound, the on-the-ground effect of extending multiple, distinct groups of restrictions to a single parcel is questionable."

# INCREASING OPPORTUNITIES

## *2. Increase Opportunities for Retail, Restaurant, and Nightlife Businesses to Fill Vacant Storefronts and Enhance Neighborhood Vibrancy.*

- Support open air food service in retail, restaurant, and nightlife businesses by aligning local health code with state requirements.
- Increase opportunities for arcade uses in retail and nightlife businesses by reducing zoning barriers.

# SUPPORTING ENTERTAINMENT VENUES

## *3. Strengthen Existing Live Music Venues and Support New Venues by Reducing Duplicative and Otherwise Burdensome Requirements.*

- Reduce delays and costs for new entertainment businesses by eliminating duplicative inspections.
- Support all-ages entertainment venues by better aligning Bona Fide Eating Place ("BFEP") requirements with entertainment venues.
  - Existing: BFEP requires entertainment venues with restaurant licenses to draw 51% of gross receipts from food sales and be open minimum of five days a week.
  - Proposed: Exempt from those requirements venues that only serve alcohol to ticket-holding patrons before, during, and after entertainment.

## CLARIFYING CODE PROVISIONS

### 4. *Clarify Ambiguous Planning Code Provisions to Bring Consistency to the Permitting Process for Retail, Restaurants, and Nightlife Businesses.*

- Save new businesses time and money in navigating the permitting process by clarifying definitions of Restaurant and Bar uses.
- Support retail businesses' ability to incorporate food uses by clarifying accessory use provisions of the Planning Code.

# ADDITIONAL MATERIALS

## NC-1 AND LCU BUFFERS

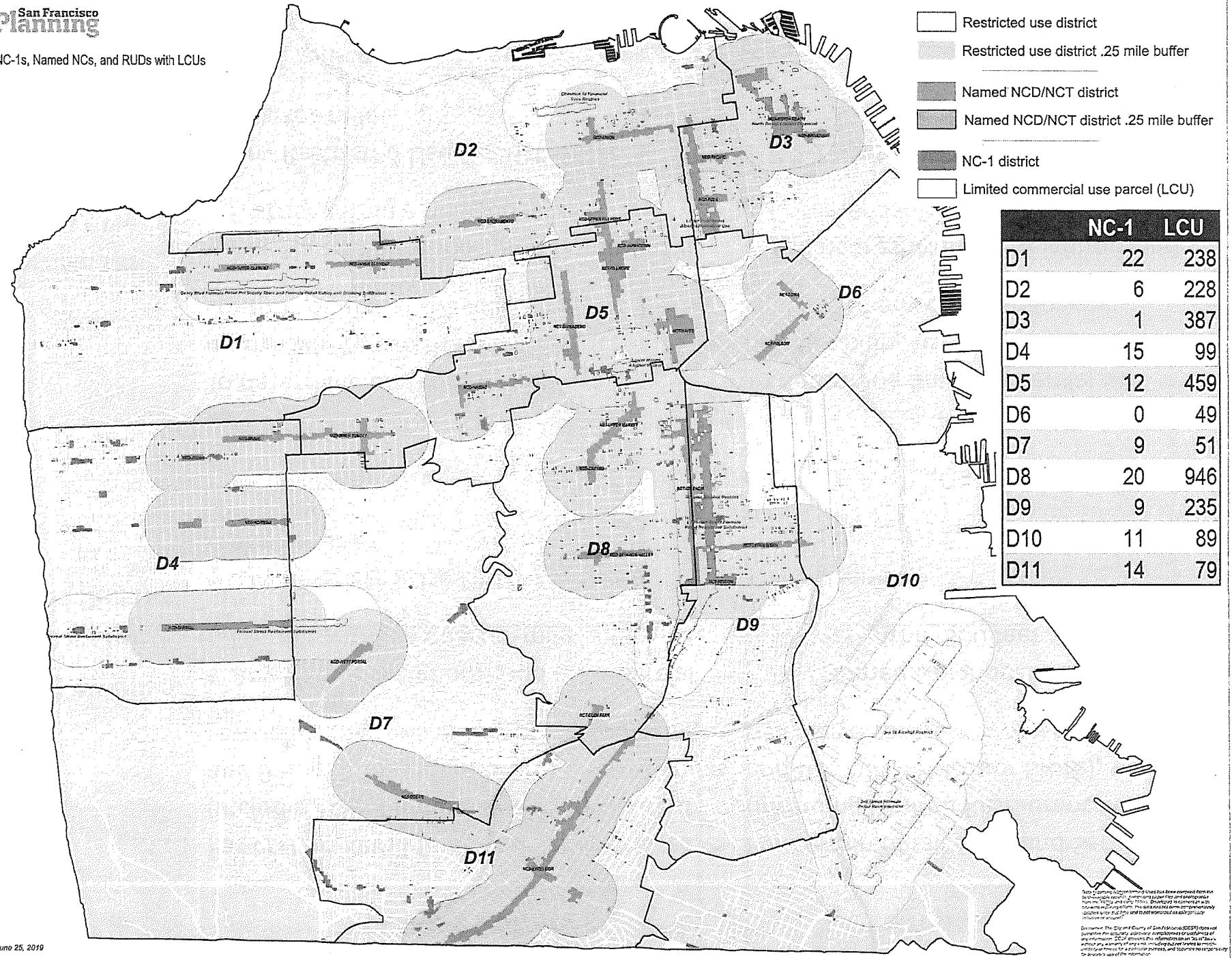
### *2. Increase Opportunities for Retail, Restaurant, and Nightlife Businesses to Fill Vacant Storefronts and Enhance Neighborhood Vibrancy.*

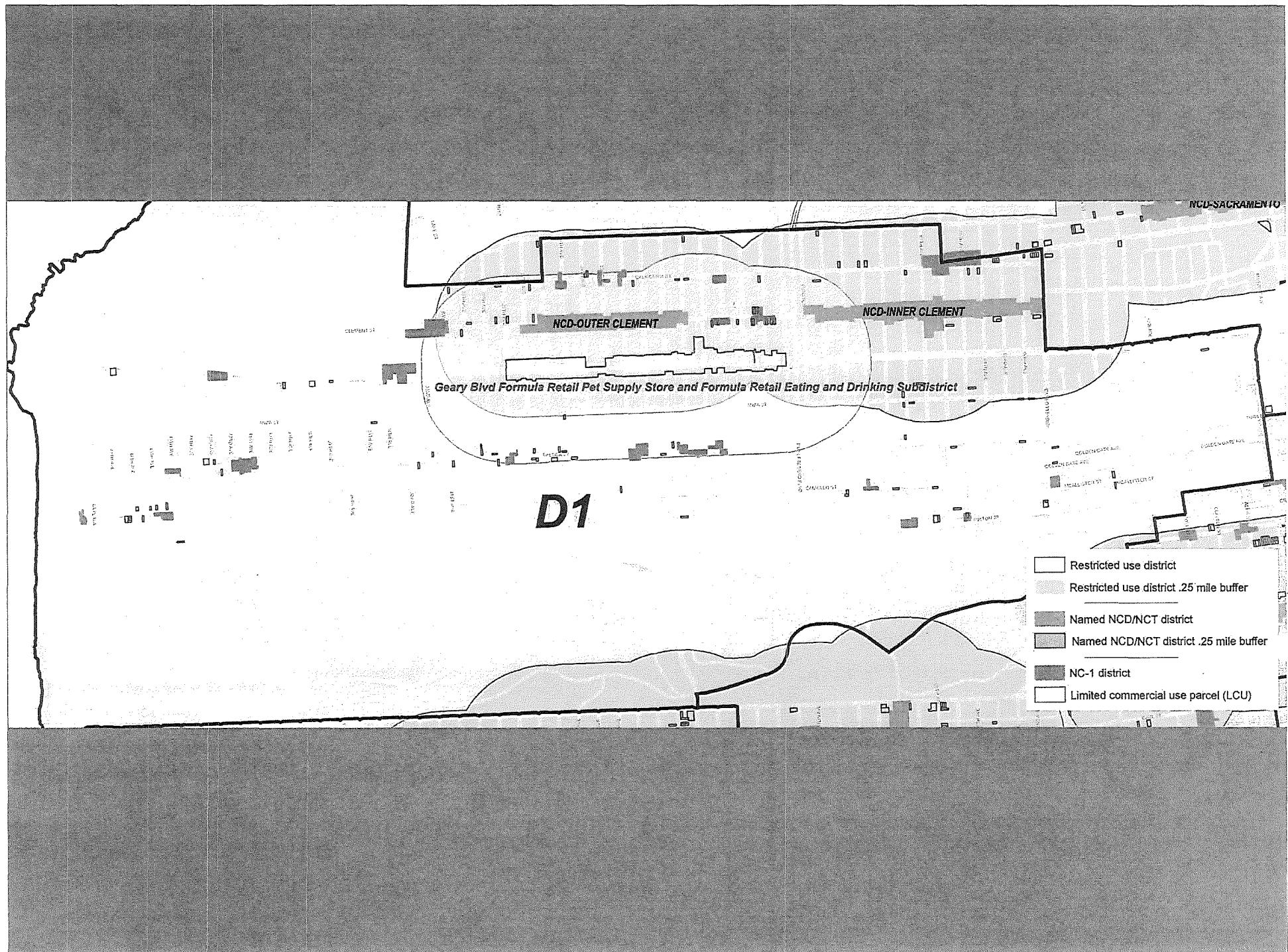
- Increase opportunities for appropriate retail, restaurant, and nightlife businesses in NC-1 zoning and Limited Commercial Uses ("LCUs").
- From the Planning Department's *NC @ 20* report:

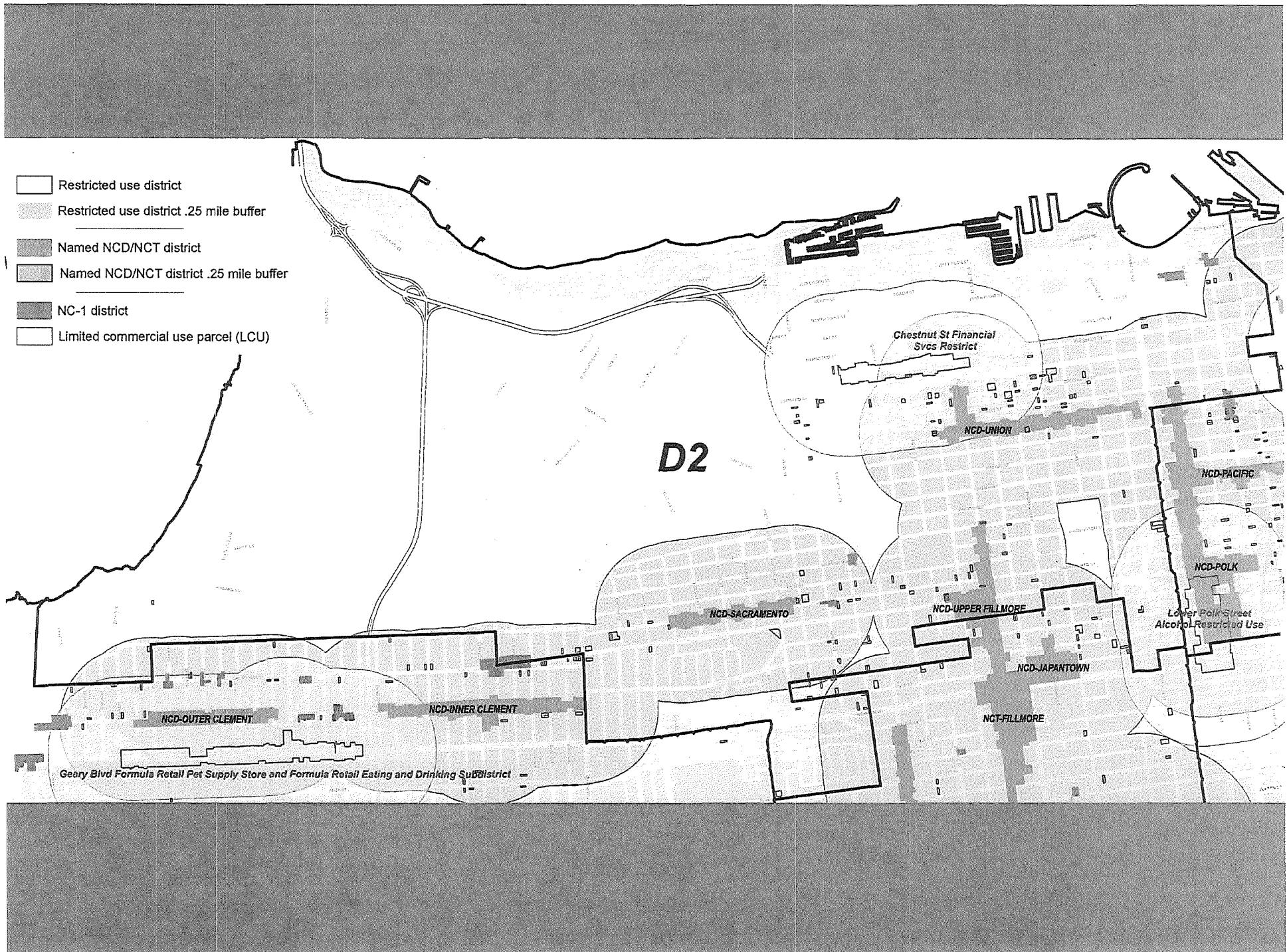
"Under current Code provisions, [NC-1s and LCUs] are subject to a much greater level of scrutiny than perhaps is appropriate. Accordingly, it is recommended that a suitable relaxation of the  $\frac{1}{4}$  mile radius provisions be examined. While the premise of extending specially tailored land use regulations to close-by areas is sound, the on-the-ground effect of extending multiple, distinct groups of restrictions to a single parcel is questionable."

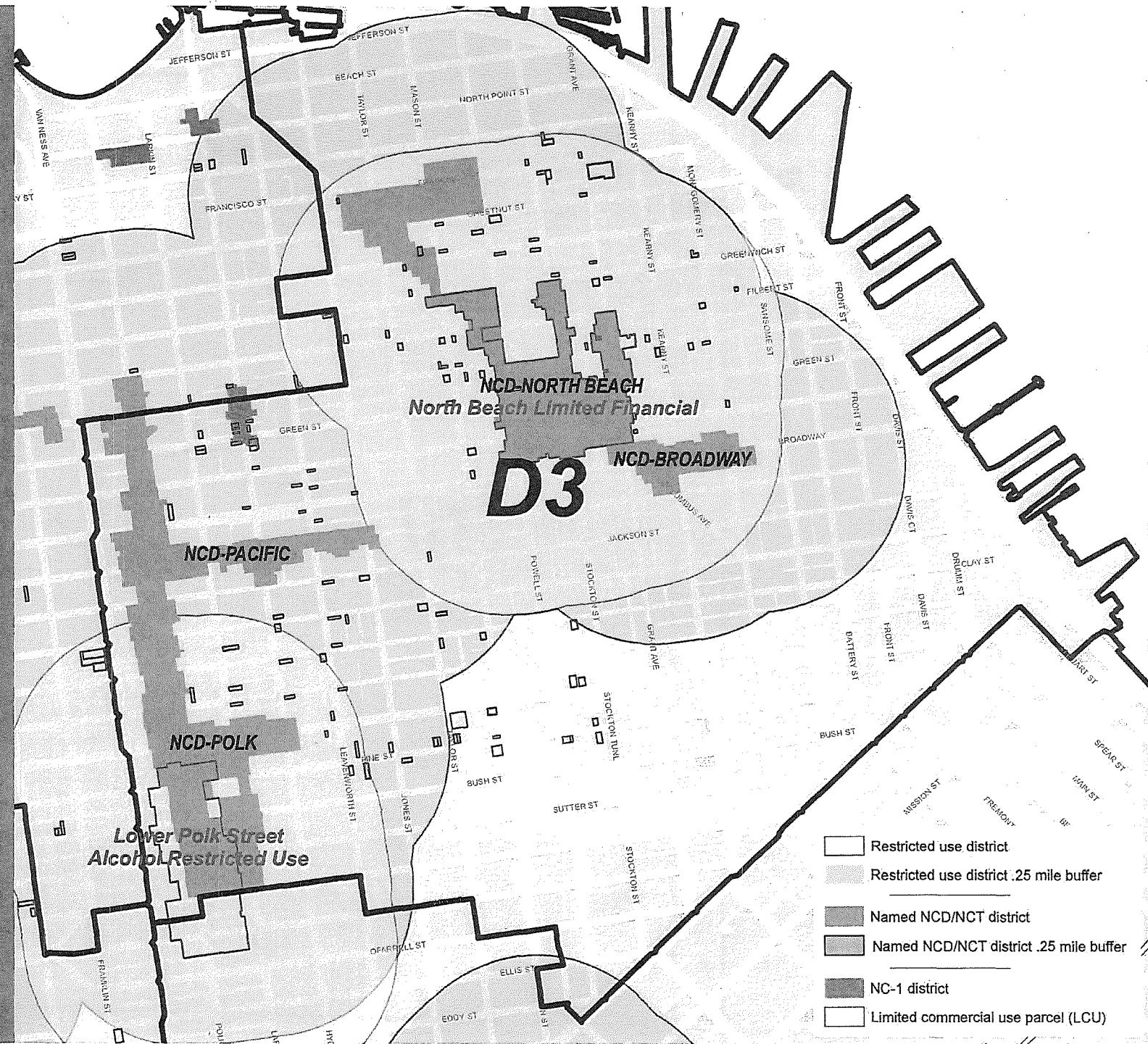
	Existing Buffers	Proposed Buffers
<b>NC-1 -- Neighborhood Commercial Cluster District</b>	<p>For certain Retail Sales and Services Uses (including Limited Restaurant, Restaurant and Bar, but not Liquor Store), use the most restrictive controls of any of the following:</p> <ul style="list-style-type: none"> <li>• Any Named Neighborhood Commercial District <u>within a quarter-mile</u></li> <li>• Any Restricted Use District within a quarter-mile</li> <li>• NC-1 zoning</li> </ul>	<p>For certain Retail Sales and Services Uses (including Limited Restaurant, Restaurant and Bar, but not Liquor Store), use the most restrictive controls of any of the following:</p> <ul style="list-style-type: none"> <li>• Any Named Neighborhood Commercial District <u>within 300 feet</u></li> <li>• NC-1 zoning</li> </ul>
<b>Limited Commercial Uses (“LCUs”) in Residential Districts</b>	<p>To determine any commercial use permissibility, use the most restrictive controls of any of the following:</p> <ul style="list-style-type: none"> <li>• <u>Any</u> Named Neighborhood Commercial District within a quarter-mile</li> <li>• Any Restricted Use District within a quarter-mile</li> <li>• NC-1 zoning</li> </ul>	<p>To determine any commercial use permissibility, use the most restrictive controls of any of the following:</p> <ul style="list-style-type: none"> <li>• <u>The nearest</u> Named Neighborhood Commercial District within a quarter-mile</li> <li>• NC-1 zoning</li> </ul>

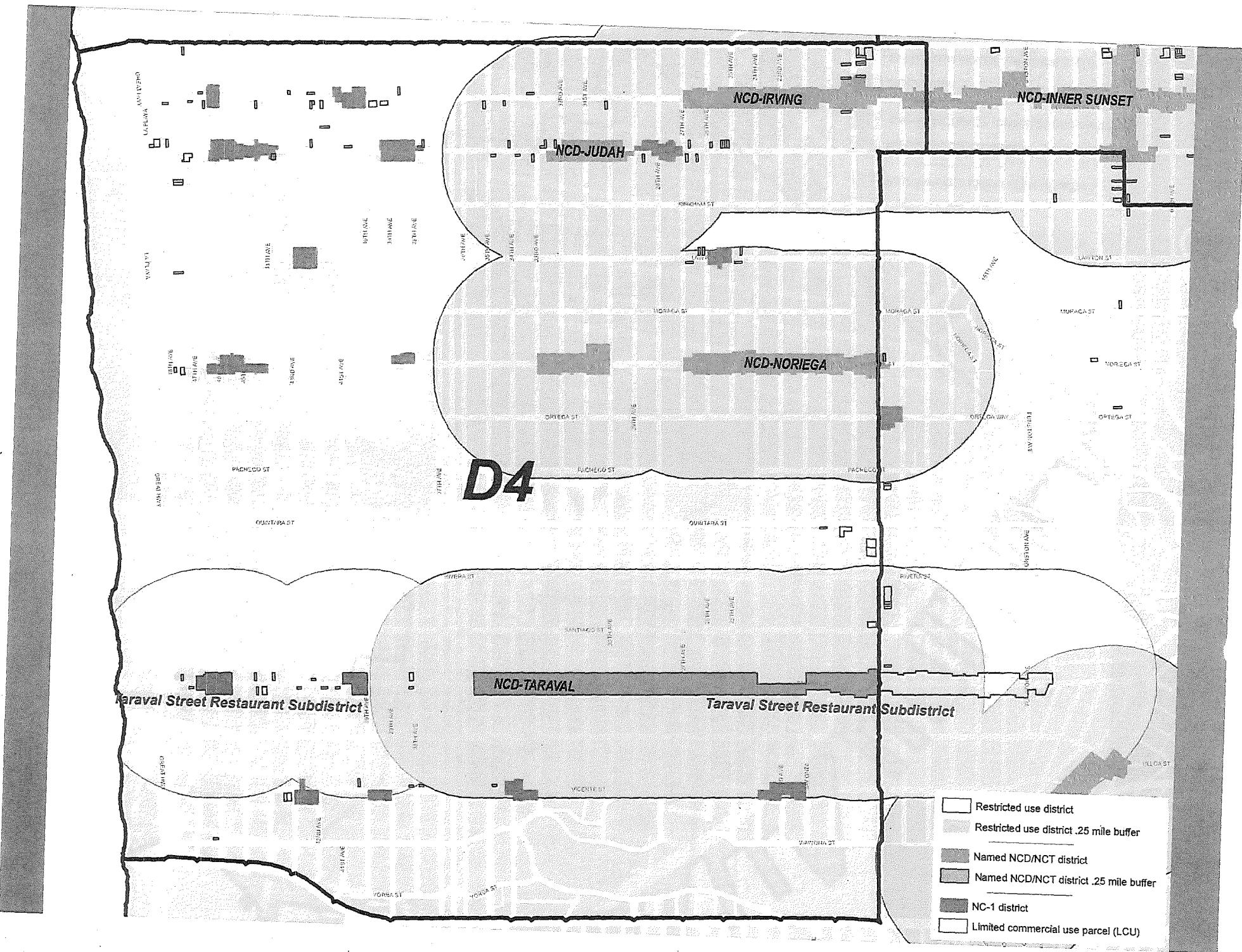
NC-1s, Named NCs, and RUDs with LCU

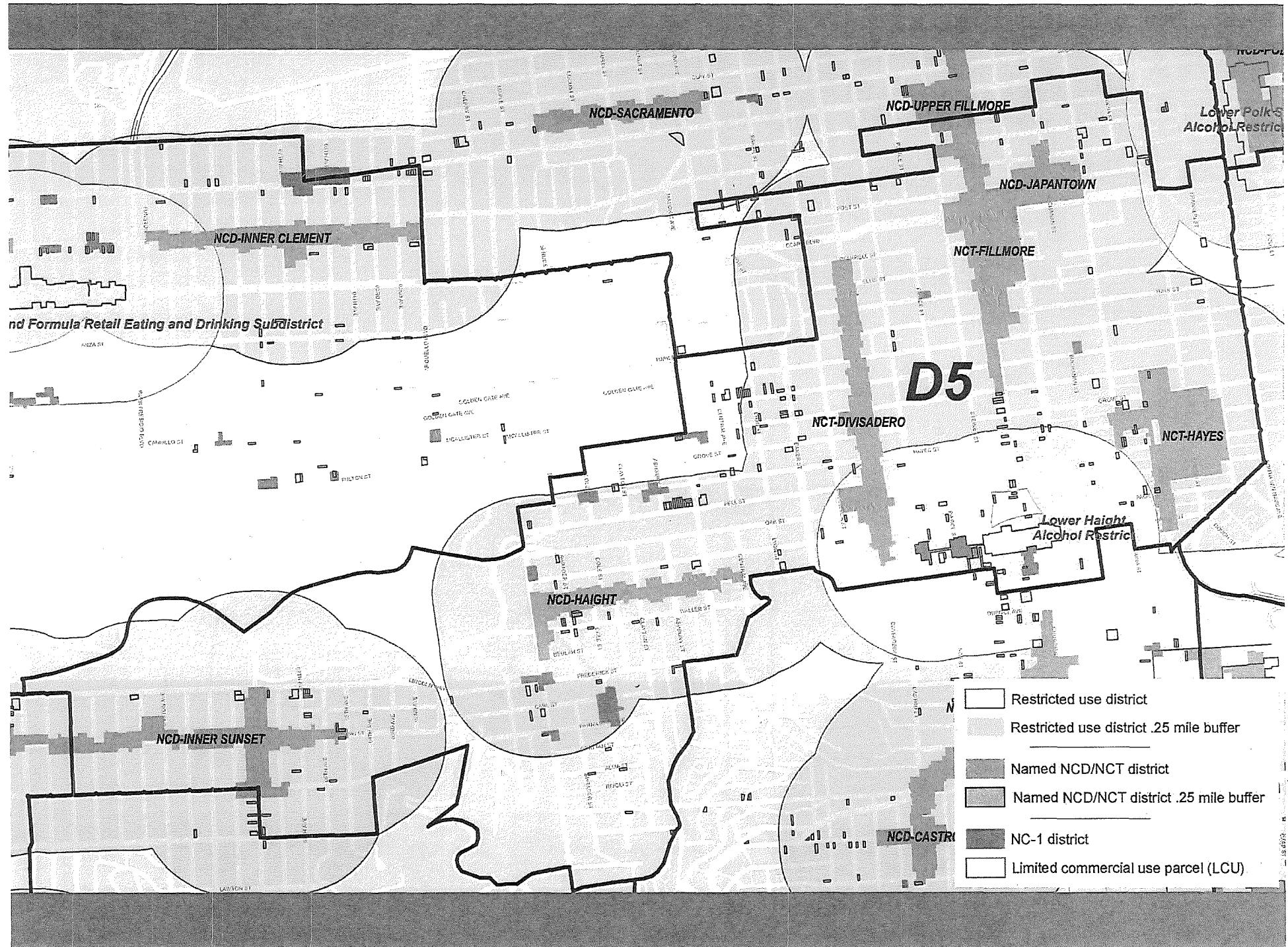


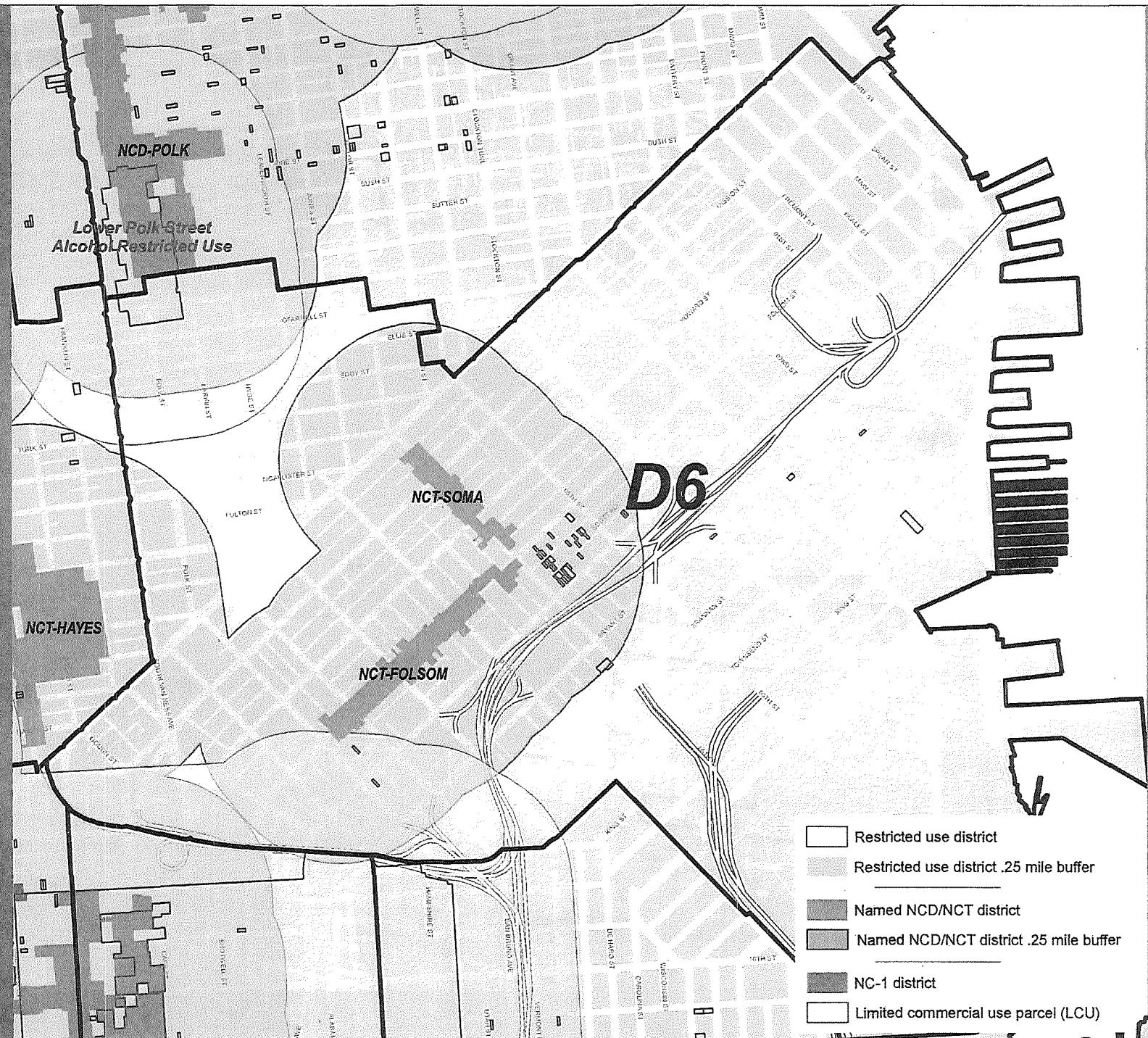


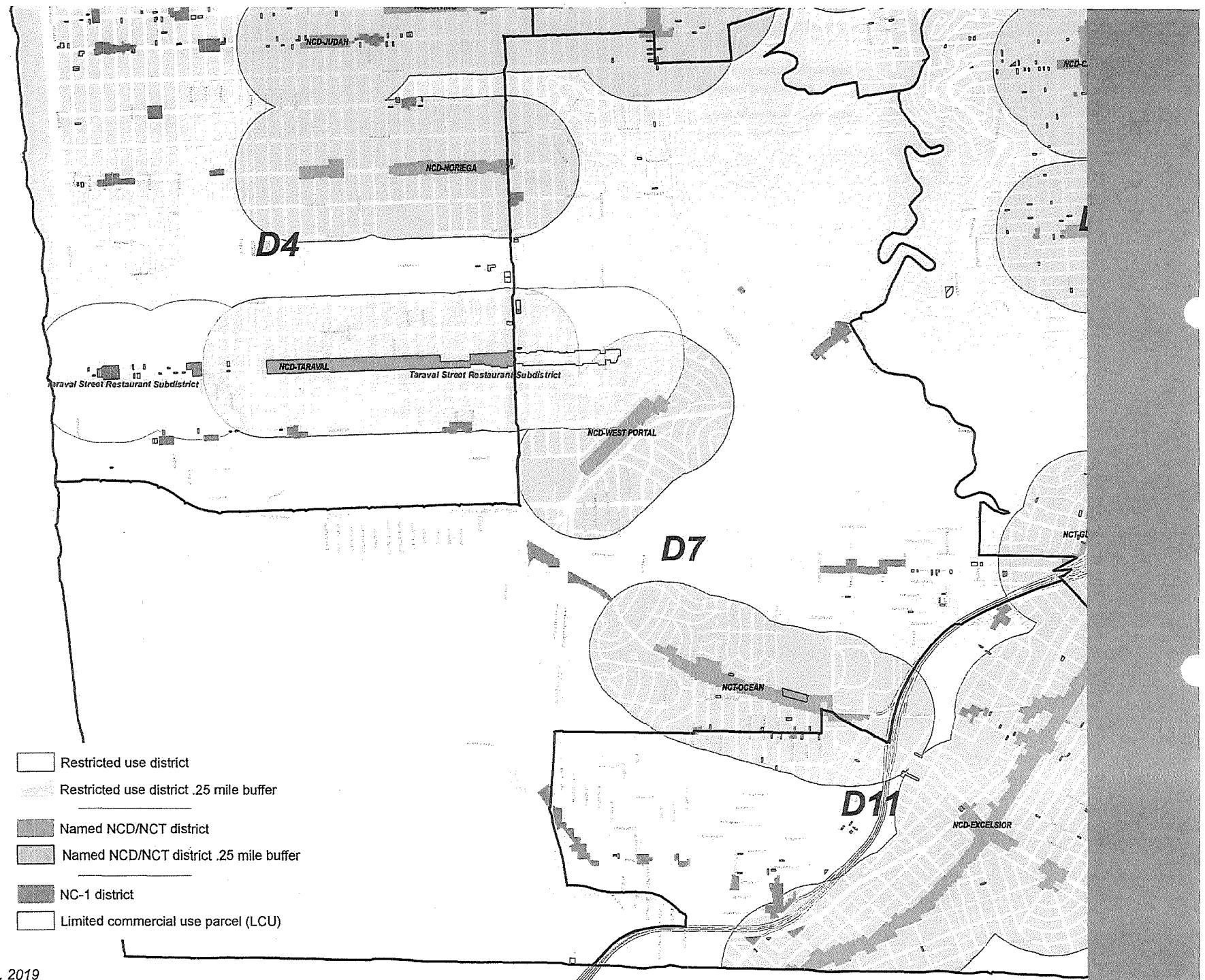


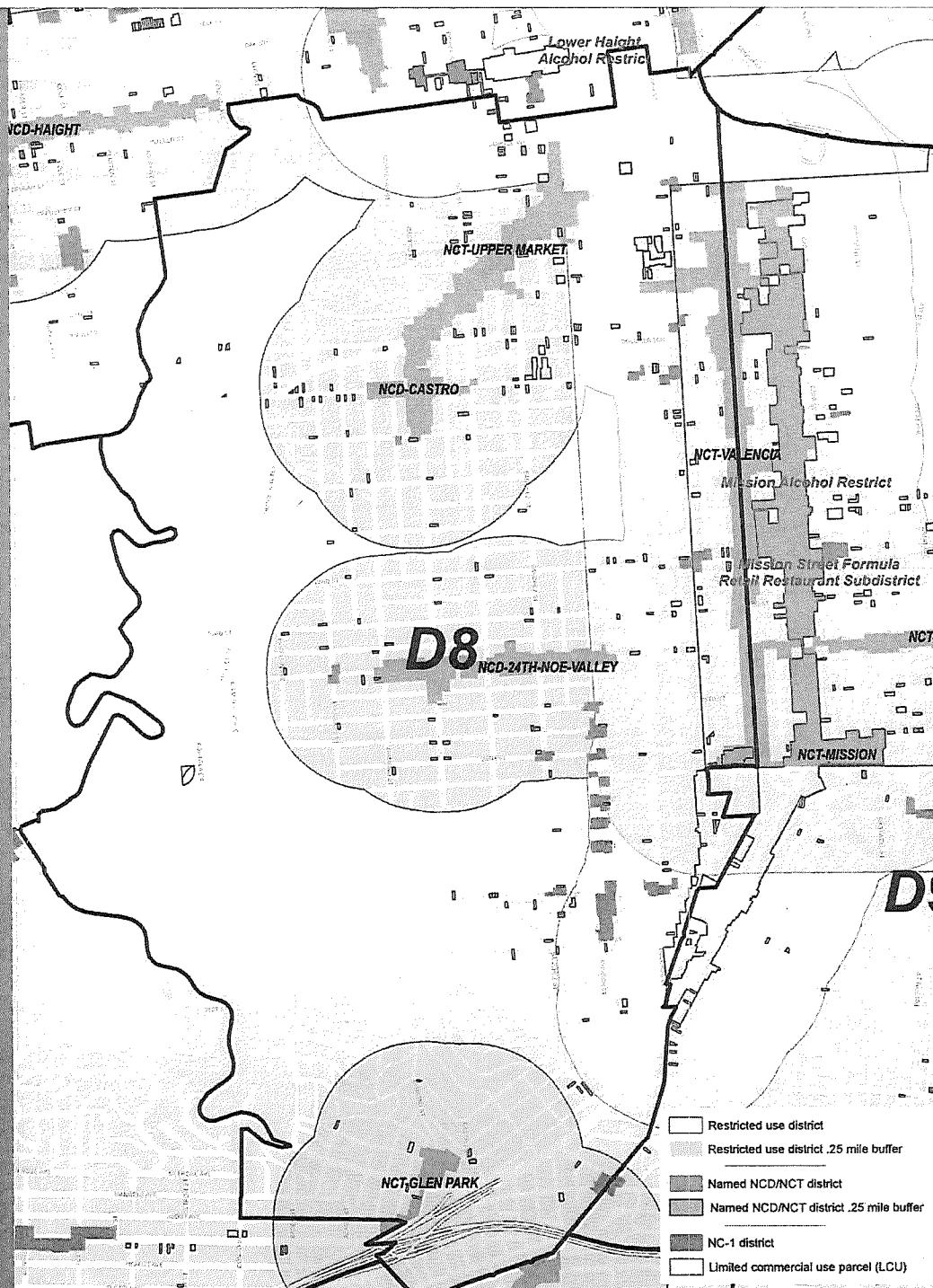


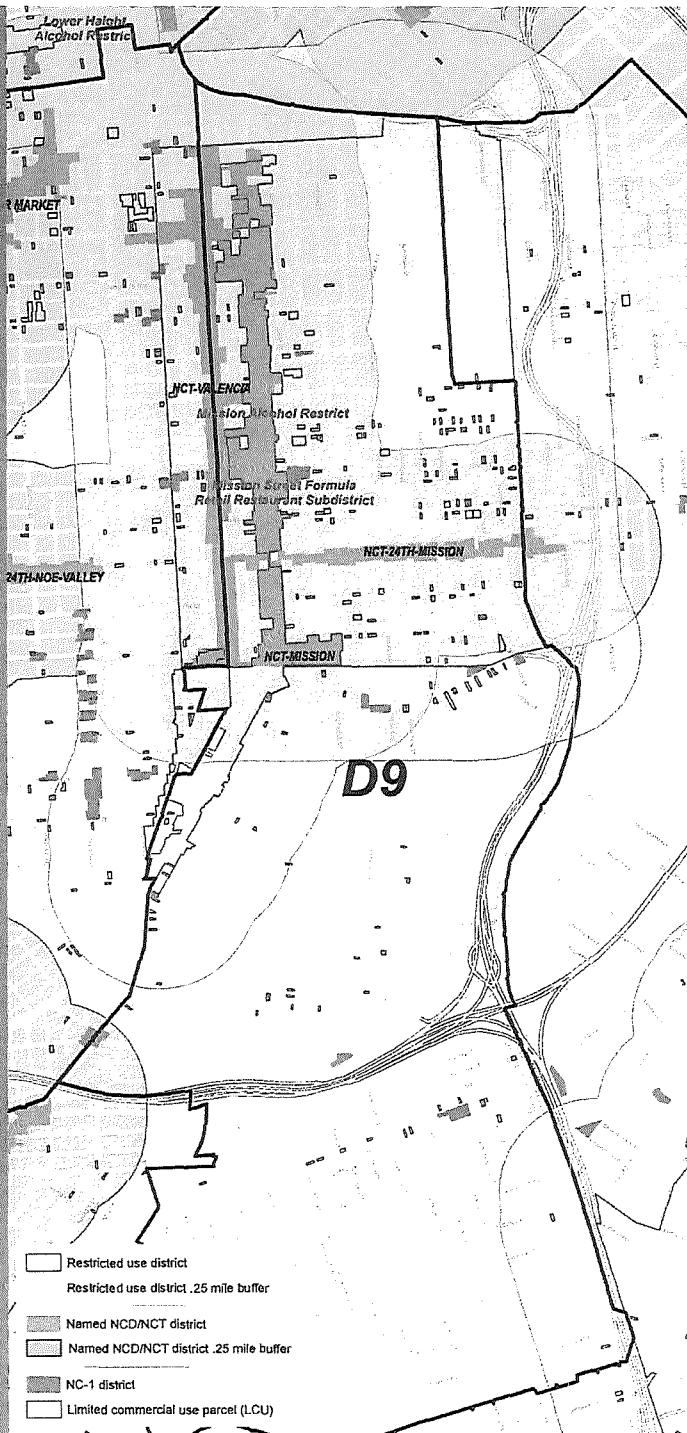


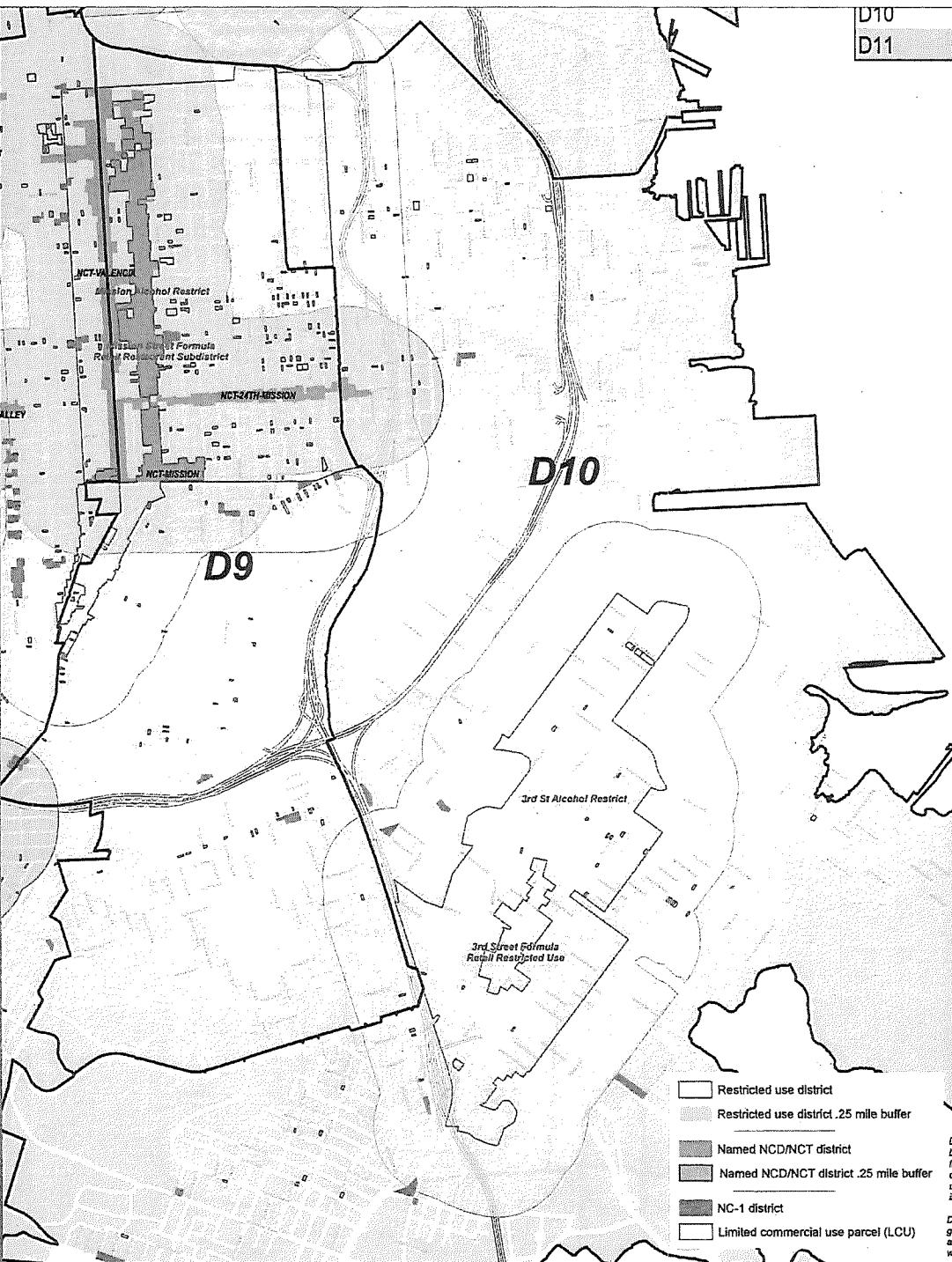


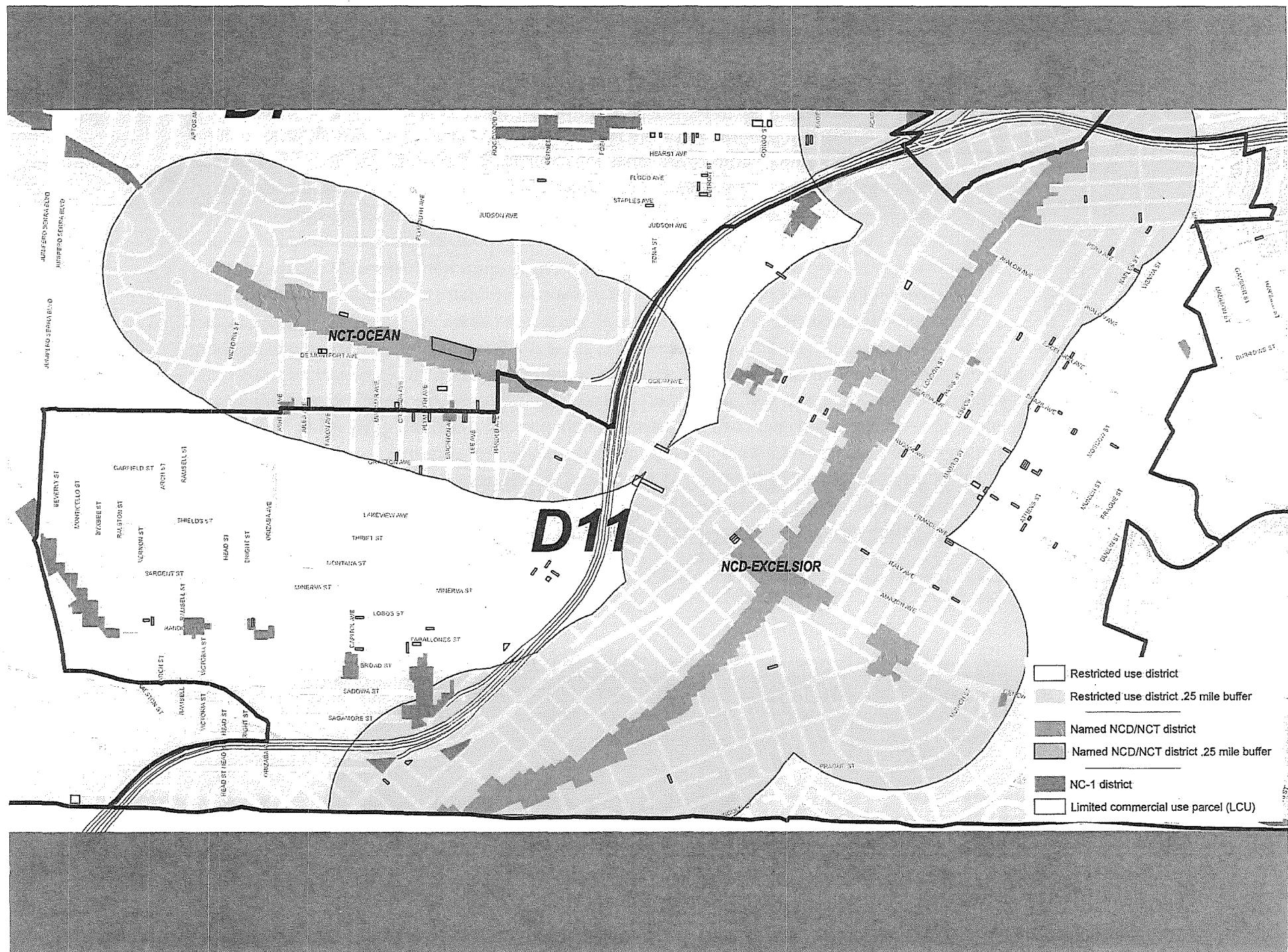












# RESTRICTED USE DISTRICTS AND BUFFERS

**Subject: Alcohol RUSDs and NCU/LCUs**

**Effective Date: 07/09**

**Interpretation:**

Section 186(a)(2) states that a nonconforming use in an RH or RM District which is located within  $\frac{1}{4}$  mile from any Individual Area Neighborhood Commercial District or restricted use subdistrict is exempt from the termination provisions of Section 185 if they meet all of the requirements and restrictions of the nearest Neighborhood Commercial District or restricted use subdistrict. Since 1985 there have been 6 alcohol restricted use areas put in place. A question has arisen about whether a nonconforming use within  $\frac{1}{4}$  mile from one of these alcohol restricted use areas must adhere to the restrictions of that district. The three most recent alcohol restricted use areas have boundaries which closely track the Neighborhood Commercial Boundaries. The earlier alcohol restricted use areas have much broader boundaries, incorporating not only Neighborhood Commercial Districts, but Residential and Industrially-zoned Districts. The Zoning Administrator has determined that if the alcohol restricted use district is coterminous with the underlying Neighborhood Commercial zoning then all nonconforming uses within  $\frac{1}{4}$  mile must meet the restrictions of that alcohol restricted use district. However, if the boundaries of the alcohol restricted use district are broader than underlying Neighborhood Commercial zoning and the designating Ordinance does not state any  $\frac{1}{4}$  mile requirement, then nonconforming uses do not have to adhere to that alcohol restricted use district. Therefore, there is no  $\frac{1}{4}$  mile buffer around the North of Market Residential Special Use District (Section 249.5), Mission Alcoholic Beverage Special Use District (Section 781.8), or with the Third Street Alcohol Restricted Use District (Section 782).

# SUPPORTING ENTERTAINMENT VENUES

## *3. Strengthen Existing Live Music Venues and Support New Venues by Reducing Duplicative and Otherwise Burdensome Requirements.*

- Support all-ages entertainment venues by better aligning Bona Fide Eating Place ("BFEP") requirements with entertainment venues.
- Currently, in order to comply with the "Bona Fide Eating Place" requirement, any entertainment venue with a restaurant license must:
  - 1) Draw 51% of their gross receipts from food sales; and
  - 2) Be open minimum of five days a week.

# SUPPORTING ENTERTAINMENT VENUES

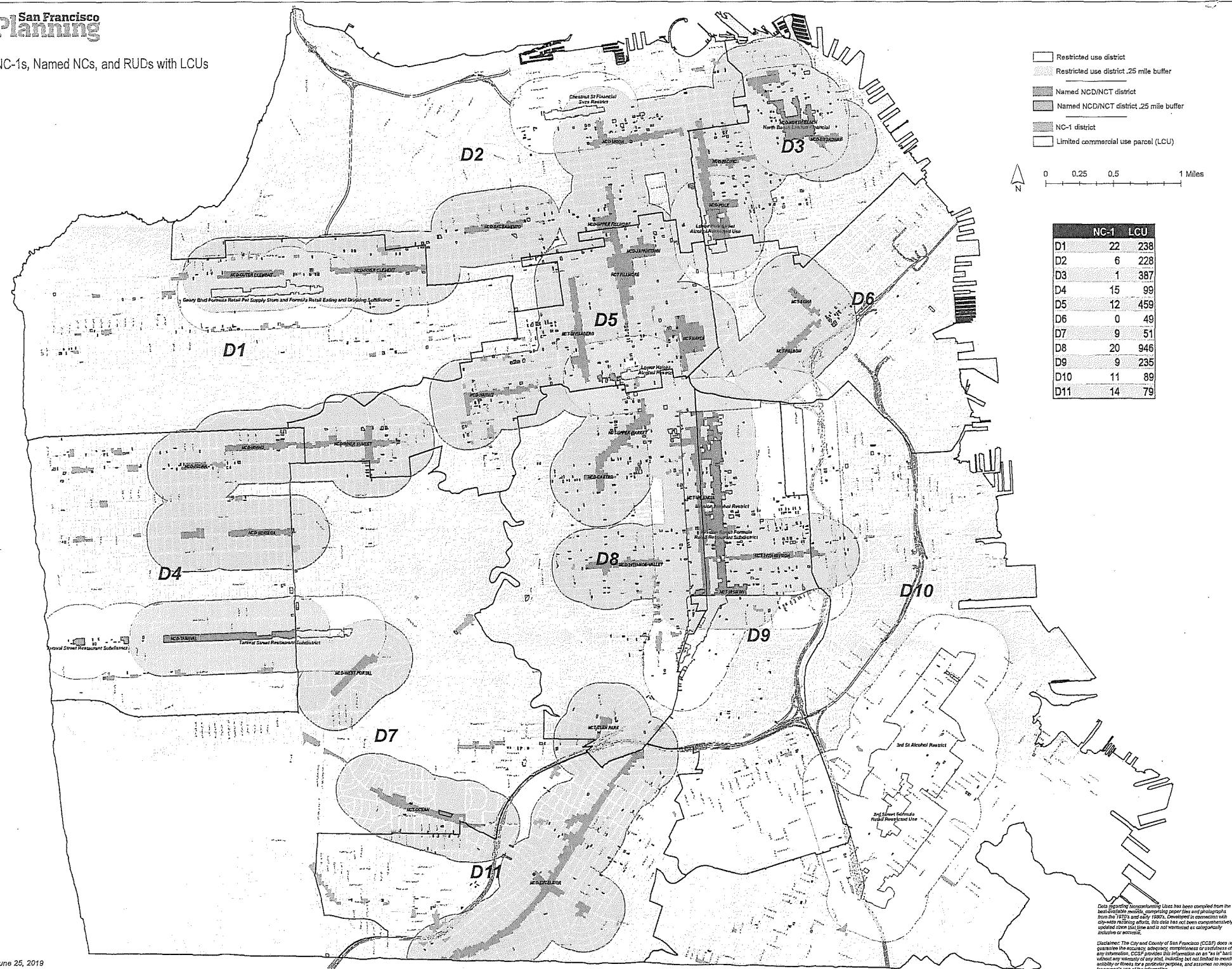
This legislation would amend the definition of “Bona Fide Eating Place” to exempt from the gross receipts and days/hours of operation requirements any place that satisfies all of the following criteria:

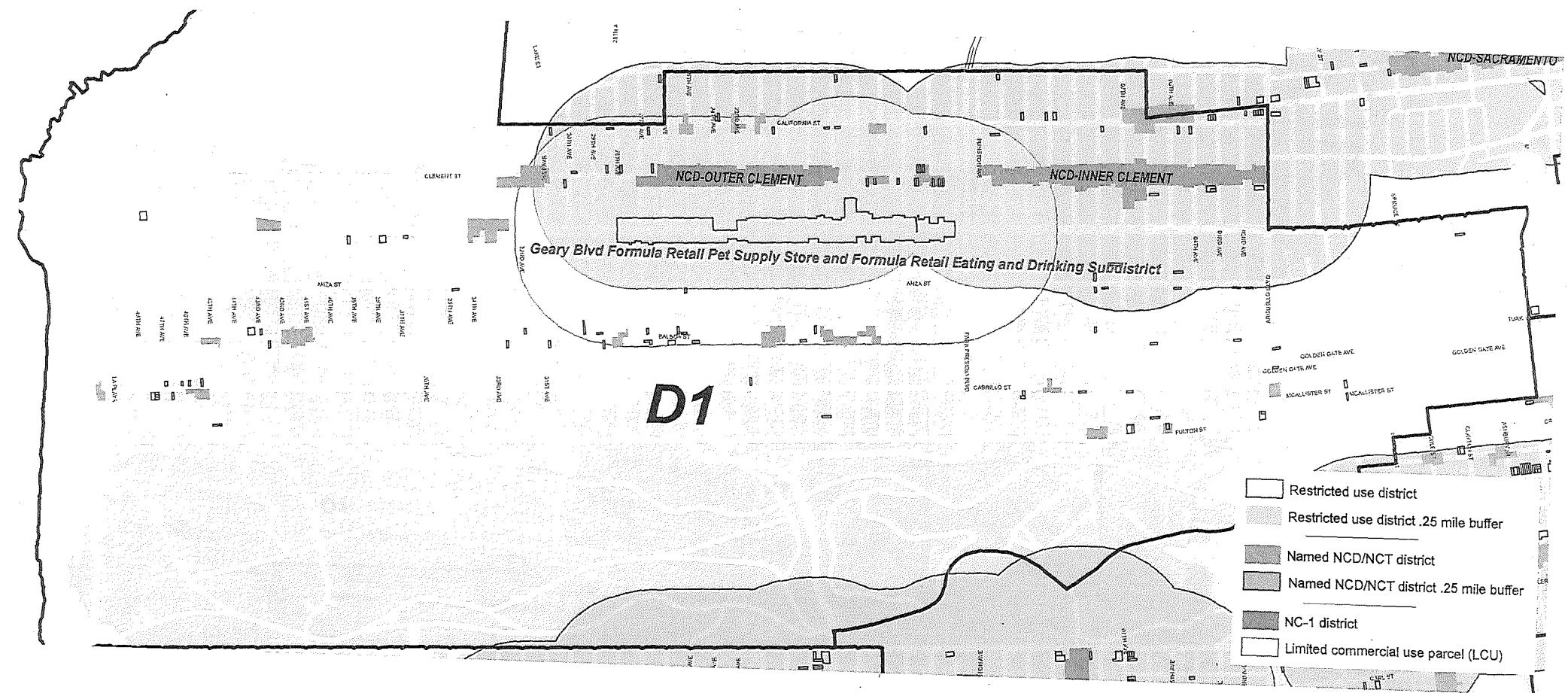
- Operates as both a Restaurant and a Nighttime Entertainment Use.
- Only provides on-site alcoholic beverage sales for consumption by ticket-holding patrons on the premises.
- Only provides alcoholic beverage sales two hours before, during, and one hour after entertainment activities.
- Alcohol sales do not exceed eight hours a day.

*Only venues meeting all of these criteria would be exempt, and they would still need to comply with all other requirements for a “Bona Fide Eating Place.”*

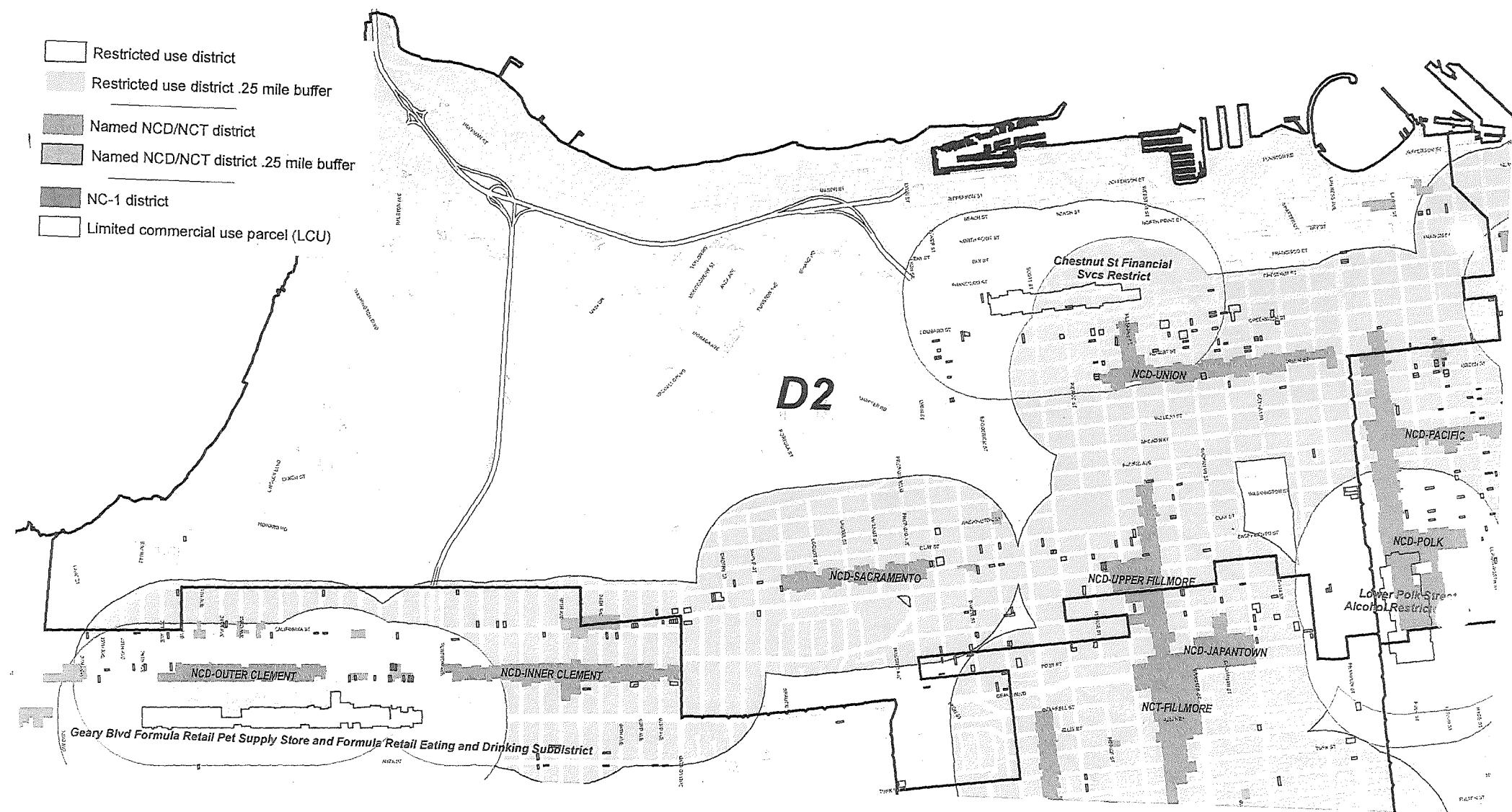
QUESTIONS?

NC-1s, Named NCs, and RUDs with LCU

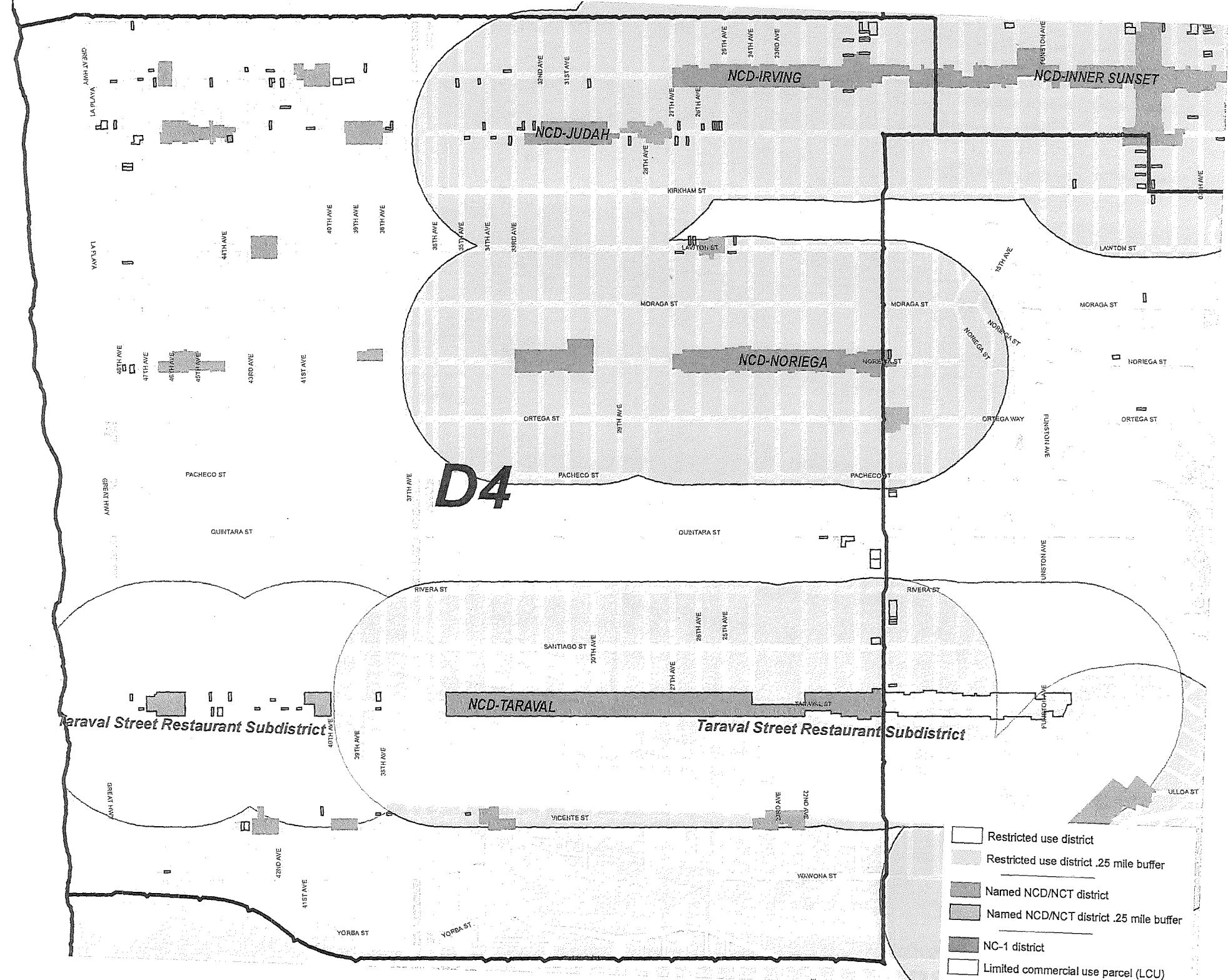


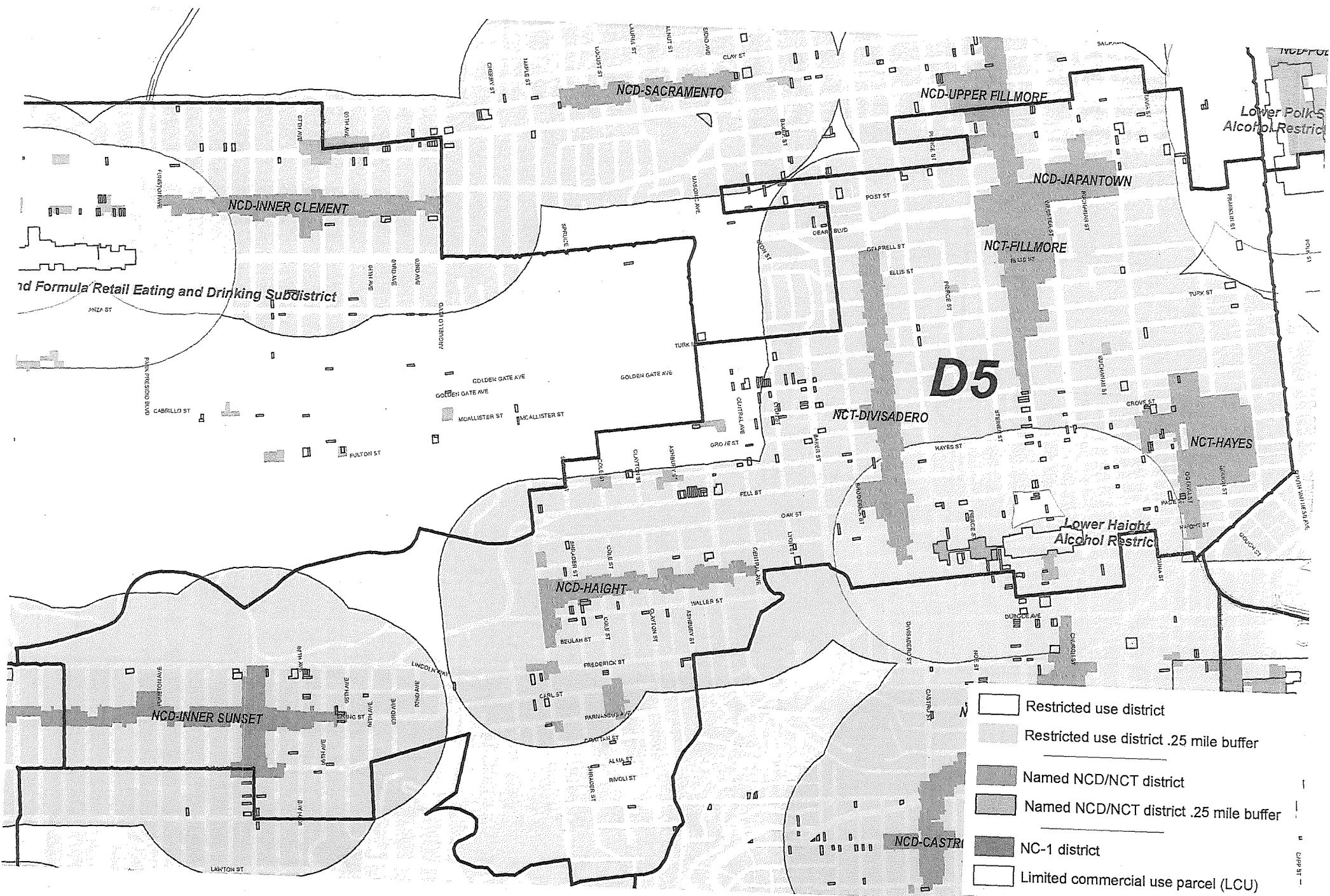


- Restricted use district
- Restricted use district .25 mile buffer
- Named NCD/NCT district
- Named NCD/NCT district .25 mile buffer
- NC-1 district
- Limited commercial use parcel (LCU)

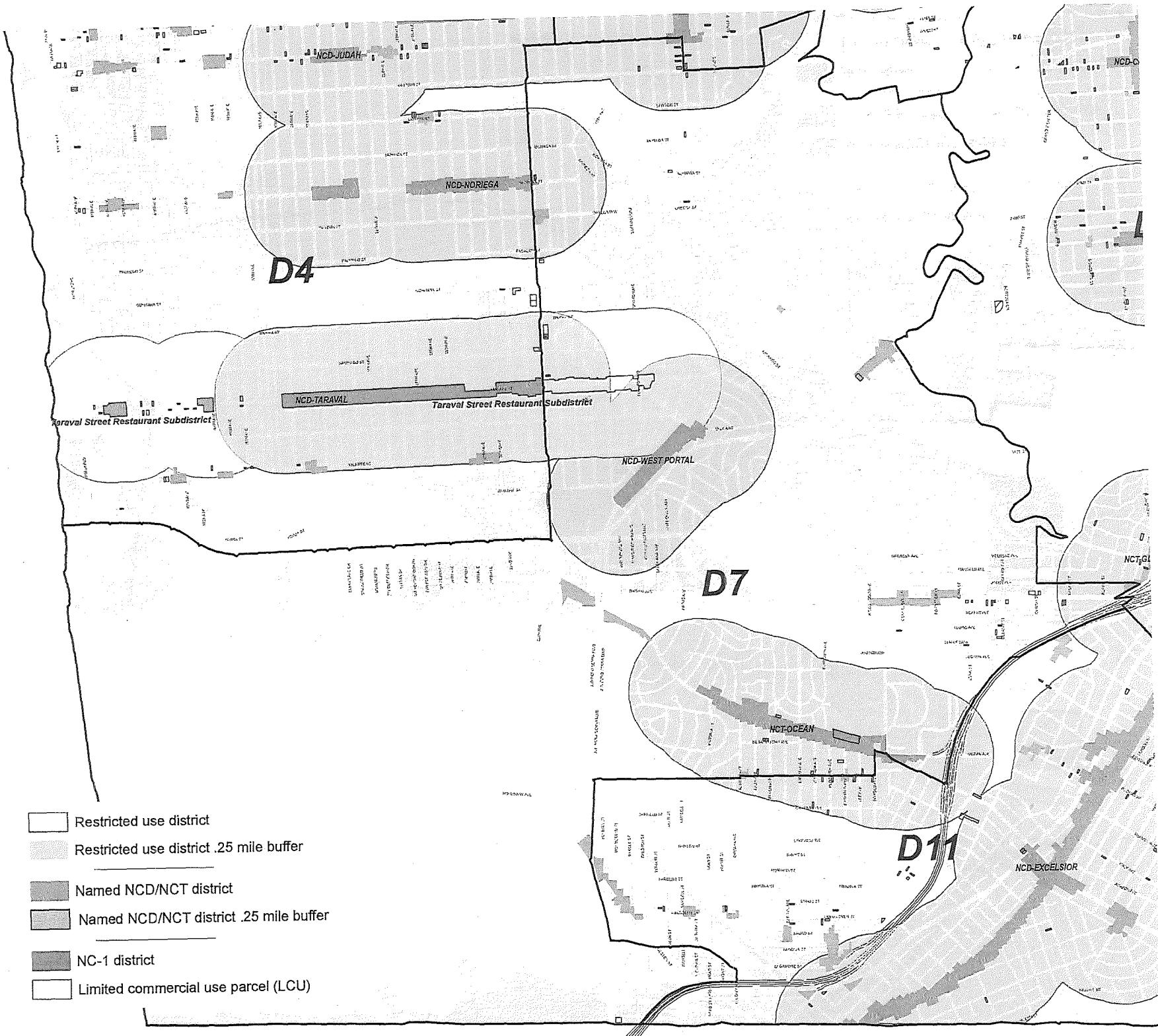


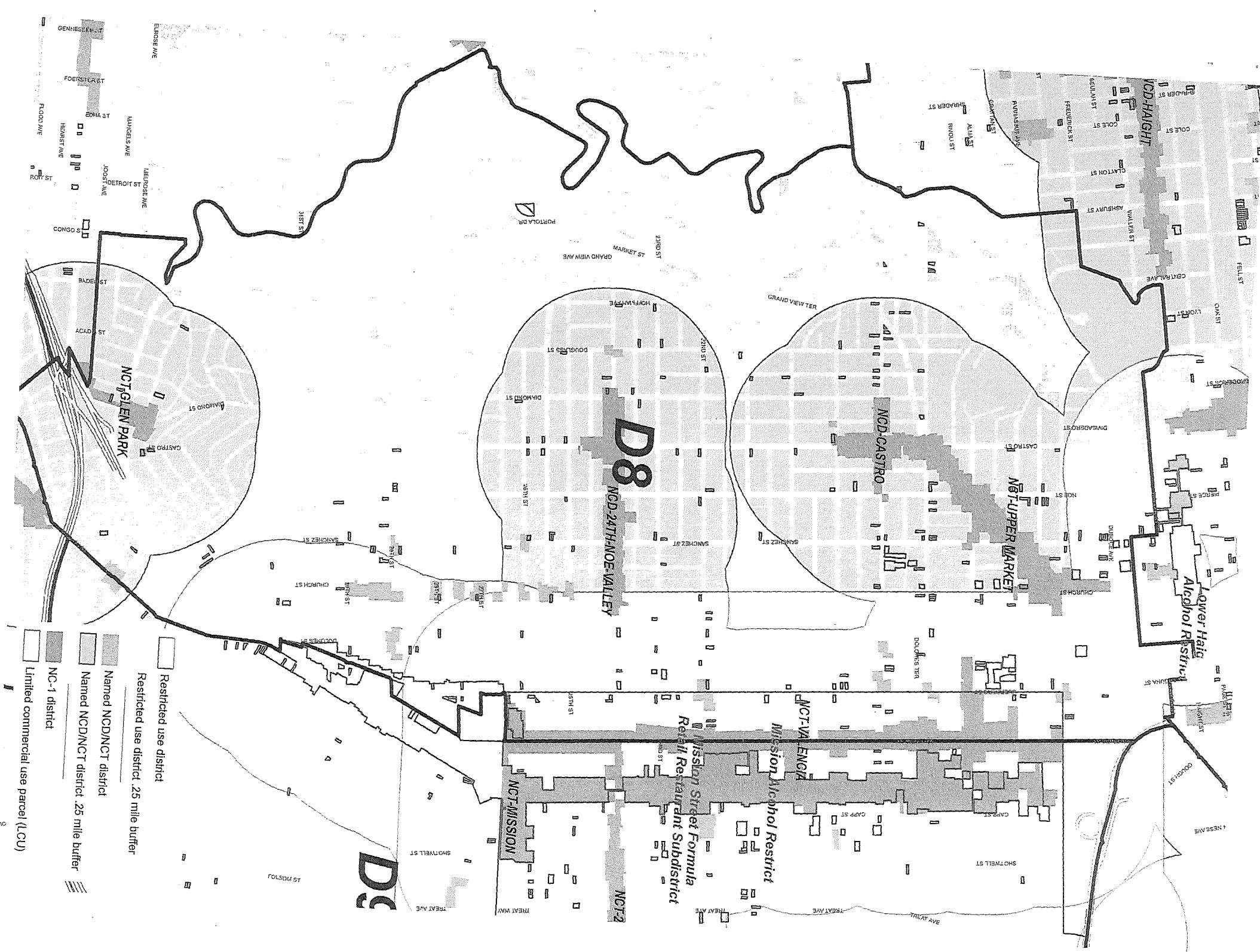


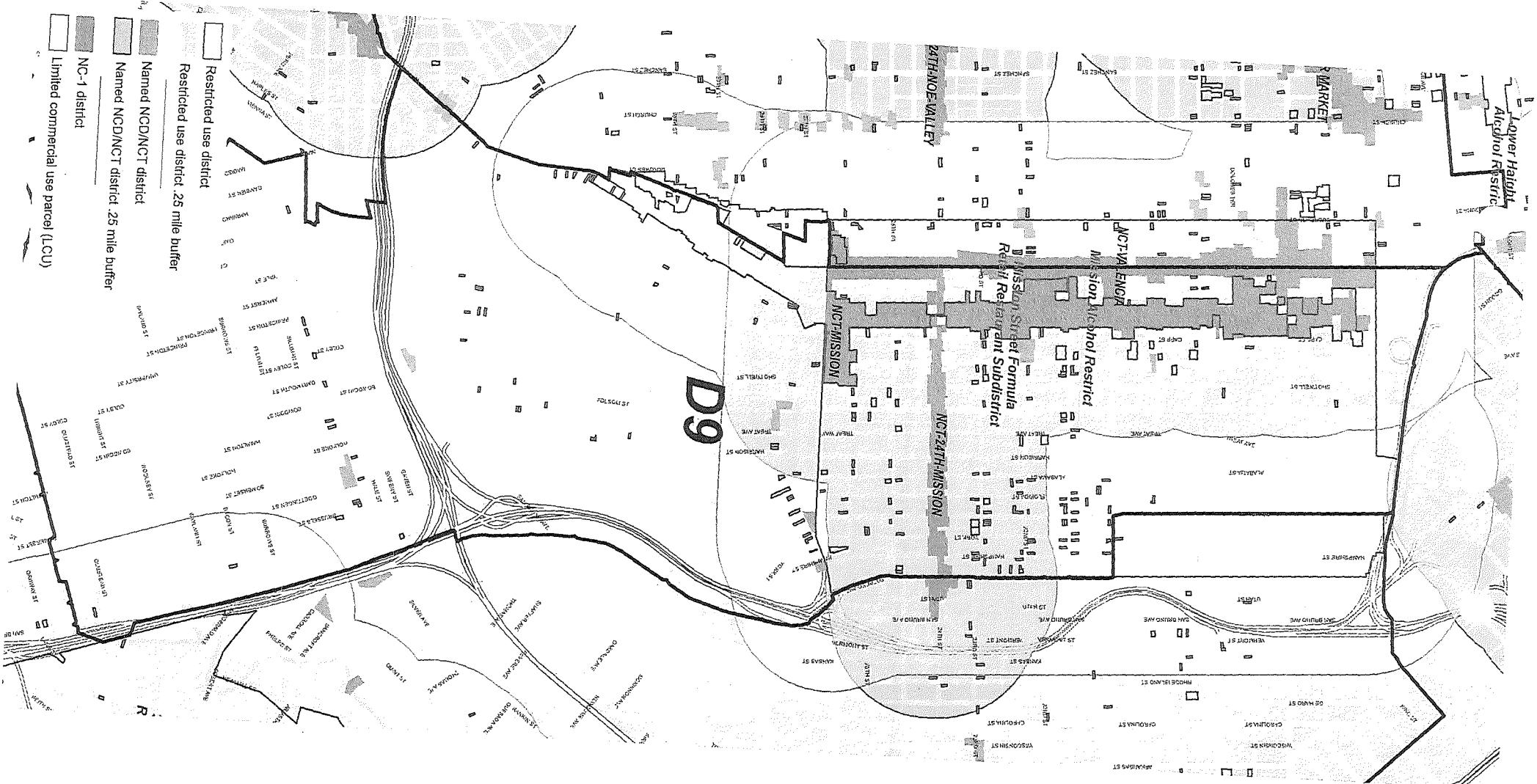


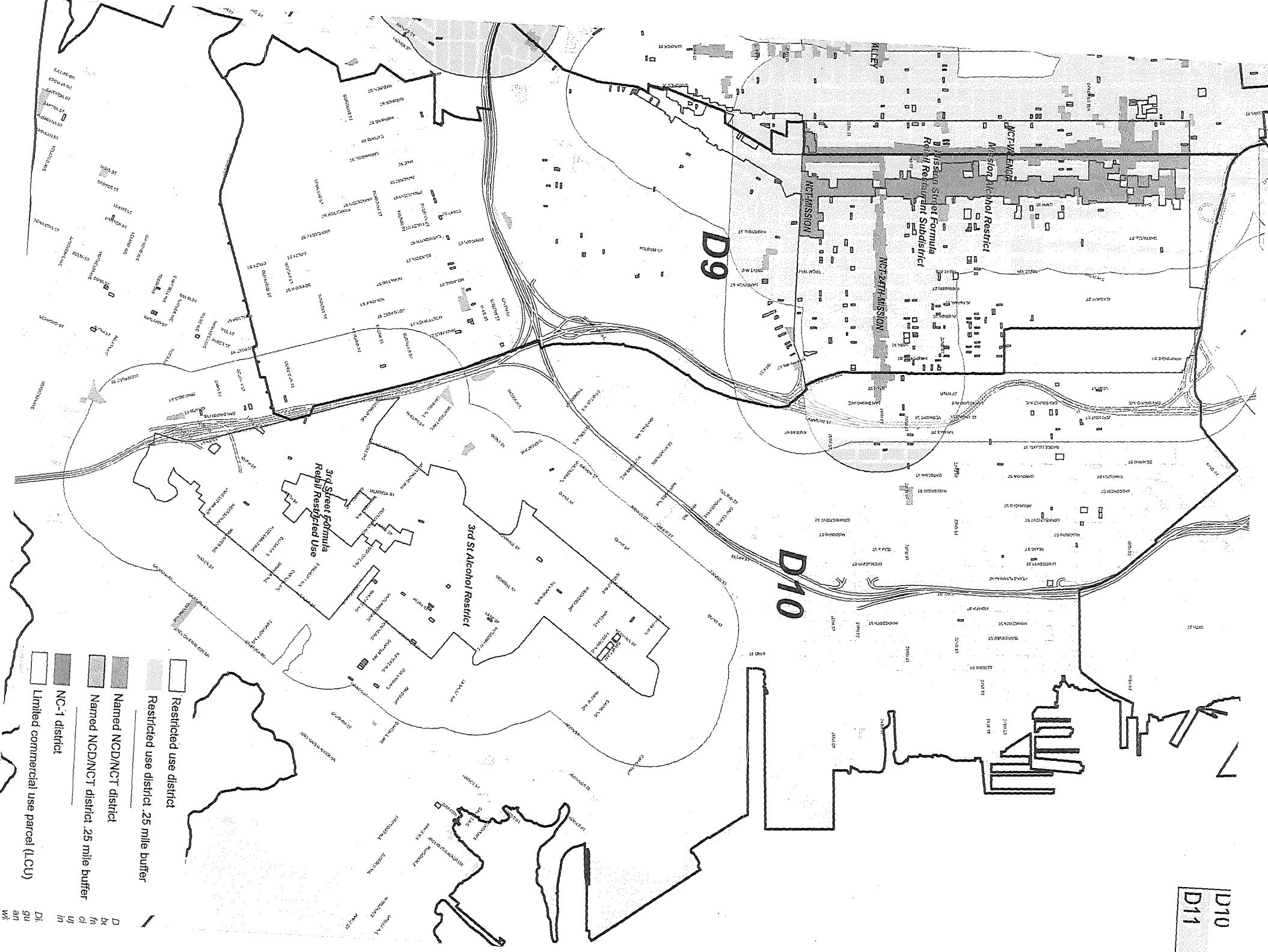


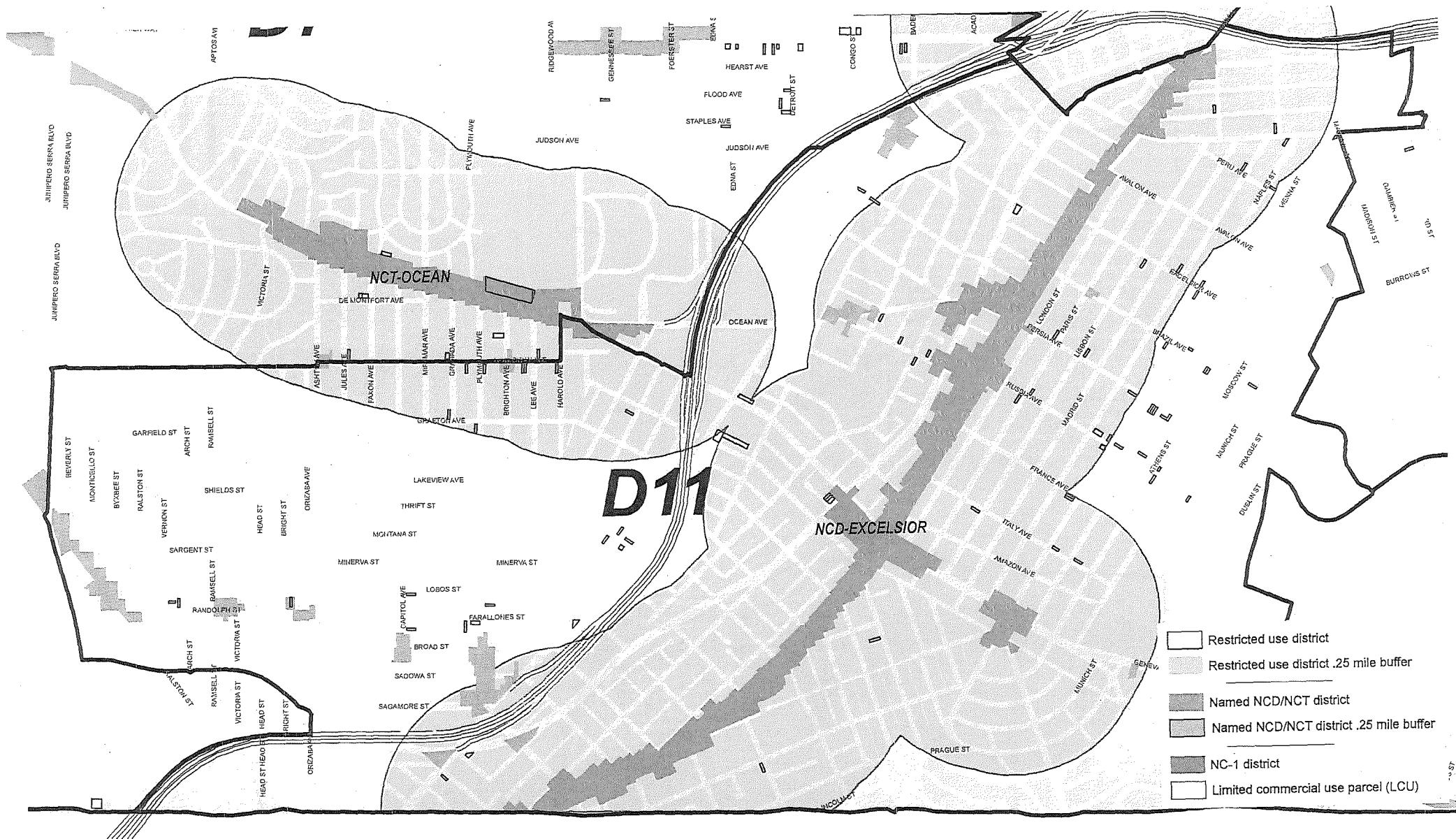






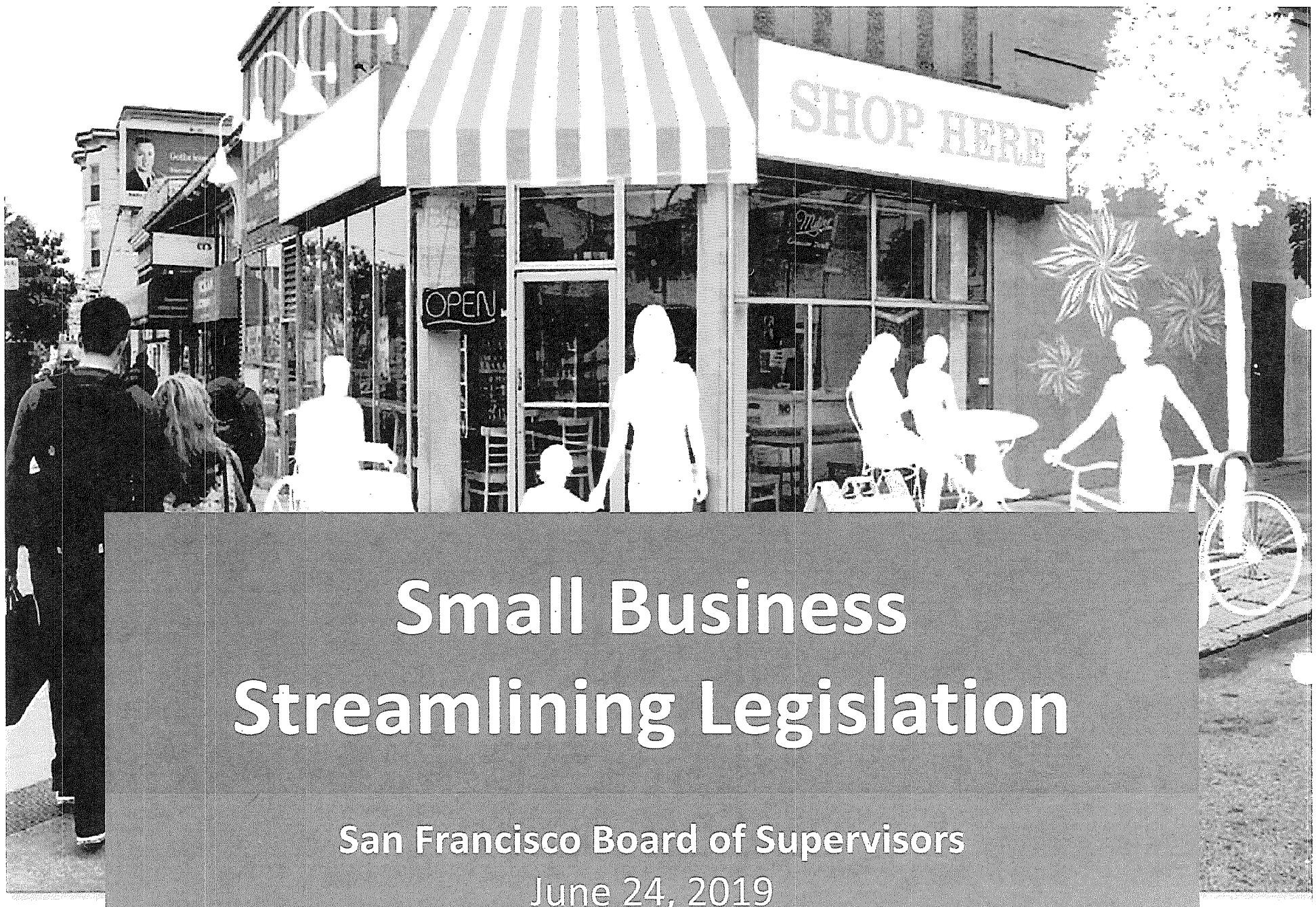






**Subject: Alcohol RUSDs and NCU/LCUs****Effective Date:** 07/09**Interpretation:**

Section 186(a)(2) states that a nonconforming use in an RH or RM District which is located within  $\frac{1}{4}$  mile from any Individual Area Neighborhood Commercial District or restricted use subdistrict is exempt from the termination provisions of Section 185 if they meet all of the requirements and restrictions of the nearest Neighborhood Commercial District or restricted use subdistrict. Since 1985 there have been 6 alcohol restricted use areas put in place. A question has arisen about whether a nonconforming use within  $\frac{1}{4}$  mile from one of these alcohol restricted use areas must adhere to the restrictions of that district. The three most recent alcohol restricted use areas have boundaries which closely track the Neighborhood Commercial Boundaries. The earlier alcohol restricted use areas have much broader boundaries, incorporating not only Neighborhood Commercial Districts, but Residential and Industrially-zoned Districts. The Zoning Administrator has determined that if the alcohol restricted use district is coterminous with the underlying Neighborhood Commercial zoning then all nonconforming uses within  $\frac{1}{4}$  mile must meet the restrictions of that alcohol restricted use district. However, if the boundaries of the alcohol restricted use district are broader than underlying Neighborhood Commercial zoning and the designating Ordinance does not state any  $\frac{1}{4}$  mile requirement, then nonconforming uses do not have to adhere to that alcohol restricted use district. Therefore, there is no  $\frac{1}{4}$  mile buffer around the North of Market Residential Special Use District (Section 249.5), Mission Alcoholic Beverage Special Use District (Section 781.8), or with the Third Street Alcohol Restricted Use District (Section 782).



# Small Business Streamlining Legislation

San Francisco Board of Supervisors

June 24, 2019

Small Business  
Streamlining Legislation

Small Business  
Streamlining Legislation

# BACKGROUND

- February 2018 Release of OEWD Retail Study
- Informed by Experiences of Direct Small Business Assistance
- Developed and Refined in Consultation with City Permitting Departments
- Goals:
  - Help new businesses save time and money in the permitting process in order to fill vacancies more quickly and position businesses for success.
  - Strengthen existing businesses by enabling them to adapt and expand offerings that are responsive to consumer demands.

# STREAMLINING LEGISLATION

1. Enable Existing Retail Businesses to Diversify Offerings and Attract New Business Models to Vacant Storefronts.
2. Increase Opportunities for Retail, Restaurant, and Nightlife Businesses to Fill Vacant Storefronts and Enhance Neighborhood Vibrancy.
3. Strengthen Existing Live Music Venues and Support New Venues by Reducing Duplicative and Otherwise Burdensome Requirements.
4. Clarify Ambiguous Planning Code Provisions to Bring Consistency to the Permitting Process for Retail, Restaurants, and Nightlife Businesses.

# AMENDMENTS

- Removing any proposed changes to Outdoor Activity Areas
- Revising buffers around Limited Commercial Uses
- Narrowed approach to Bona Fide Eating Place for entertainment venues
- Clarifying amendments
  - Bar Use with winemaker's license
  - Reconciling Amusement Game Arcade and General Entertainment zoning in Japantown, Haight Street, Upper Market

# DIVERSIFYING OFFERINGS

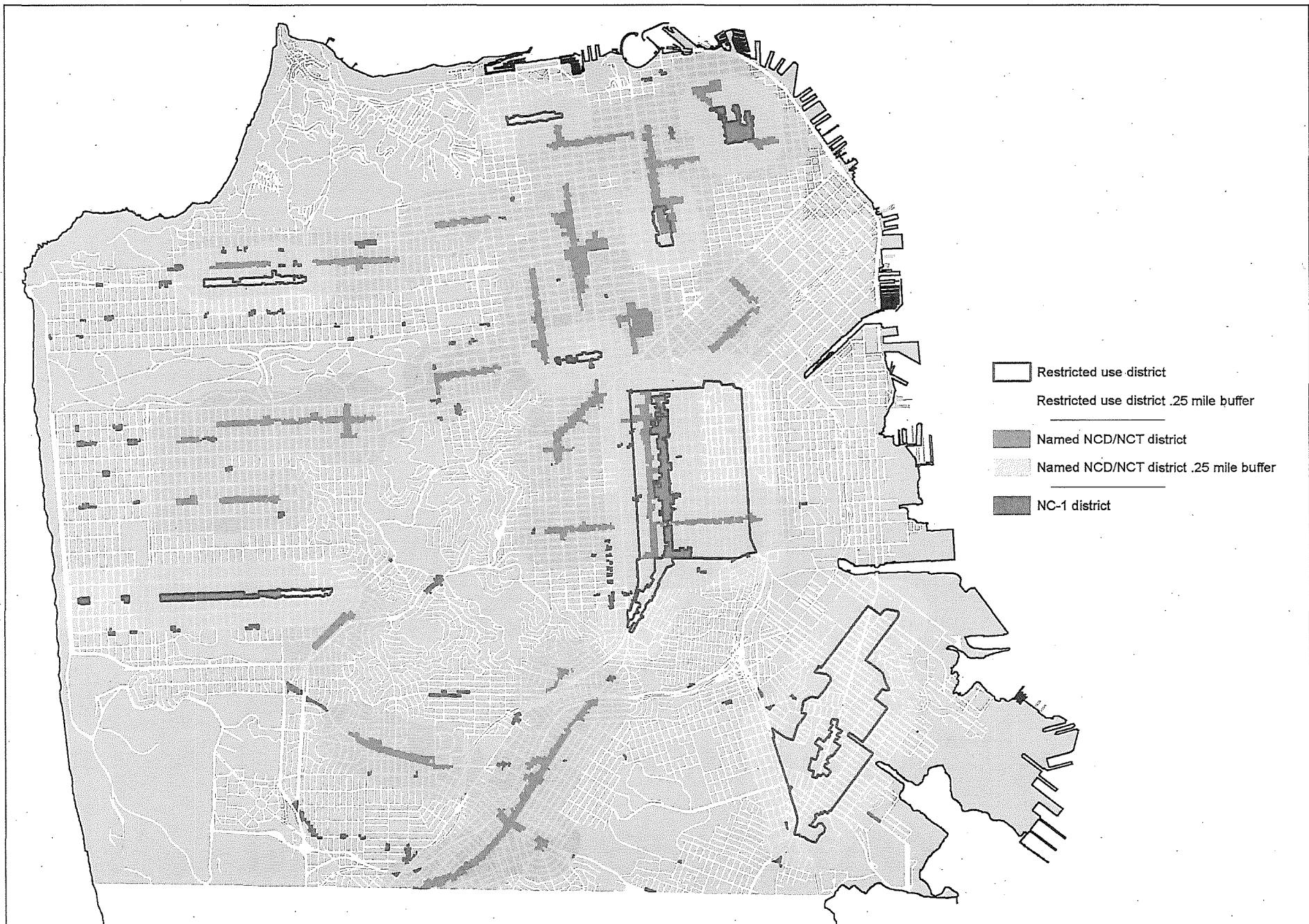
## *1. Enable Existing Retail Businesses to Diversify Offerings and Attract New Business Models to Vacant Storefronts.*

- Reduce costs and barriers for retail businesses to more easily offer to-go food service by aligning local health code with state requirements.
- Help retail businesses incorporate entertainment and events by eliminating unnecessary permitting requirements.

# INCREASING OPPORTUNITIES

## *2. Increase Opportunities for Retail, Restaurant, and Nightlife Businesses to Fill Vacant Storefronts and Enhance Neighborhood Vibrancy.*

- Increase opportunities for appropriate retail, restaurant, and nightlife businesses in NC-1 zoning and Limited Commercial Uses ("LCUs").
  - Existing buffer rule for uses in NC-1 and LCUs: Apply the most restrictive controls of any Named Neighborhood Commercial District ("NCD") within one-quarter mile, any Restricted Use District within one-quarter mile, or NC-1



NC-1s, Named NC Districts, RUDs, and Quarter Mile Buffers  
SAN FRANCISCO

0 0.5 1 2 Miles

## INCREASING OPPORTUNITIES

From the Planning Department's NC @ 20 report:

"Under current Code provisions, [NC-1s and LCUs] are subject to a much greater level of scrutiny than perhaps is appropriate.

Accordingly, it is recommended that a suitable relaxation of the  $\frac{1}{4}$  mile radius provisions be examined. While the premise of extending specially tailored land use regulations to close-by areas is sound, the on-the-ground effect of extending multiple, distinct groups of restrictions to a single parcel is questionable."

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- Increase opportunities for appropriate retail, restaurant, and nightlife businesses in NC-1 zoning and Limited Commercial Uses ("LCUs").
  - Existing buffer rule for uses in NC-1 and LCUs: Apply the most restrictive controls of any Named Neighborhood Commercial District ("NCD") within one-quarter mile, any Restricted Use District within one-quarter mile, or NC-1
  - Proposed buffers:
    - NC-1: Any Named NCD within 300 feet or NC-1
    - LCUs: The *nearest* Named NCD within  $\frac{1}{4}$  mile or NC-1

## INCREASING OPPORTUNITIES

### *2. Increase Opportunities for Retail, Restaurant, and Nightlife Businesses to Fill Vacant Storefronts and Enhance Neighborhood Vibrancy.*

- Support open air food service in retail, restaurant, and nightlife businesses by aligning local health code with state requirements.
- Increase opportunities for arcade uses in retail and nightlife businesses by reducing zoning barriers.

# SUPPORTING ENTERTAINMENT VENUES

## *3. Strengthen Existing Live Music Venues and Support New Venues by Reducing Duplicative and Otherwise Burdensome Requirements.*

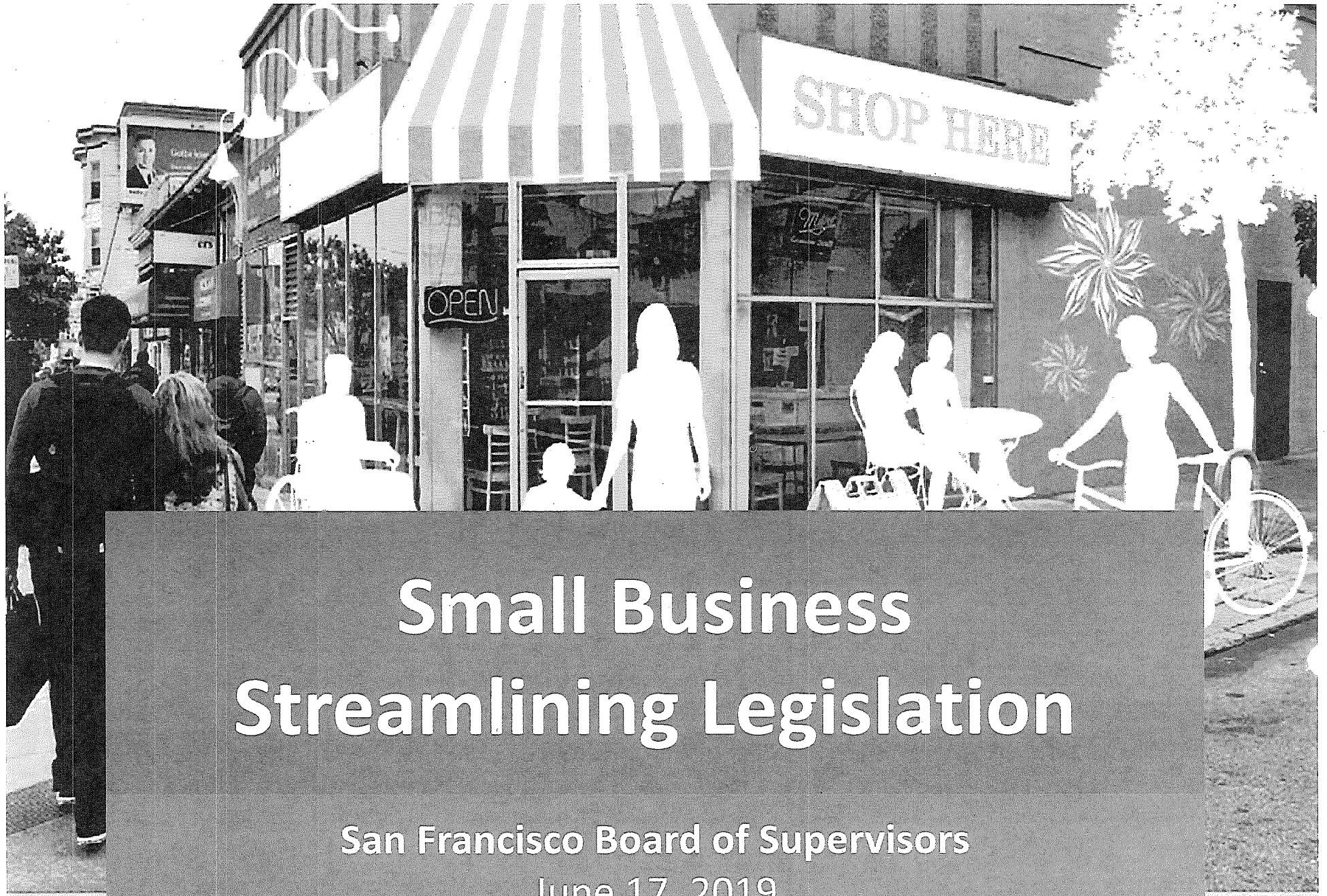
- Reduce delays and costs for new entertainment businesses by eliminating duplicative inspections.
- Support all-ages entertainment venues by better aligning Bona Fide Eating Place ("BFEP") requirements with entertainment venues.
  - Existing: BFEP requires entertainment venues with restaurant licenses to draw 51% of gross receipts from food sales and be open minimum of five days a week.
  - Proposed: Exempt from those requirements venues that only serve alcohol to ticket-holding patrons before, during, and after entertainment.

## CLARIFYING CODE PROVISIONS

### 4. *Clarify Ambiguous Planning Code Provisions to Bring Consistency to the Permitting Process for Retail, Restaurants, and Nightlife Businesses.*

- Save new businesses time and money in navigating the permitting process by clarifying definitions of Restaurant and Bar uses.
- Support retail businesses' ability to incorporate food uses by clarifying accessory use provisions of the Planning Code.

QUESTIONS?



# Small Business Streamlining Legislation

San Francisco Board of Supervisors

June 17, 2019

# BACKGROUND

- February 2018 Release of OEWD Retail Study
- Informed by Experiences of Direct Small Business Assistance
- Developed and Refined in Consultation with City Permitting Departments
- Goals:
  - Help new businesses save time and money in the permitting process in order to fill vacancies more quickly and position businesses for success.
  - Strengthen existing businesses by enabling them to adapt and expand offerings that are responsive to consumer demands.

# STREAMLINING LEGISLATION

1. Enable Existing Retail Businesses to Diversify Offerings and Attract New Business Models to Vacant Storefronts.
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4. Clarify Ambiguous Planning Code Provisions to Bring Consistency to the Permitting Process for Retail, Restaurants, and Nightlife Businesses.

# AMENDMENTS

- Removing any proposed changes to Outdoor Activity Areas
- Revising approach to buffers around Limited Commercial Uses
- Revising and limiting the Bona Fide Eating Place/Entertainment changes
- Clarifying amendments
  - Limited Corner Commercial Uses
  - Bar Use with winemaker's license
  - Reconciling Amusement Game Arcades and General Entertainment zoning

# DIVERSIFYING OFFERINGS

## *1. Enable Existing Retail Businesses to Diversify Offerings and Attract New Business Models to Vacant Storefronts.*

- Reduce costs and barriers for retail businesses to more easily offer to-go food service by aligning local health code with state requirements.
- Help retail businesses incorporate entertainment and events by eliminating unnecessary permitting requirements.

# INCREASING OPPORTUNITIES

## *2. Increase Opportunities for Retail, Restaurant, and Nightlife Businesses to Fill Vacant Storefronts and Enhance Neighborhood Vibrancy.*

- Increase opportunities for appropriate retail, restaurant, and nightlife businesses in NC-1 zoning, LCUs, and LCCUs.
  - Existing buffer rule for NC-1 and LCU: The most restrictive controls of any Named NCD within one-quarter mile, any Restricted Use District within one-quarter mile, or NC-1
  - Proposed buffers:
    - NC-1: Any Named NCD within 300 feet or NC-1
    - LCU & LCCU: The *nearest* Named NCD within  $\frac{1}{4}$  mile or NC-1

## INCREASING OPPORTUNITIES

### *2. Increase Opportunities for Retail, Restaurant, and Nightlife Businesses to Fill Vacant Storefronts and Enhance Neighborhood Vibrancy.*

- Support open air food service in retail, restaurant, and nightlife businesses by aligning local health code with state requirements.
- Increase opportunities for arcade uses in retail and nightlife businesses by reducing zoning barriers.

# SUPPORTING ENTERTAINMENT VENUES

## *3. Strengthen Existing Live Music Venues and Support New Venues by Reducing Duplicative and Otherwise Burdensome Requirements.*

- Reduce delays and costs for new entertainment businesses by eliminating duplicative inspections.
- Support all-ages entertainment venues by better aligning requirements for entertainment venues that also operate as restaurants. *Proposed for certain neighborhood commercial corridors in District 5 only.*

## CLARIFYING CODE PROVISIONS

4. *Clarify Ambiguous Planning Code Provisions to Bring Consistency to the Permitting Process for Retail, Restaurants, and Nightlife Businesses.*
  - Save new businesses time and money in navigating the permitting process by clarifying definitions of Restaurant and Bar uses.
  - Support retail businesses' ability to incorporate food uses by clarifying accessory use provisions of the Planning Code.

QUESTIONS?



July 3, 2019

**Erica Major, Clerk, Land Use and Transportation Committee**

**San Francisco Board of Supervisors**

RE: Public Comment File 181211 Small Business Permit Streamlining Ordinance

1 Dr. Carlton B. Goodlett Place

City Hall, Room 244

San Francisco, CA, 94102-4689

**RE: File #181211 - Letter of Support for Small Business Permit Streamlining**

Dear Supervisors Peskin, Safai, and Haney:

As the lead small business advocate at Square, Inc. and a San Francisco small business owner of ICHI Sushi in Bernal Heights, I'm writing to you in support of Mayor Breed and Supervisor Brown's Small Business Permit Streamlining File #181211.

At Square, we partner with thousands of small- and medium-sized businesses in the San Francisco Bay Area and consider how we can support them through our purpose of economic empowerment. This proposed legislation aligns with that purpose.

I know firsthand how costly and complex the permitting process can be —I've started two businesses that underwent the Change of Use Process, and have opened multiple restaurants navigating each step in Planning, Fire, and with ABC. I have learned that, even with experience, these can be tricky systems to navigate. And, as co-founder of the Mission Bernal Merchants Association, and through serving on the Board of the Golden Gate Restaurant Association, I've fielded the concerns of many small business owners who, either when starting a business or growing a business, struggled to understand the proper steps to permitting.

By streamlining the permitting process, new businesses will have the opportunity to focus on the core parts of their business that help them to grow and allowing them to continue to anchor the communities that you serve. Here at Square, we're glad to weigh in and support our San Francisco sellers on this issue, knowing that permit streamlining will make it easier to start, run, and grow a business.

Respectfully supportive,

A handwritten signature in black ink.

**Erin Archuleta**

Director, Community Affairs and Seller Advocacy, Square, Inc.

Owner, ICHI Sushi

Co-Founder, Mission Bernal Merchants Association



235 Montgomery St., Ste. 760, San Francisco, CA 94104  
tel: 415.352.4520 • fax: 415.392.0485  
[sfchamber.com](http://sfchamber.com) • twitter: @sf\_chamber

June 24, 2019

The Honorable Aaron Peskin  
Chair, Land Use and Transportation Committee  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, #244  
San Francisco, CA 94012

**RE: Support for File #181211 Small Business Permit Streamlining**

Dear Supervisor Peskin:

The San Francisco Chamber of Commerce, representing thousands of local businesses, supports legislation introduced by Mayor London Breed and Supervisor Vallie Brown that will streamline permitting for certain small businesses and allow for more flexible uses of some commercial spaces in San Francisco's neighborhood merchant corridors (File #181211, Small Business Permit Streamlining). This item is scheduled to come before the Land Use and Transportation Committee of the Board of Supervisors on June 24, 2019.

The Retail Study carried out by OEWD in 2018 found that San Francisco's retail landscape, like that across the country, is changing in multiple ways that make it more challenging for local businesses, especially restaurants and small retailers, to open in San Francisco and be sustainable over time. Compounded by our city's complex and costly regulatory and permitting processes, we are experiencing high commercial vacancy rates and an increase in empty storefronts that make it difficult for our neighborhood commercial districts to thrive.

As the Chronicle reported in their story on June 13, 2019, *San Francisco's North Beach is Littered with Empty Storefronts*, the city's permitting process punishes small business owners looking to fill empty storefronts. The legislation as proposed will help neighborhoods like Castro, Cole Valley, and Noe Valley fill their empty storefronts by reducing unnecessary zoning buffers that overlap with less restrictive merchant corridors.

We believe small business permit streamlining is one of the ways we can mitigate these challenges and help local merchants establish themselves successfully. This legislation will create reasonable controls to ensure new businesses will be compatible with their neighborhoods without inflicting undue, bureaucratic burdens that delay and sometimes prevent them from opening.

Among other things, it aligns alcohol license types with state laws, removing the need to seek a Letter of Determination from the Zoning Administrator that adds time and uncertainty to the permitting process. It also replaces the 1/4 mile buffer around NC Districts with a less restrictive 300-foot buffer that enables businesses to go into neighborhoods where they are beneficial and welcome while ensuring non-compatible uses are not allowed adjacent to districts with their own specific controls.

The San Francisco Chamber of Commerce supports policies that assist and encourage businesses to enter our market and thrive over time. We believe this legislation is an excellent example of how we can work collaboratively and creatively to craft policies that are supportive of the business community, especially our



235 Montgomery St., Ste. 760, San Francisco, CA 94104  
tel: 415.352.4520 • fax: 415.392.0485  
[sfchamber.com](http://sfchamber.com) • twitter: @sf\_chamber

small businesses, that will help them gain a foothold in San Francisco's neighborhood commercial districts and be successful in the long-term. The legislation as originally proposed and unanimously supported by the Planning Commission deserves your support, and we hope you will move it forward when it comes before you at the Land Use and Transportation Committee and the full Board of Supervisors.

Sincerely,

A handwritten signature in black ink. The signature is fluid and cursive, appearing to read "Rodney Fong". It is written over a stylized, oval-shaped graphic that resembles a map of San Francisco with the city's outline and various landmarks.

Rodney Fong  
President & CEO  
San Francisco Chamber of Commerce

cc: Clerk of the Board, to be distributed to all Supervisors; Mayor London Breed; Joaquin Torres, Laurel Arvanitidis and Ben Van Houten, OEWD

# HAIGHT ASHBURY NEIGHBORHOOD COUNCIL

June 23, 2019

**Tes Welborn**  
*President*

**Bruce Wolfe**  
*Vice-President*

**Shira Noel**  
*Recording Secretary*

**Jim Rhoads**  
*Corresponding Secretary*

**Christin Evans**  
*Treasurer*

**James Sword**  
*Nominating Chair*

**Richard Ivanhoe**  
*Membership Chair*

**Rupert Clayton**  
*Housing and Land Use Chair*

**Karen Fishkin**  
*Recycling Chair*

## **MEMBERS-AT-LARGE**

**Alex Aquino**

**Joey Cain**

**Carlie Leduc**

**Christian Vaisse**

**Calvin Welch**

**Sunshine Powers**  
*Merchant Liaison*

To: Supervisor Aaron Peskin (chair)  
Supervisor Ahsha Safaí (vice-chair)  
Supervisor Matt Haney  
Land Use and Transportation Committee  
c/o Erica Major, Clerk to the Committee  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102-4689  
Board.of.Supervisors@sfgov.org

Cc: Supervisor Vallie Brown (sponsor)

From: Rupert Clayton  
Housing and Land Use Chair  
Haight Ashbury Neighborhood Council  
landuse@hanc-sf.org

Re: File No. 181211, Small Business Permit Streamlining

Dear Supervisors,

The Haight Ashbury Neighborhood Council has substantial concerns about some provisions of the proposed Small Business Permit Streamlining changes under consideration by the Land Use Committee of the Board of Supervisors.

The proposed removal of the buffer zones around Alcohol RUSDs/NCDs has massive implications for residents and business owners, both in the buffer zones and within the RUSDs/NCDs, and for public health in San Francisco. None of this has been subject to an impact analysis or to meaningful community consultations.

Accordingly, we ask that you delete the proposed changes to buffer zones around Alcohol RUSDs/NCDs. These changes should be severed from the legislation and subject to proper analysis and review.

The comments below focus most on the impacts on the Haight Ashbury and surrounding neighborhoods, but the legislation poses similar risks to RUSDs and NCDs in neighborhoods across San Francisco. For some communities the risks to public health and the threat that locally owned businesses will be displaced are even higher than in the Haight Ashbury.

## **This Legislation Does Nothing to Tackle Empty Storefronts**

We acknowledge that small retail business owners in San Francisco face substantial challenges at present, as evidenced by the persistently high vacancy rates in neighborhood commercial districts such as Haight Street, where four of our board members operate businesses.

Chief among these challenges are the escalation of commercial rents beyond the means of most neighborhood-serving businesses and undercutting on price by online retailers. City government has only partial control over commercial rents and online retailers, but we believe those areas need to be the primary policy target if San Francisco is to maintain vibrant local businesses. We support commercial vacancy controls and believe San Francisco should be advocating at the state level for the right to regulate commercial rent raises.

Instead of that we have the current legislation, which claims to assist local businesses by cutting out several aspects of the permitting process. We're very aware that the Planning and Building Inspection Codes contain some arcane provisions that don't appropriately serve the needs of San Franciscans in the 21<sup>st</sup> century. But many other provisions exist to safeguard the health and well-being of City residents.

It appears that the proposed legislation would greatly limit the ability of neighborhoods to control the expansion of alcohol-serving businesses. Having reviewed the likely actual impact of this change for Haight Street and the surrounding area, it is clear this wouldn't make a meaningful difference to the viability of existing retailers. It would, however, substantially increase the rent chargeable by commercial landlords looking to attract new businesses (generally with outside ownership) to take advantage of looser regulation of alcohol-serving businesses. We see this as a major step backwards for residents and businesses in San Francisco's neighborhoods.

## **Supervisors Need to Review the 2017 BLA Alcohol Abuse Report**

As recently as 2017, the Board of Supervisors directed the Budget and Legislative Analyst to examine the costs of alcohol abuse in San Francisco. That study found an annual cost to City government of \$55 million and to the broader public of \$1.065 billion, equal to 2 percent of total personal income in San Francisco. Despite the detailed analysis and serious findings of this report, the Board of Supervisors has not held a hearing to review it.

Some might regard a supervisor's proposal of extensive changes to permitting for alcohol-serving uses without reference to their impact on San Francisco communities and without any community consultation as evidence of their lack of commitment to the concept of serving the public. More charitably, we will assume that this was an oversight that the supervisor will choose to remedy by deleting the language modifying permitting around Alcohol RUSDs and NCDs. We look forward to our supervisor's taking the lead on holding a hearing on the 2017 BLA alcohol abuse report.

## **No Justification to Reduce Buffers Around Alcohol Restricted Use Subdistricts**

The Haight Street Alcohol Restricted Use Subdistrict (RUSD) was created in 1999 to address major issues with the proliferation of liquor stores and other alcohol-serving businesses within the Haight Street Neighborhood Commercial District and the surrounding area. Because the RUSD is in effect a moratorium on new locations for alcohol-serving businesses, it has preserved space for other uses in the neighborhood while also allowing a broad range of alcohol-serving businesses to continue to operate.

The RUSD was primarily aimed at striking a balance between night time uses and the residential quality of the street. We should note that between Central and Stanyan, there are more dwelling units on Haight Street than storefronts; HANC has a long-time position in favor of protecting housing uses on the street.

The 1/4-mile buffer zone around the Haight Street Alcohol RUSD applies the same restrictions to approximately 35 NC-1 properties, 15 LCU properties and 1 LCCU property within this buffer zone. The legislation as drafted would entirely eliminate that buffer zone while adding a smaller area in which liquor stores only would require Conditional

Use approval. Other alcohol-serving uses would be permitted in the former buffer zone, but still prohibited within the Haight Street Alcohol RUSD.

**Currently we are aware of just one vacant property among the 50+ sites that would be affected in the buffer zone, so the argument that removing alcohol-sale restrictions for these properties will solve storefront vacancies is specious.**

We do accept that there's a balance to be struck between controlling liquor-store proliferation in one neighborhood and allowing another nearby neighborhood the freedom to advocate for planning measures that suit its needs. However, the proper approach to rebalancing this type of permit restriction is to talk with the communities involved, not to gut existing protections in a negotiation between City Hall staffers and the Planning Department. Let's note in passing that this legislation would originally have allowed bars to get an over-the-counter permit to operate more than 100 hours a week in backyard areas surrounded by residential units—something else that the proponents didn't feel required community consultation.

We oppose the proposed changes to the buffer zone around Alcohol Restricted Use Subdistricts primarily because of the absence of meaningful community consultation and the very real prospect of negative effects on both residents and existing businesses. Some examples:

- Unfettered permitting of alcohol-serving businesses at locations in the current buffer zone (but beyond Haight Street) will do nothing to fill retail vacancies on Haight Street itself.
- However, this change will likely reduce evening trade for Haight Street businesses due to the increase in alcohol-serving businesses within the 1/4-mile buffer zone. So, the effect on Haight Street merchants will be a net negative.
- Several of the LCU properties and the one LCCU property currently have residential use at the ground floor. Opening up these properties to be permitted for alcohol sale creates a risk that existing residents will be displaced in order to facilitate conversion to alcohol retail and that upper-floor residents who moved into all-residential buildings will end up living above a bar.
- Analysis of the public health impacts is nowhere to be found in the proponents' arguments for these changes.

In summary, please go ahead and fix our planning code so that amusement arcades can be respectable again and non-profit theaters can serve a glass of wine without risking jail. But leave alone the buffer zones around Alcohol RUSDs. Making that change without proper analysis or consultation will do nothing for the merchants who are struggling to keep viable local businesses in San Francisco. And the consequences will be borne by the many residents who will be affected by the effects of deregulating permits for alcohol-serving uses—consequences unforeseen only because those who stand to benefit choose not to foresee them.

Sincerely,



Rupert Clayton  
Housing and Land Use Chair,  
Haight Ashbury Neighborhood Council  
landuse@hanc-sf.org



181711

RECD/BB IN COMMITTEE

6/24/2019

June 23, 2019

Supervisors Aaron Peskin, Matt Haney and Ahsha Safai:

RE: Opposition to Small Business Permit Streamlining Legislation, Comm. Pkt. 062419

Dear Supervisors;

Alcohol Justice would like to register opposition to the proposed streamlining legislation, as reviewed and supported by the Planning Commission. We have heard that amendments were to be made to this legislation, but they were not included in the version to be heard on June 24, 2019. Even if they were made at the last minute at the hearing or shortly after the hearing, we would have to oppose this legislation because the public has never been involved or notified or asked an opinion on this legislation by the author(s) and the legislation is difficult for even experienced residents to understand.

We would prefer a process of involving residents of the Bayview, Tenderloin, the Mission, the Polk Neighborhood, 19<sup>th</sup> and Noriega, and Haight-Ashbury in a public discussion and debate.

Furthermore, and very importantly, there has never been a public presentation of an important report to the Board of Supervisors of the BLA report of April 10, 2017 regarding: ***"Economic and Administrative Costs Related to Alcohol Abuse in the City and County of San Francisco."*** **Sup.** Eric Mar requested this analysis of alcohol harm and cost, especially looking into the effects of density of alcohol licenses in San Francisco. San Francisco is the most over-saturated, dense market in the State, with over 2700 on-sale licenses compared to the entire City of Los Angeles (8 times our size) with 3500 on-sale licenses. The Board should bring up the BLA report for a hearing, public vetting and policy guidance. Instead, this streamlining legislation moves the City in the exact opposite direction, with no public debate and no mapping of the zoning changes available to review. The streamlining legislation seems to promote more alcohol licenses throughout the City that would negate protections in restricted alcohol subdistricts and neighborhood commercial districts.

We oppose various provisions in the streamlining legislation that according to the public record of the committee packet are still in there:

1. We oppose eliminating ¼ mile protection areas around restricted use subdistricts. There is no justification or logic provided in lowering the protected area to 300 feet. Besides, it seems that more licenses outside the protected areas would be more detrimental to businesses within a protected perimeter. In the current version, this seems to apply to every city restricted use sub-district.

2. We oppose allowing patio service if they are between the hours of 6 am and 10 pm, opening up patio noise beyond the front of the businesses. This is why the public needs to be informed of the changes in this ordinance – surely there would be noise (and possibly violence) concerns if the public knew about this proposal.
3. Because of the way the legislation is written, with vast portions of the current codes missing, and the extensive use of footnotes to code rules about zoning and permitted or conditional uses, the effects of the legislation are ineffable. This legislation is the most incomprehensible piece of San Francisco legislation possible – there is no way the Board could know what the implications of the legislation actually are on RUSDs or neighborhood commercial districts.
4. 24<sup>th</sup> Street – Noe Valley specialty retail (limited restaurant) controls are changed, but are not clear in what way (page 21, lines 2-5).
5. Weakens requirements for review for Place of Entertainment applications by allowing exemptions from review by DBI, DPH and Fire Department (pp. 32 and 33).

Please vote this legislation down, hold a hearing on licensing and harm to review your own report from the BLA from 2017, and ask the author Supervisor Vallie Brown to involve HANC, Alcohol Justice and many other neighborhood organizations and business groups in a conversation on the best way to promote neighborhood businesses without promoting random alcohol licensing and overconsumption of alcohol in San Francisco.

Sincerely,

*Bruce Lee Livingston*

Bruce Lee Livingston, MPP  
Executive Director / CEO  
Alcohol Justice  
415-515-1856. [BruceL@alcoholjustice.org](mailto:BruceL@alcoholjustice.org)

24 Belvedere Street, San Rafael, CA 94901-4817  
t 415-456-5692 • f 415-456-0491  
[alcoholjustice.org](http://alcoholjustice.org)



Letters of Support  
for Wooden Coffeehouse  
(beer/wine permit)

- Steve Wickwire  
ST3Wickwire@gmail.com  
(530) 902-1618  
862 Cole Street, 94117

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Dear Supervisor Brown,

My name is Leah Gahagan, and I've been a resident of Cole Valley for almost 7 years.

I'm writing today in support of Wooden Coffeehouse's plans to extend their service into evenings. Wooden's presence at the corner of Cole & Carl has breathed new life into Cole Valley and has solidified itself as the go-to destination for entrepreneurial workspace, a place for neighborhood parents to gather for delicious coffee, or as in my case, a place to relax and enjoy the people watching in the neighborhood. Since the opening of Wooden, Steve and his team have seamlessly integrated into Cole Valley culture, making everyone feel welcomed and like family.

There is no question San Francisco has faced a lot of backlash over gentrifying neighborhoods in recent years, so when I learned of Steve's hope to expand the business to one day offer local comedy and a happy hour vibe, I couldn't have been more excited about the idea. Just across the street from Wooden is Crepes on Cole, the former home of once-renowned Comedy Club The Other, where Robin Williams got his early start. The sign still hangs on the building, a tribute to the days of yesteryear that once made this neighborhood a lively and fun destination for the community and beyond. I can't think of a better way to pay homage to a neighborhood legacy and bring our community even closer together.

While I understand the zoning challenges the city faces, My hope is that Wooden can obtain a permit for beer and wine sales. Cole Valley is a lively neighborhood at night yet limited in space for patrons who like to socialize and grab a bit of culture locally. Many of the local restaurants are often at capacity come six o'clock pm, and quite a few of our residents have families and don't have the luxury of venturing more than a few blocks from home on a given night. For these reasons, I wholeheartedly believe that Steve's plans would be widely embraced and welcomed by the majority of our neighbors and visitors alike.

Steve has made a huge impact on the local culture and economy in Cole Valley and is excited about the prospect of further contribution. As a homeowner and long-time resident of Cole Valley, I certainly want to see him succeed.

Thank you for listening. Any time you may be able to dedicate to helping us help Wooden would be most appreciated now and in the future.

Respectfully,

Leah Gahagan

Dear Supervisor Brown,

Our names are Richard and Amanda Weld and we own the shop Tantrum at 858 Cole Street in Cole Valley. We also lived in Cole valley for 11 years until last year when we moved to an apartment in the Inner Richmond.

We are writing to you today to express our support for Steve Wickwire and Wooden at 862 Cole St. We have really loved having Wooden next to us-they are just the kind of neighbor you want in a place like Cole Valley. Aside from being great people themselves we have really loved the clientele that they have brought to the hood. They have certainly filled a void in Cole Valley and you can tell how happy the folks who live here are to have them. We have been long time supporters of the other cafes in Cole Valley and we feel that having more options has actually helped business and increased foot traffic in this area. We would specifically like to express our support in their efforts to secure beer and wine sales in their establishment. As you well know Cole Valley used to be the nexus for comedy in San Francisco with folks like Robin Williams cutting their teeth at "The Other" club right across the street. Cole Valley has a lot of restaurants but no place to see local, amateur comedy-we feel like this is a great addition to the neighborhood and as small business owners ourselves we know how hard it is to operate in a city as expensive as SF. We feel strongly that the addition of beer and wine sales will be a great help to Steve and will not diminish the way of life in Cole Valley but rather enrich it. San Francisco has long been a place of change and progress and we hope that the city will be able to see beyond its zoning ordinance to make room for a business as lovely as Wooden to thrive here. We have read the proposed legislation and we hope that you will do all that you can to help make this happen.

Thank you very much for your time,

Richard and Amanda Weld

**Tantrum**

**858 Cole Street**

**SF CA 94118**

**[tantrumsf@gmail.com](mailto:tantrumsf@gmail.com)**

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Dear Supervisor Brown,

My name is Nicole Scalese, and I am a resident of Cole Valley. I write you today to express my support for the extension of Wooden Coffee's evening service hours. Steven Wickwire and his team have created a space for Cole Valley residents to feel part of a community, whether working, socializing, or simply caffeinating. Wooden Coffee is everything a San Francisco business should be, run by a local, and intrinsically part of its neighborhood.

While Cole Valley is home to several wonderful restaurants, it does not have an evening offering for family friendly, quiet connection with friends and neighbors. When I learned that Steve had plans to further his investment in our community, and open Wooden in the evenings, I was thrilled. I understand that the zoning laws governing the Cole Valley and Haight-Ashbury neighborhoods are creating a roadblock for the growth of this small business, and I hope we can identify a path forward to allow Wooden Coffee to begin selling beer and wine in the evenings.

Cole Valley is an incredible place, and Steve's efforts to bring a venue for emerging writers, community efforts, and amateur comedy would add to our vibrant neighborhood. As a resident, and extremely close neighbor of the business, I very much want to see this plan achieve success. In my experience, the Board of Supervisors is committed to helping community spaces thrive. This is a great opportunity to continue that commitment.

I appreciate any work you can put into helping this community mainstay thrive.

Sincerely,

Nicole Scalese

123 Carl St

San Francisco, CA 94117

760-207-8412

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Dear Supervisor,

My name is Rachel Levin. I'm a journalist and author in San Francisco and a longtime resident of Cole Valley. I'm reaching out in support of Wooden Cafe, and its hope to extend its hours into the evening, with beer and wine and low-key, community-enriching events.

Since opening last year, Wooden has enhanced our neighborhood, creating a warm, happy, beautiful, and squeaky-clean gathering place to work and converse over great coffee.

Currently, the only nighttime options in Cole Valley are busy bars and restaurants. The Ice Cream bar was a welcome addition, but given our climate, people don't always crave ice cream! Allowing Wooden to offer a quiet, cozy place to sit with neighbors over a glass of wine or a pint of beer, while listening to, say, a local author read from his new book, or laughing at a local comedian working out her latest jokes, would add to both our little neighborhood and the city at large.

Wooden has already proven to be an asset to the neighborhood, and its character, as have Steve and his super-friendly staff. But an independently-owned cafe can only sell so many espresso drinks and croissants!

For the continued success of Wooden, and the continued improvement of Cole Valley, I hope you will strongly consider supporting this small business in its efforts to strengthen both itself, and the neighborhood.

Thanks very much,

Rachel Levin

1292 Stanyan Street

San Francisco, CA

415-378-8319

[byrachellevin.com](http://byrachellevin.com)

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Dear Supervisor Brown —

My name is Andrew Cypiot and I'm writing in support of Steve Wickwire's efforts to expand the services offered at Wooden. I have lived and owned a home in Cole Valley for 16 years. This is my neighborhood. I've seen businesses come and go. Those that stick around and succeed are the ones like Steve's —where the owner puts forth great effort to know his neighbors, offer superior products and services and make a sincere attempt to improve the community. I didn't think Cole Valley needed still another coffee opportunity yet Steve now gets the vast majority of my embarrassingly large latte budget... because he's earned it.

And now he wants to extend his hours to provide casual live entertainment while serving beer and wine. Stand up comedy in Cole Valley? 50 feet from where Robin Williams used to hone his act? Seems like an excellent plan under Steve's guidance... only there's a problem owing to arcane, outmoded zoning rules that basically treat Cole Valley like an ugly step-sister to the Haight corridor. The Haight is awesome but nobody would confuse our two neighborhoods. Cole Valley establishments deserve to be treated on their own merits and not in deference to those from another, separate and distinct, business district.

We should be helping Steve and Wooden continue to flourish at a time when steep cost-of-living increases in San Francisco have severely limited options for small businesses at every turn. Hopefully the Board of Supervisors will give all related zoning matters a serious review so as to enable creative, community-minded solutions an opportunity to succeed.

Kind regards,

Andrew Cypiot

458 Frederick Street

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Dear Supervisor Brown,

My name is Eric Raymond, and I've been a resident of Cole Valley for 15 years. I'm writing today in support of Wooden Coffee's plans to extend their service into evenings. Wooden's presence at the corner of Cole & Carl has strengthened the appeal of Cole Valley, and created a welcoming new space for neighbors to gather, socialize, and work. Steve has poured in an incredible amount of time, energy, and money in order to found one of those businesses people are always lamenting have disappeared from San Francisco.

While I respect the complex zoning challenges the city faces, I hope we can work together to find a way to permit Wooden for beer and wine sales. Unlike another neighborhood bar, Steve's plans to remain open later will create a venue for cultural and artistic events. It is extremely difficult to find places in SF which can afford to showcase amateur comedians, upcoming writers, and other artists in the evening, and modest alcohol sales would make this a financially viable proposition for Wooden. (It's tough to sell espresso at 8PM!)

Steve has invested in Cole Valley, and he's asking to invest more. As a homeowner and long-time resident of Cole Valley, I certainly want to see him succeed. I know the Board of Supervisors is always open to helping special community spaces thrive, as I was a part of the effort to change the regulations regarding pinball in the Upper Haight for Free Gold Watch.

Thank you for listening. Any time you may be able to dedicate to helping us help Wooden would be most appreciated now and in the future.

Respectfully,

Eric Raymond

47 Carl Street

(415) 794-7129

[closereading@gmail.com](mailto:closereading@gmail.com)

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Dear Supervisor Brown,

My name is Andrea Haun and I have been a Cole Valley resident for 25 years. As a resident, I have seen the neighborhood grow and change and was extremely excited to have the latest business addition of the coffeehouse Wooden located at Carl and Cole. I have also worked at the local restaurant Burgermeister for the last 15 years around the corner from Wooden. This has made me familiar with Wooden and its owner Steve, not only as a customer but as a fellow worker. In addition, I have strong ties and investments into our city's neighborhoods as a whole through my other job as a Registered Nurse in the San Francisco Unified School District. I am writing therefore, to give strong support to Wooden's plan to expand their service into the evenings.

Since its opening, I have observed Wooden become more and more of a neighborhood fixture by fostering community, creating work and leisure space for residents, and promoting Cole Valley on the whole (and making an amazing matcha latte!). I believe that Steve's evening expansion plan to receive a permit for beer and wine sales will allow the business to showcase artists and cultural events, thus enhancing our local community and providing a unique service that is missing in Cole Valley. I implore you to allow a local business that took an amazing amount of work to get off the ground to continue to thrive by approving the permit for the sale of beer and wine.

Thank you for taking the time to read this letter and your consideration in this most important neighborhood matter.

Sincerely,

Andrea Haun, MSN, RN, SDN

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Dear Mayor Breed and Supervisor Brown,

I am writing to support Wooden Coffee's request for legislative action that allows it to add evening entertainment with beer and wine service. The owner, Steve Wickwire, has created a neighborhood gem - a coffeehouse with a great product and welcoming vibe. This is exactly the type of small business that municipal government should encourage to expand its services.

As a 20-year daytime neighbor (I work at UCSF), I have always appreciated the Cole Valley community - I tried to buy a home on Shrader years ago but got outbid! Steve has brought something important to the neighborhood - a successful community "third space" where people stop for a moment to talk, listen and engage with one another. This is increasingly hard to find in today's world. Because of Wooden Coffee, I walk down the hill almost every morning before work, say hi to Steve, enjoy a cappuccino, and watch the neighborhood come in to connect to start their day. Wooden Coffee makes my life, and the life of the Cole Valley community, better. I would most definitely come down for the evening to enjoy some comedy with friends!

Yours,

Hal Collard  
505 Parnassus Avenue (work)  
1433 Barrows Road (home)  
Oakland, CA 94610

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Dear Supervisor Brown,

My name is Kevin Keiper, and I've been a resident of Cole Valley for 8+ years. I'm writing today in support of Wooden Coffee's plans to extend their hours into the evening. Wooden's presence at the corner of Cole & Carl has strengthened the appeal of the Cole Valley neighborhood, and created a welcomed new space for residents to gather, socialize, and work. Steve, the owner, has devoted an incredible amount of time, energy, and money to build exactly the kind of business people are fond of in San Francisco these days.

I respect the complex zoning challenges the city faces, however I hope we can work together to find a way to permit Wooden for beer and wine sales. Unlike another neighborhood bar, Steve's plans to remain open later will create a venue for cultural and artistic events. It is extremely difficult to find places in SF which can afford to showcase amateur comedians, upcoming writers, and other artists in the evening, and the modest alcohol sales would make this a financially viable proposition for Wooden.

Steve has invested in Cole Valley, and he would like to invest more. As a resident of Cole Valley, I certainly want to see him succeed. I know the Board of Supervisors is always open to helping special community spaces thrive, and I hope we can help small business owners like Steve as much as he has helped San Francisco.

Thank you for hearing me out.

Kevin Keiper

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Hi Vallie,

Kevin Dede from 290 Frederick Street here. Judy and I have two fantastic Vallie Brown posters in our windows!

I've lived in the Upper Haight/Cole Valley neighborhood since 1992 and been San Fran resident since 1979. Judy and I are big fans of your approach to setting zoning guidelines for small neighborhood businesses that make sense. Juliette's experience with City Hall in establishing the Ice Cream Bar was a travesty, and we both want you to know that we think Steve Wickwire's vision for Wooden Cafe while clearly transcending the standard coffee shop by also offering beer and wine, is something that Cole Valley can support responsibly. The four or five blocks from Haight Street appears to make substantial difference in street behavior tolerance, and it seems unjust to curtail freedoms in one neighborhood because of blatant negligence in another.

We also agree with many other folks on one of the most important points: Steve is investing in order to improve the lifestyle and choices available in one of the most wonderful neighborhoods in San Francisco. We like the idea.

Thanks for your consideration,

Kevin Dede

290 Frederick Street

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Dear Supervisor Brown,

I'm writing in strong support of Wooden Coffee's plans to extend their service into evenings and to have beer and wine sales. Wooden is a great new space in the neighborhood, and will be even better with these additional services that will create a nice, cozy community space unlike any others in the neighborhood.

Wooden has invested in Cole Valley, and we support its efforts to enhance this business and make it even better.

As a homeowner and 23-year resident of Cole Valley, I certainly support Wooden.

Yours,

Mark Posth

59 Carl

Mark Alexander Posth

<http://www.linkedin.com/in/markposth>

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Dear Supervisor Brown,

My name is Georgia Panagiotakos, and I have been a resident of Cole Valley since November of 2014. I am writing you to voice my support for Wooden Coffee's plans to extend their service and provide entertainment into the evening hours. I have been a regular customer at Wooden since it opened, and I cannot stress enough what a wonderful, welcoming community space this coffeehouse has provided for our neighborhood. Steve and his staff have infused a new energy to the corner of Carl and Cole, creating a neighborhood spot where locals and visitors to Cole Valley come together to socialize, have meetings, work, and drink delicious coffee. The opening of Wooden marked the first time since moving to Cole Valley that I could identify a "local spot" that I enjoyed frequenting. There is nothing like Wooden in our neighborhood, a warm and comfortable social hub that had long been missing.

When Steve made me aware of his plans to extend service later into the evenings, I was beyond delighted. I have long felt the absence of cultural events in our neighborhood, and I admire Steve's efforts to provide a space that fosters interactions between neighbors and a real sense of community. The idea of extending Wooden's hours to stage events that showcase talented artists, amateur comedians, and musicians would fill a real void in our neighborhood. While I do not fully understand all the complexities of the zoning laws at play here, I sincerely hope that we can figure out a way to allow Wooden to sell beer and wine for these events. Steve's plans for Wooden are markedly different from anything else we have in the neighborhood, and the ability to sell wine and beer in the evenings would enable him to continue to cultivate this community that he has been building since opening Wooden.

My sincere thanks for reading this letter and for listening to the members of our community. I am deeply appreciative of your time and any efforts that you can contribute to help Steve and Wooden in this endeavor.

Warm regards,

Georgia Panagiotakos

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Dear Supervisor Brown,

My name is Robert Service and I am one of the owners of a small salon, Vierra and Friends, here in Cole Valley. We've been here for 24 years now.

I am writing to you today to show my support in one of the newest additions to Cole Valley, Wooden Coffeehouse. Steve, the owner, has brought something wonderful and new to our neighborhood. Wooden is a place where people come to work, socialize and enjoy friendships while sipping a great cup of coffee. With Steve's plan to be open later, with a permit to offer beer and wine, he could then afford to host amateur comedy nights to showcase their passion for our community and culture. I know the board of supervisors has always been supportive of small businesses growing and thriving and I hope you will help Steve and Wooden do just that.

Thank you for listening.

Robert Service

Vierra and Friends

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Hello Vallie,

I'm writing today in support of Wooden Coffee's plans to extend their service into evenings. Steve has committed an enormous amount of time, energy and money in order to make Wooden a welcoming space for neighbors to gather, socialize, and work in Cole Valley. His plans to remain open later will create a venue for cultural and artistic events. Modest alcohol sales would make this a financially viable proposition for Wooden by providing an appealing evening venue for adults to gather and socialize.

Steve is, once again, willing to invest more time, energy and money into Cole Valley and the residents want to see him succeed. The Board of Supervisors has always been open to helping special community spaces thrive and I hope you will be able to assist Wooden Coffee in being able to apply for beer and wine sales.

Kind regards,

Judy Groves

290 Frederick Street

San Francisco, CA 94117

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Dear Supervisor Brown,

My name is John Heffron and I'm writing in support of Wooden's position. I live at 17th and Clayton and Wooden is the coffee shop worth hiking down and back up the hill for (in my humble opinion). As a partner in a SF Business (Pearl 6101) I understand some of the difficulties in opening a business and the challenges a new business has in getting established. It has been lovely to see Wooden open and grow busier in the time I've been in the neighborhood. Wooden consistently brings me to the Cole Valley and thus I am much more likely to stop at Luke's or Cole Valley Pet's rather than shopping elsewhere.

Cole Valley has places to dine and/or drink, however there isn't an evening place that I would go to for what Steve is proposing for Wooden. As a cultural space cafes are quite special and offer relaxed socialization without the pressure of a restaurant to turn tables, or the chaos of a bar. Steve's interest in hosting events for local comedians is very encouraging and is a great option for getting out in the neighborhood without doing the same old.

Without this being a long winded letter I have many reasons (cultural, economic, social) in support of the exception, and am excited for your support in supporting local business in SF.

Thank you for your time,

John Heffron

1222 Clayton St # 22

Dear Supervisor Brown,

My name is Clay Maffett, and I'm writing today to in support of Wooden Coffee's pursuit of a beer and wine license so as to expand their services and offer evening entertainment and social gatherings.

My wife and I have lived in the neighborhood for close to a decade, and we've been delighted by Wooden's presence in Cole Valley over the last couple of years. Beyond serving up a delightful latte, the atmosphere and staff at Wooden have created a welcoming social environment for locals and visitors alike. Walking down the hill each morning to the shop has become a ritual for us (including our 5-month-old son), and we're on a first name basis with Steve and several other employees.

In recent months, I've spoken with Steve about his ideas around what a night at Wooden could look like, and central to those ideas is the ability for customers to have the option of ordering an alcoholic beverage as opposed to a caffeinated one, as nighttime coffee is a concept most appropriate for college students and those without 6am wake up obligations. All other Cole Valley wine and beer options are either bars or restaurants, so I think Wooden could occupy a more low key niche for those not interested in a boisterous environment or full meal.

Ultimately, providing Wooden with a beer and wine license is a net positive in many ways: more revenue and wages for a local store and its employees, more community events and engagement in one of SF's best neighborhoods, and a general diversification of what Cole Valley offers to locals and visitors alike.

I fully support any and all legislation that streamlines the process for Wooden and establishments like it to apply and be granted licenses like the one Wooden is hoping for now, and more generally I support laws and regulations that limit complexity and allow for things that make good rational sense.

Thank you for reading this letter, and thank you for your ongoing service to San Francisco and its residence. Please let me know if you'd like to discuss this or any other matters further.

Clay Maffett

272 Parnassus Ave

[clay.maffett@gmail.com](mailto:clay.maffett@gmail.com)

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Dear board of supervisors,

I love wooden coffee shop !!! Please let them increase their business by giving them a beer and wine license- they are wonderful people. I have owned a business in Cole Valley for almost 30 years- I know it takes so much to keep a small business open - give 'em a hand they so deserve it - thanks so much.

Lison Vierra

---

Dear Supervisor Brown,

My name is Dori Koll and I have been a resident of Cole Valley for ten years. I am writing you in support of our neighborhood business, Wooden, a new coffee house that opened recently. Owner, Steve Wickwire, has raised the level of good coffee on Cole Street and has created a beautiful space for community to gather.

I have enjoyed getting to know Steve and the friendly employees over my morning cappuccinos. I very much want to see this business succeed and realize its potential.

I would love for Wooden to expand to include beer and wine service and entertainment in the evenings. This would be a wonderful use of the space and would help this small innovative neighborhood business thrive.

Wooden is an asset for Cole Valley and I hope you will consider supporting the zoning needed for their future plans.

Warmly,

Dori Koll

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Dear Supervisor Brown,

My name is Nathan Villaescusa and I'm writing in support of Wooden Coffee's plan to sell beer/wine as well as stay open later into the evenings.

Since Wooden opened I've been a regular customer, usually stopping in once or twice a week to grab a coffee and chat with Steve the owner or one of the other fantastic baristas that work there. The vibe at Wooden is completely unique, not only to the neighborhood, but to San Francisco itself. Wooden brought to Cole Valley a quality coffee shop with laid-back atmosphere that has turned it into a community meeting place that was sorely lacking before.

The night life in Cole Valley, as well as Upper Haight, currently consists entirely of restaurants and bars, which are fine to get a meal or a drink with a friend, but completely inadequate as entertainment venues or as a quite place to take a book and read after 7pm. If Wooden were allowed to stay open later and offer beer/wine I completely believe it would become that place, which would be great benefit for the neighborhood.

Thank you for listing. Anything you can do to help make this possible would be greatly appreciated.

-Nathan Villaescusa

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Dear Supervisor Brown,

My name is Nick Hopman, and my wife and I have been residents of Cole Valley for 6 years. We recently had our first child and couldn't be happier to start and raise our family in this community. San Francisco is a big city, but we feel the smaller communities, like Cole Valley, are really what make San Francisco shine. At the core, these communities are created and powered by our local businesses. Over the years we have come to know many of the store and restaurant owners in the area on Cole and Haight. With our now 1-year old son, this allows the community to feel like an extended family.

This leads me to the main intent of this letter. I am writing in support of Wooden Coffee's plans to extend their service into evenings. Wooden is a welcome addition to the Cole Valley neighborhood and has added another highlight to the neighborhood. (My mother who lives in Arizona even took notice when Wooden was mention in Sunset Magazine last year.) Since Wooden opened I have gotten to know Steve and many of those who work there. Through his time, energy, and capital, Steve has created a special place for his employees, customers, and the community. Few people are willing and able to leverage their business and skills to create a space to showcase amateur comedians, writers, and other artists. If extending service into the evening with beer and wines sales enables Wooden to achieve this, it will support additional diversity in the area and the evening options.

I look forward to seeing what is ahead for Wooden Coffee and appreciate your support in making this a reality.

-Nick Hopman

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Dear Supervisor Brown,

As a homeowner on Clayton Street near Carl St, I have spent nearly twenty years residing in the charming neighborhood known as Cole Valley. During this time, I have watched businesses come and go, and have lately been pleased with new businesses opening here such as Luke's Local, an updated Cole Valley Pets, and especially Wooden, which I frequent for coffee at least two times a week.

In the past I, too, have been a small business owner, and am well aware of the challenges facing a local business. Nearly every time I have stepped in to grab a coffee at Wooden, I have seen Steve Wickwire there, operating his business personally, and investing in our community.

For a middle aged, single person like myself, there are really no venues in the neighborhood that offer any entertainment, with the exception of a Sports Bar (I'm not interested in sports). How welcome an opportunity it would be for someone like me to walk a few blocks and share a communal experience of comedy among locals!

We need businesses like this to survive in a city such as San Francisco, where big business and technology seem to be taking over everything, crowding out the small business owners who provide much needed community space. Steve is one of those, and I hope you can find a way to offer him the potential to have his business grow.

Sincerely,

L Bahr

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Dear Supervisor Brown,

My name is Luisa Isbell and I am a Cole Valley resident of 6 years. I'm writing in support of Wooden Coffeehouse's plans to expand their service into evenings. As a freelance copywriter and artist, Wooden has become a second home for me these last few years. It has provided a place to be creative and build community, and I believe the Cole Valley neighborhood (and the city at large) is better because of its presence. Wooden's owner, Steve, has dedicated himself into building this space for the neighborhood, and his aspirations to extend Wooden's offerings into the evening speaks to his desire to help the local community grow.

I sincerely hope that the city can work with Wooden, Steve, and the shop's loyal patrons to find a way to permit beer and wine sales. As a local comedian who runs shows at venues all over the city, I know that without this provision, it's incredibly difficult to support events in the evening. If we can figure out a way to make zoning accommodate Wooden, then the business will be able to extend service to the evenings and do a lot of good for local comedy, writers, musicians, and other artists.

The city wants and needs more small businesses like Wooden Coffeehouse, and business owners like Steve who are pouring their heart, energy, and finances into their local communities. I encourage the Board of Supervisors to invest in Wooden, just as Steve is investing in Cole Valley. Thank you for your time, and on behalf of the local comedy scene, we are pulling for a resolution.

Best,

Luisa Isbell



File No. 181211  
Received via email  
6/17/19

235 Montgomery St., Ste. 760, San Francisco, CA 94104  
tel: 415.352.4520 • fax: 415.392.0485  
sfchamber.com • twitter: @sf\_chamber

June 13, 2019

The Honorable Aaron Peskin  
Chair, Land Use and Transportation Committee  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

**RE: SUPPORT: File #181211 Small Business Permit Streamlining**

Dear Supervisor Peskin,

The San Francisco Chamber of Commerce, representing thousands of local businesses, supports legislation introduced by Mayor London Breed and Supervisor Vallie Brown that will streamline permitting for certain small businesses and allow for more flexible uses of some commercial spaces in San Francisco's neighborhood merchant corridors (File #181211, Small Business Permit Streamlining). This item is scheduled to come before the Land Use and Transportation Committee of the Board of Supervisors on June 17, 2019.

The Retail Study carried out by OEWD in 2018 found that San Francisco's retail landscape, like that across the country, is changing in multiple ways that make it more challenging for local businesses, especially restaurants and small retailers, to open in San Francisco and be sustainable over time. Compounded by our city's complex and costly regulatory and permitting processes, we are experiencing high commercial vacancy rates and an increase in empty storefronts that make it difficult for our neighborhood commercial districts to thrive.

We believe small business permit streamlining is one of the ways we can mitigate these challenges and help local merchants establish themselves successfully. This legislation will create reasonable controls to ensure new businesses will be compatible with their neighborhoods without inflicting undue, bureaucratic burdens that delay and sometimes prevent them from opening.

Among other things it aligns alcohol license types with state laws, removing the need to seek a Letter of Determination from the Zoning Administrator that adds time and uncertainty to the permitting process. It also replaces the  $\frac{1}{4}$  mile buffer around NC Districts with a less restrictive 300-foot buffer that enables businesses to go into neighborhoods where they are beneficial and welcome while ensuring non-compatible uses are not allowed adjacent to districts with their own specific controls.

The San Francisco Chamber of Commerce supports policies that assist and encourage businesses to enter our market and thrive over time. We believe this legislation is an excellent example of how we can work collaboratively and creatively to craft policies that are supportive of the business community, especially our small businesses, that will help them gain a foothold in San Francisco's neighborhood commercial districts and be successful in the long-term. We urge you to support this legislation when it comes before you at the Land Use and Transportation Committee on June 17 and at the full Board of Supervisors.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodney Fong". The signature is written in a cursive style with a large, stylized "R" at the beginning.

Rodney Fong  
President & CEO  
San Francisco Chamber of Commerce

cc: Clerk of the Board, to be distributed to all Supervisors; Mayor London Breed; Joaquin Torres, Laurel Arvanitidis and Ben Van Houten, OEWD

18211

RECEIVED VIA EMAIL

3/7/19



**NORTH BEACH  
NEIGHBORS**

**North Beach Neighbors**  
P.O. Box 330115  
San Francisco, CA 94133  
northbeachneighbors.org

February 27, 2019

**San Francisco Planning Department**  
1650 Mission St  
Suite 400  
San Francisco, CA 94103-2479

**RE: Small Business Permit Streamlining (Case: 2019-000048PCA)**

To whom it may concern,

North Beach Neighbors (NBN) is a San Francisco non-profit organization comprised of North Beach residents, local businesses, and civic leaders. Since 1981, we have advocated on behalf of neighbors to create a vibrant, inclusive neighborhood. Our 250 dues-paying Members are deeply invested in the community and cause of North Beach.

We would like to express our support for the set of legislative changes proposed under the Small Business Permit Streamlining project. It's an extremely challenging time for small businesses as they struggle to adapt to the new retail environment that's rapidly shifting online. This is exacerbated by the complicated and cumbersome city approval processes which in many cases doesn't accommodate the full variety of business concepts that would benefit our neighborhood.

While there is much more work to be done to help our small businesses thrive, we believe that the proposed project is a firm step in the right direction.

Kindest regards,

*Daniel J. Sauter*

A handwritten signature in black ink, appearing to read 'Sri Artham'.

Danny Sauter  
President

Sri Artham  
Chair, Small Business Committee

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
**Small Business Commission, City Hall, Room 448**

FROM: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

DATE: December 17, 2018

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, which is being referred to the Small Business Commission for comment and recommendation.

File No. 181211

Ordinance to streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 23 liquor license may be used in conjunction with a Bar or Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to reduce the distance measured for nonconforming uses in RH (Residential, House), RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an Accessory Use; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

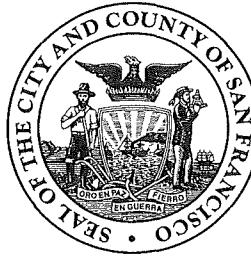
**No Comment**

**Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

cc: Dominica Donovan

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

December 17, 2018

File No. 181211

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On December 11, 2018, Mayor Breed introduced the following proposed legislation:

File No. 181211

Ordinance to streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 23 liquor license may be used in conjunction with a Bar or Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to reduce the distance measured for nonconforming uses in RH (Residential, House), RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an Accessory Use; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink that reads "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Laura Lynch, Environmental Planning

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

December 17, 2018

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On December 11, 2018, Mayor Breed introduced the following legislation:

**File No. 181211**

**Ordinance to streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 23 liquor license may be used in conjunction with a Bar or Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to reduce the distance measured for nonconforming uses in RH (Residential, House), RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an Accessory Use; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.**

The proposed ordinance is being transmitted pursuant to Planning Code, Section 302(b), for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

*Erica Major*  
By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

c: John Rahaim, Director of Planning  
Dan Sider, Director of Executive Programs  
Aaron Starr, Manager of Legislative Affairs  
AnMarie Rodgers, Director of Citywide Planning  
Scott Sanchez, Zoning Administrator  
Lisa Gibson, Environmental Review Officer  
Joy Navarrete, Environmental Planning  
Laura Lynch, Environmental Planning

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Maggie Weiland, Executive Director, Entertainment Commission  
Joaquin Torres, Director, Office of Economic and Workforce Development  
Greg Wagner, Acting Director/CFO, Department of Public Health  
William Scott, Police Chief, Police Department  
Joanne Hayes-White, Chief, Fire Department  
Tom Hui, Director, Department of Building Inspection

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: December 17, 2018

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on December 11, 2018:

File No. 181211

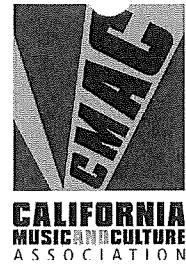
Ordinance to streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 23 liquor license may be used in conjunction with a Bar or Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to reduce the distance measured for nonconforming uses in RH (Residential, House), RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an Accessory Use; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [erica.major@sfgov.org](mailto:erica.major@sfgov.org).

c: Crystal Stewart, Entertainment Commission  
J'Wel Vaughn, Office of Economic and Workforce Development  
Ken Rich, Office of Economic and Workforce Development  
Lisa Pagan, Office of Economic and Workforce Development  
Dr. Naveena Bobba, Department of Public Health  
Sneha Patil, Department of Public Health  
Asja Steeves, Police Department  
Sergeant Rachael Kilshaw, Police Department  
Inspector Nelly Gordon, Police Department  
Kelly Alves, Fire Department  
William Strawn, Department of Building Inspection  
Carolyn Jayin, Department of Building Inspection

# **GOLDEN GATE RESTAURANT ASSOCIATION**

est: 1936



Supervisors Peskin, Safai, and Haney  
Land Use and Transportation Committee  
San Francisco City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## **RE: Public Comment File 181211 Small Business Permit Streamlining Ordinance**

Dear Supervisors Peskin, Safai, and Haney,

We are writing today on behalf of the Golden Gate Restaurant Association and the California Music & Culture Association to ask you – enthusiastically – to review and approve the legislation to streamline city processes and permits to make it easier for businesses to expand and operate. Specifically the legislation:

- Allows restaurants to save time and money to open patios and other outdoor spaces by streamlining permitting process for outdoor uses. Activating outdoor spaces can significantly increase the revenue of a restaurant, helping to ensure its survival, while also adding to a more vibrant streetscape.
- Increases opportunities for new restaurant uses in NC-1 zoning and limited commercial use parcels by reducing prohibitive 1/4 mile barriers. The compact nature of our city creates unintended impacts on adjacent areas seeking commercial vitality.
- Supports open air food service at restaurants by aligning local health code with state requirements. As you know, many restaurants have transparent storefronts which allows the restaurant to engage with the streetscape, creating energy, vitality and eyes on the street.
- Reduces delays and costs for restaurants that want to offer entertainment by eliminating duplicative inspections. The onerous and time-consuming process leads to restaurants incurring greater debt prior to opening, making it harder for them to survive if they are not packed from day one.
- Saves new restaurants time and money in navigating the permitting process by clarifying liquor license types usable by restaurants.
- Enables businesses to serve to-go food/beverage without the cost of establishing a public-facing bathroom.
- Supports retail businesses' ability to incorporate food uses by clarifying accessory use provisions. Many retailers are adding food to attract customers as people eat daily, but don't typically shop daily. However, retailers adding food have found their sales of non-food items increase.

Thriving, healthy small businesses are essential to preserving the culture, charm and commercial corridors of San Francisco. Unfortunately, the shifting retail landscape and rash of vacant storefronts in San Francisco are causing grave concern for many SF residents and

# **GOLDEN GATE RESTAURANT ASSOCIATION**

est: 1936



business owners alike. Some of the factors leading to these stresses are based on larger market forces and thus outside of the control of our local government; as you may be aware, this year was the first time ever that online retail sales eclipsed that of brick and mortar retail sales.

We believe, however, that our local government does have the power to help small businesses and that they must act immediately. The City of San Francisco must adjust its regulations to help small businesses adapt to the changing economic conditions. This legislation, though no magic bullet, is a major first step in this process. We applaud its potential to fix the unnecessarily onerous permitting process and to offer pathways for small businesses to find creative solutions so they can remain in business and prosper.

Sincerely,

A handwritten signature in black ink that reads 'Stacy Jed'.

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Stacy Jed  
Board President  
GGRA

A handwritten signature in black ink that reads 'Ben Bleiman'.

---

Ben Bleiman  
Chairman  
CMAC

**GOLDEN GATE  
RESTAURANT  
ASSOCIATION**  
est: 1936

April 1, 2019

Supervisors Peskin, Safai, and Haney  
Land Use and Transportation Committee  
San Francisco City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**Re: Item 1 - 181211 [Health, Planning, and Police Codes - Small Business Permit Streamlining]**

Dear Supervisors Peskin, Safai, and Haney,

The Golden Gate Restaurant Association would like to support the Small Business Permit Streamlining amendments put forth by Supervisor Brown and Mayor Breed. As mentioned, The Retail Study found that San Francisco businesses face many challenges connected to the City's landuse regulations and permitting requirements. This often adds significant cost and time to the process of opening a new business.

We believe the amendments put forth will benefit not only the businesses operating in San Francisco but help create a more vibrant and dynamic nightlife scene for both residents and tourists alike.

We hope to see more amendments and updates to the City's land use regulations and permitting requirements that directly impact restaurants. Our industry is one that touches nearly, if not all, of the City's many departments. The process is tedious, lengthy, and often just confusing. We are excited to see what else we can work on together to make it easier for restaurants and the communities they serve have a prosperous future.

Sincerely yours,



Gwyneth Borden  
Executive Director

OFFICE OF THE MAYOR  
SAN FRANCISCO



LONDON N. BREED  
MAYOR

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2010 DECEMBER 11 PM 3:30  
BY [Signature]

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: Kanishka Karunaratne Cheng *KKC*  
RE: Health, Planning, and Police Codes - Small Business Permit Streamlining  
DATE: December 11, 2018

**Ordinance to streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 23 liquor license may be used in conjunction with a Bar or Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to reduce the distance measured for nonconforming uses in RH, RM, and RTO districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an Accessory Use; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1, and public necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.**

Please note that Supervisor Brown is a co-sponsor of this legislation.

Should you have any questions, please contact Kanishka Karunaratne Cheng at 415-554-6696.