

1 [Planning Code - Commercial Uses in North Beach; Technical and Other Amendments]

2

3 **Ordinance amending the Planning Code to 1) eliminate the use size exemption for**
4 **Movie Theaters in the North Beach Neighborhood Commercial District (“North Beach**
5 **NCD”); 2) restrict lot mergers in the North Beach NCD, North Beach Special Use**
6 **District (“North Beach SUD”), and Telegraph Hill-North Beach Residential Special Use**
7 **District (“Telegraph Hill-North Beach SUD”); 3) require active commercial uses on the**
8 **ground floor in the North Beach SUD and the North Beach NCD; 4) prohibit garage**
9 **entries, driveways, or other vehicular access to off-street parking or loading on**
10 **certain streets and alleys in North Beach NCD and Telegraph Hill-North Beach SUD**
11 **and other streets; 5) deem restaurants that cease to operate for 18 months in the**
12 **North Beach NCD to be discontinued; 6) authorize a special ceiling height exception**
13 **to certain projects in the North Beach NCD; 7) clarify procedures for abating a**
14 **Conditional Use authorization; 8) prohibit Planned Unit Developments in the North**
15 **Beach SUD; 9) require active commercial uses on the ground floor and limit hours of**
16 **operation in the North Beach NCD; 10) regulate Specialty Food Manufacturing,**
17 **preserve and maintain small-scale, fine grain storefronts, protect and encourage**
18 **upper-story residential uses, preserve Legacy Businesses, and prohibit certain uses**
19 **in the North Beach SUD; 11) clarify and modify the requirements for approval of**
20 **parking garages in the Telegraph Hill-North Beach SUD; 12) reduce lot size square**
21 **footage that would require Conditional Use authorization in the North Beach District;**
22 **13) delete the definition of Take Out Food and amend the definitions of Limited-**
23 **Restaurant, Restaurant, and Other Retail Sales and Services uses; and 14) update,**
24 **correct, clarify, and simplify language in other Planning Code Sections; and affirming**
25 **the Planning Department’s determination under the California Environmental Quality**

1 **Act and making findings of consistency with the General Plan, and the eight priority**
2 **policies of Planning Code, Section 101.1, and findings of public convenience,**
3 **necessity, and welfare under 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 ~~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. 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. 170419 and is incorporated herein by reference. The Board affirms
17 this determination.

18 (b) On July 19, 2017, the Planning Commission, in Resolution No. 880, 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. 170418, and is incorporated herein by reference.

23 (c) On July 19, 2017, the Planning Commission, in Resolution No. 880, approved
24 this ordinance, recommended it for adoption by the Board of Supervisors, and adopted
25 findings that it will serve the public necessity, convenience, and welfare. Pursuant to Planning
Code Section 302, the Board adopts these findings as its own. A copy of said Resolution is

1 on file with the Clerk of the Board of Supervisors in File No. 170418, and is incorporated by
2 reference herein.

3 Section 2. The Planning Code is hereby amended by revising Section 121.2, to read
4 as follows:

5 **SEC. 121.2. USE SIZE LIMITS (NON-RESIDENTIAL), NEIGHBORHOOD COMMERCIAL**
6 **DISTRICTS.**

7 * * * *

8 (b) In order to protect and maintain a scale of development appropriate to each
9 district, Non-Residential Uses ~~which~~ that exceed the square footage stated in the table below
10 shall not be permitted, ~~except that in the North Beach Neighborhood Commercial District this~~
11 ~~Subsection 121.2(b) shall not apply to a Movie Theater use as defined in Section 790.64 and~~ except
12 that in the Castro Street Neighborhood Commercial District certain Large Institutions may by
13 Conditional Use Authorization exceed this Subsection 121.2(b) as described in the Specific
14 Provisions for Section 715.21. The use area shall be measured as the gross floor area for
15 each individual nonresidential use.

16 * * * *

17 Section 3. The Planning Code is hereby amended by revising Section 121.7, to read
18 as follows:

19 **SEC. 121.7. RESTRICTION OF LOT MERGERS IN CERTAIN DISTRICTS AND ON**
20 **PEDESTRIAN-ORIENTED STREETS.**

21 In order to promote, protect, and maintain a fine-grain scale of development in
22 residential districts and on important pedestrian-oriented commercial streets which is
23 appropriate to each district, compatible with adjacent buildings; provide for a diverse
24 streetscape; ensure the maintenance and creation of multiple unique buildings and building
25 frontages rather than large single structures superficially treated; promote diversity and

1 multiplicity of land ownership and discourage consolidation of property under single
 2 ownership, merger of lots is regulated as follows:

3 * * * *

Street or District	Lot Frontage Limit
* * * *	* * * *
Ocean Avenue in the Ocean Avenue NCT	See § subsection (e)
Inner and Outer Clement NCDs	50 feet
<i>North Beach NCD, North Beach SUD, and Telegraph Hill – North Beach Residential SUD*</i>	<i>25 feet*</i>
NC-2 districts on Balboa Street between 2nd Avenue and 8th Avenue, and between 32nd Avenue and 38th Avenue	50 feet
<i>*For purposes of this section 121.7, for a lot that does not have street frontage, any merger shall not result in a lot width greater than 25 feet.</i>	

16 * * * *

17 Section 4. The Planning Code is hereby amended by revising Section 145.4, to read
 18 as follows:

19 **SEC. 145.4 REQUIRED GROUND FLOOR COMMERCIAL USES.**

20 (a) **Purpose.** To support active, pedestrian-oriented commercial uses on important
 21 commercial streets.

22 (b) **Applicability.** The requirements of this Section apply to the following street
 23 frontages.

24 * * * *

25 (24) Buchanan Street, between Post Street and Sutter Street; ~~and~~

1 (25) Post Street, between Fillmore Street and Laguna Street on the south side
2 and between Webster Street and Laguna Street on the north side;

3 * * * *

4 (28) Any street frontage that is entirely within the North Beach Neighborhood
5 Commercial District; and

6 (29) Any street frontage that is entirely within the North Beach Special Use District.
7 * * * *

8 Section 5. The Planning Code is hereby amended by revising Section 155, to read as
9 follows:

10 **SEC. 155. GENERAL STANDARDS AS TO LOCATION AND ARRANGEMENT OF OFF-**
11 **STREET PARKING, FREIGHT LOADING AND SERVICE VEHICLE FACILITIES.**

12 * * * *

13 (r) **Protected Pedestrian-, Cycling-, and Transit-Oriented Street Frontages.** In
14 order to preserve the pedestrian character of certain downtown and neighborhood commercial
15 districts and to minimize delays to transit service, garage entries, driveways or other vehicular
16 access to off-street parking or loading (except for the creation of new publicly-accessible
17 streets and alleys) shall be regulated on development lots as follows on the following street
18 frontages:

19 (1) Folsom Street, from Essex Street to the Embarcadero, not permitted
20 except as set forth in Section 827.

21 (2) Not permitted:

22 * * * *

23 (CC) Buchanan Street from Post Street to Sutter Street,

24 * * * *

25 (JJ) Grant Avenue between Columbus Avenue and Filbert Street,

1 (KK) Green Street between Grant Avenue and the intersection of Columbus
2 Avenue and Stockton Street, and

3 (LL) All Alleys within the North Beach NCD and the Telegraph Hill – North
4 Beach Residential SUD.

5 * * * *

6 Section 6. The Planning Code is hereby amended by revising Section 186.1, to read
7 as follows:

8 **SEC. 186.1. EXEMPTION OF NONCONFORMING USES IN NEIGHBORHOOD**
9 **COMMERCIAL DISTRICTS.**

10 * * * *

11 (d) **Discontinuance.** A nonconforming use that is discontinued for a period of three
12 years, or otherwise abandoned or changed to another use that is listed in Article 7 of this
13 Code as a principal or conditional use for the district in which the use is located shall not be
14 reestablished, except for in the following instances:

15 (1) In the North Beach, Castro Street, and Haight Street Neighborhood
16 Commercial Districts the period of non-use for a nonconforming use to be deemed
17 discontinued shall be 18 months, ~~except in the North Beach Neighborhood Commercial District, the~~
18 ~~period of non use for a Restaurant use, as defined in Section 790.91, to be deemed discontinued shall~~
19 ~~be three years.~~

20 * * * *

21 Section 7. The Planning Code is hereby amended by revising Section 303, to read as
22 follows:

23 **SEC. 303. CONDITIONAL USES.**

24 (a) **General.** The Planning Commission shall hear and make determinations
25 regarding applications for the authorization of conditional uses in the specific situations in

1 which such authorization is provided for elsewhere in this Code. The procedures for
2 conditional uses shall be as specified in this Section 303 and in Sections 306 through 306.6,
3 except that Planned Unit Developments shall in addition be subject to Section 304, medical
4 institutions and post-secondary educational institutions shall in addition be subject to the
5 institutional master plan requirements of Section 304.5, and conditional use and Planned Unit
6 Development applications filed pursuant to Article 7, or otherwise required by this Code for
7 uses or features in Neighborhood Commercial Districts, and conditional use applications
8 within South of Market Districts, shall be subject to the provisions set forth in Sections 316
9 through 316.8 of this Code, in lieu of those provided for in Sections 306.2 and 306.3 of this
10 Code, with respect to scheduling and notice of hearings, and in addition to those provided for
11 in Sections 306.4 and 306.5 of this Code, with respect to conduct of hearings and
12 reconsideration.

13 * * * *

14 (f) **Conditional Use Abatement.** The Planning Commission may consider the
15 possible revocation of a conditional use or the possible modification of or placement of
16 additional conditions on a conditional use when the Planning Commission determines, based
17 upon substantial evidence, that the applicant for the conditional use had submitted false or
18 misleading information in the application process that could have reasonably had a substantial
19 effect upon the decision of the Commission or the conditional use is not in compliance with
20 condition of approval, is in violation of law if the violation is within the subject matter
21 jurisdiction of the Planning Commission, or operates in such a manner as to create
22 hazardous, noxious or offensive conditions enumerated in Section 202(c) if the violation is
23 within the subject matter jurisdiction of the Planning Commission and these circumstances
24 have not been abated through administrative action of the Director, the Zoning Administrator
25 or other City authority. Such consideration shall be the subject of a public hearing before the

1 Planning Commission but no fee shall be required of the applicant or the subject conditional
2 use operator.

3 (1) **Public Hearing.** The Director of Planning or the Planning Commission
4 may seek a public hearing on conditional use abatement when the Director or Commission
5 has obtained or received: A) substantial evidence submitted within one year of the effective date
6 of the Conditional Use authorization that the applicant for the conditional use had submitted
7 false or misleading information in the application process that could have reasonably had a
8 substantial effect upon the decision of the Commission; or B) substantial evidence, submitted at
9 any time while the Conditional Use authorization is effective, of a violation of conditions of
10 approval, a violation of law, or operation which creates hazardous, noxious or offensive
11 conditions enumerated in Section 202(c).

12 * * * *

13 Section 8. The Planning Code is hereby amended by revising Section 304, to read as
14 follows:

15 **SEC. 304. PLANNED UNIT DEVELOPMENTS.**

16 In districts other than C-3, the Eastern Neighborhoods Mixed Use Districts, the DTR
17 Districts, the North Beach Special Use District, or the South of Market Mixed Use Districts, the
18 Planning Commission may authorize as conditional uses, in accordance with the provisions of
19 Section 303, Planned Unit Developments subject to the further requirements and procedures
20 of this Section. After review of any proposed development, the Planning Commission may
21 authorize such development as submitted or may modify, alter, adjust, or amend the plan
22 before authorization, and in authorizing it may prescribe other conditions as provided in
23 Section 303(d). The development as authorized shall be subject to all conditions so imposed
24 and shall be excepted from other provisions of this Code only to the extent specified in the
25 authorization.

1 * * * *

2 Section 9. The Planning Code is hereby amended by revising Section 722, to read as
3 follows:

4 **SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT.**

5 * * * *

6 The North Beach District controls are designed to ensure the livability and
7 attractiveness of North Beach. Building standards limit new development to a small to
8 moderate scale. Rear yards are protected above the ground ~~story~~floor and at residential
9 levels. ~~Most new~~Active Commercial uses shall be ~~commercial development is permitted~~ required at
10 the ~~first two stories~~ground floor. Small-scale, neighborhood-serving businesses are strongly
11 encouraged and formula retail uses are prohibited. To preserve and maintain the district's small-
12 scale, fine grain storefronts, the consolidation or merger of existing retail or commercial spaces or
13 storefronts are prohibited, and Use s~~izes~~ are controlled to ~~limit future consolidation of spaces and~~
14 ~~to~~ encourage conversion back to the traditional small-scale commercial spaces. Special
15 controls are necessary because an over-concentration of food and beverage service
16 establishments limits neighborhood-serving retail sales and personal services in an area that
17 needs them to thrive as a neighborhood. In order to maintain neighborhood-serving retail
18 sales and personal services and to protect residential livability, additional eating and drinking
19 establishments are prohibited in spaces that have been occupied by neighborhood-serving
20 retail sales and personal services. Special controls limit additional ground-story entertainment
21 uses and prohibit new walk-up ~~facilities~~ ~~automated bank teller machines (ATMs)~~. Financial
22 services, limited financial services, and ground-story business and professional office uses
23 are prohibited from locating in the portion of the district south of Greenwich Street, while new
24 financial services locating in the portion of the district north of Greenwich Street are limited.

1 Restrictions on automobile and drive-up uses are intended to promote continuous retail
 2 frontage and maintain residential livability.

3 In keeping with the district's existing mixed-use character, housing development in new
 4 buildings is encouraged above the ~~second story~~ground floor. Existing residential units are
 5 protected by prohibitions of upper-story conversions, mergers, removals and ~~limitations on~~
 6 demolitions. Accessory ~~d~~Dwelling ~~u~~Units are permitted within the existing building envelope, but
 7 may not eliminate or reduce ground-story commercial space~~-district pursuant to Subsection 207(e)(4)~~
 8 of this Code.

9 **Table 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT**
 10 **ZONING CONTROL TABLE**

No.	Zoning Category	§ References	North Beach Controls
722.10	Height and Bulk Limit	§§ 102. 12 , 105, 106, 250 - 252, 260, 261.1, 270, 271	P up to 40 ft.; Height Sculpting on Alleys: § 261.1
722.11	Lot Size [Per Development]	§§ 121.1, <u>121.7</u> , <u>780.3</u> , 790.56,	P up to 4,999 sq. ft.; C 5,000 sq. ft. & above § 121.1; <u>Restrictions on lot mergers:</u> <u>§§ 121.7, 780.3;</u> <u>Planned Unit Development</u> <u>NP § 780.3</u>
722.12	Rear Yard	§§ 130, 134, 136	Required at the second story and above and at all residential levels § 134 (a) - (e)

1			Required. <u>Exceptions permitted for historic buildings § 145.1(d).</u>	
2			<u>Ground floor commercial required §145.4.</u>	
3			<u>Consolidation or merger of ground floor retail or commercial spaces prohibited § 780.3(c)(3)(A).</u>	
4	722.13	Street Frontage	<u>Front setback and side yard not required §§ 130-133.</u>	
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9	****	****	****	
10	No.	Zoning Category	§ References	
11			North Beach Controls by Story	
12	COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES			
13	722.20	Floor Area Ratio	1.8 to 1 § 124(a) <u>and</u> (b)	
14				
15				
16				
17	722.21	Use Size [Nonresidential]	P up to 1,999 sq. ft.; C # 2,000 sq. ft. to 3,999 sq. ft.; NP 4,000 sq. ft. and above; § 121.2 <u>Consolidation or merger of ground floor retail or commercial spaces prohibited: § 780.3(c)(3)(A);</u> <u>Specialty Grocery use shall not exceed 1,000 sq. ft.: § 780.3(c)(3)(B)</u>	
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22	722.22	Off-Street Parking, Commercial/Institutional	None required. Limits set forth in § 151.1. <u>Vehicular access not permitted on certain streets and alleys § 155(r)(2).</u>	
23				
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1	722.23	Off-Street Freight Loading	§§ 150, <u>152</u> , 153 - 155, <u>161</u> , 204.5, <u>155(r) and (t)</u>	Generally, none required if gross floor area is less than 10,000 sq. ft. <u>Limits</u> <u>set forth in §§ 152. 161(b)</u> <u>Vehicle access not</u> <u>permitted on certain streets</u> <u>and alleys</u> <u>§ 155(r)(2).</u>
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6	722.24	Outdoor Activity Area	§§ <u>145.2</u> , 790.70	P if located in front; C if located elsewhere <u>§ 145.2</u>
7				
8				
9	722.25	Drive-Up Facility	§ 790.30	<i>NP</i>
10	****	****	****	****
11	722.27	Hours of Operation	§ 790.48	P 6 a.m. - 2 a.m. C 2 a.m. - 6 a.m.
12				
13	722.30	General Advertising Sign	§§ 262, 602.7, - 604, 608, <u>609</u> , <u>610, 611</u>	<i>NP</i>
14				
15	722.31	Business Sign	§§ 262, 602 - 604, <u>607, 607.1</u> , 608, 609	P § 607.1(f)(2) <u>Vintage Signs permitted per</u> <u>Section 608.14.</u>
16				
17				
18	722.32	Other Signs	§§ 262, 602 - 604, <u>607, 607.1</u> , 608, 609	P § 607.1(c), (d) <u>and</u> (g) <u>Vintage Signs permitted per</u> <u>Section 608.14</u>
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21	****	****	****	****
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23	Retail Sales and Services			
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722.40	Other Retail Sales and Services <i>[Not Listed Below]</i>	§ 790.102	<u>P/NP#</u>	<u>P C</u>	
722.41	Bar	§§ 780.3, 790.22	C #		
722.43	Limited Restaurant	§§ <u>780.3</u> , 790.90	C #		
722.44	Restaurant	§§ 780.3, 790.91	C #		
722.45	Liquor Store	§ 790.55	C		
722.46	Movie Theater	§ 790.64	<u>P #</u>		
722.47	Adult Entertainment	§ 790.36	<u>NP</u>		
722.48	Other Entertainment	§ 790.38	C		
722.49	Financial Service	§§ 790.110, <u>781.6(a)</u>	C/NP #		
722.50	Limited Financial Service	§§ 790.112, <u>781.6(b)</u>	C/NP #		
722.51	Medical Service	§ 790.114	<u>PNP</u>	<u>PC</u>	<u>C</u>
722.52	Personal Service	§ 790.116	P	P	
722.53	Business or Professional Service	§§ 790.108, <u>781.6(c)</u>	C/NP #	P	
722.54	Massage Establishment	§§ 790.60, <u>303(n)</u> §§ 29.1-29.32 Health Code	C #		
722.55	Tourist Hotel	§ 790.46	<u>C #</u>	C	C
722.56	Automobile Parking	§§ <u>142, 155(r) and (t), 156, 157, 160, 161, 249.49, 790.8</u>	<u>€ NP</u>	<u>C #</u>	<u>C #</u>
722.57	Automotive Gas Station	§ 790.14	<u>NP</u>	<u>NP</u>	<u>NP</u>
722.58	Automotive Service Station	§ 790.17	<u>C #</u>	<u>NP</u>	<u>NP</u>

1	722.59	Automotive Repair	§ 790.15	<u>€NP</u>	<u>NP</u>	<u>NP</u>
2	722.60	Automotive Wash	§ 790.18	<u>NP</u>	<u>NP</u>	<u>NP</u>
3	722.61	Automobile Sale or Rental	§ 790.12	<u>NP</u>	<u>NP</u>	<u>NP</u>
4	722.62	Animal Hospital	§ 790.6	C	<u>NP</u>	<u>NP</u>
5	<u>722.62A</u>	<u>Kennel</u>	<u>§ 102</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
6	722.63	Ambulance Service	§ 790.2	<u>NP</u>	<u>NP</u>	<u>NP</u>
7	722.64	Mortuary	§ 790.62	<u>NP</u>	<u>NP</u>	<u>NP</u>
8	722.65	Trade Shop	§ 790.124	P#	C#	<u>NP</u>
9	722.66	Storage	§ 790.117	<u>NP</u>	<u>NP</u>	<u>NP</u>
10	722.68	Fringe Financial Service	§ 790.111	<u>NP</u>	<u>NP</u>	<u>NP</u>
11	722.69	Tobacco Paraphernalia Establishments	§ 790.123	C	<u>NP</u>	<u>NP</u>
12	722.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.4	<u>NP</u>	<u>NP</u>	<u>NP</u>
13	722.69C	Neighborhood Agriculture	§§ 102.35(a) <u>102, 202.2(c)</u>	P#	P	P
14	722.69D	Large-Scale Urban Agriculture	§§ 102.35(b) <u>102, 202.2(c)</u>	€ <u>NP</u>	€ <u>NP</u>	<u>NP</u>
15	<u>722.69E</u>	<u>Motel</u>	<u>§ 102</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
16	<u>722.69F</u>	<u>Kennel</u>	<u>§ 102</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
17	<u>722.69G</u>	<u>Specialty Food Manufacturing</u>	<u>§ 780.3(c)</u>	<u>C</u>	<u>NP</u>	<u>NP</u>
18	* * * *	* * * *	* * * *	* * * *		
19	Institutions and Non-Retail Sales and Services					
20	722.70	Administrative Service	§ 790.106	<u>NP</u>	<u>NP</u>	<u>NP</u>
21						
22						
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1	722.80	Hospital or Medical Center	§ 790.44	<u>NP</u>	<u>NP</u>	<u>NP</u>
2	722.81	Other Institutions, Large	§ 790.50	P#	C	C
3	722.82	Other Institutions, Small	§ 790.51	P#	P	P
4	722.83	Public Use	§ 790.80	C#	C	C
5	722.84	Medical Cannabis Dispensary	§§ 790.141, <u>202.2(e)</u>	<u>PDR</u>	<u>NP</u>	<u>NP</u>
7	RESIDENTIAL STANDARDS AND USES					
8	722.90	Residential Use	§ 790.88	P #	P	P
9	722.91	Dwelling Unit Density	§ 207(b)(6)	<i>Generally, up to 1 unit per 400 sq. ft. lot area or the density permitted in the nearest Residential District, whichever is greater. #[# to be deleted]</i> <u>§ 207(e)</u>		
14	722.92	Residential Density, Group Housing	§§ 207, 208(a)	<i>Generally, up to 1 bedroom per 140 sq. ft. lot area</i> <u>Density limits in § 208(a)</u>		
16	722.92b	Residential Density, Homeless Shelters	§§ 102, 207.1, <u>790.88(e) 208(a)</u>	Density limits <u>in Section 208(a).</u>		
18	****	****	****	****		
19	722.94	Off-Street Parking, Residential	§§ <u>145.1, 150, 151.1, 153 - 157, 166, 159-160, 204.5, 155(r) and (t), 249.49</u>	None required. P up to 0.5 parking spaces for each dwelling unit; C up to .75 parking spaces for each dwelling unit. <u>Per §§ 249.49, and 155(t), Special controls when installing garages in Residential Buildings. #</u>		

			<i>Per § 155(r)(2) vehicular access NP on certain streets and alleys in North Beach # §§ 145.1, 151.1, 166, 167 # if installing a garage in an existing residential building</i>		
722.95	Community Residential Parking	<u>§§ 790.10, 155(r) and (t), 249.49</u>	<u>€NP</u>	C	C
722.96	Removal of Residential or Unauthorized Units through Conversion	§ 317	€		
722.97	Removal of Residential or Unauthorized Units through Conversion, Demolition, or Merger	<u>§§ 780(c)(4), 317</u>	<i>€ To prevent the loss of existing Residential Units within the district, the removal, demolition, merger, or conversion to a non-residential use of Residential Units above the First Story are prohibited even if such loss of Residential Units would otherwise be allowed under Section 317 of this Code.</i>		

SPECIFIC PROVISIONS FOR THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT		
Article 7 Code Section	Other Code Section	Zoning Controls
§ 722.26	§ 790.140	NORTH BEACH WALK UP FACILITIES Boundaries: North Beach NCD Controls: Walk-up <i>facilities, including</i> automated bank teller machines (ATMs), are not permitted.
<u>§§ 722.40-722.90</u>	<u>§ 145.4</u> <u>§ 780.3(c)(5)</u>	<u>GROUND FLOOR COMMERCIAL USES REQUIRED</u> Boundaries: <u>North Beach NCD</u> Controls: <u>Unless otherwise prohibited or limited by Section</u>

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		<u>780.3, Section 722, or any other section of this Code, to promote active, pedestrian-oriented streetscape, Active Commercial uses shall be required at the Ground Floor pursuant to Section 145.4. This requirement shall not be subject to modification.</u>
<u>§ 722.40</u>	<u>§ 790.102</u>	<u>NORTH BEACH USE SIZE LIMITS FOR SPECIALTY GROCERY USE</u> Boundaries: <u>North Beach NCD</u> Controls: <u>Per the North Beach Special Use District in Section 780.3(c)(3) of this Code, Specialty Grocery use shall not exceed a Use Size of 1,000 square feet in order to preserve and maintain the district’s small-scale, fine grain storefronts.</u>
<u>§ 722.41</u> <u>§ 722.43</u> <u>§ 722.44</u>	<u>§ 780.3</u>	<u>NORTH BEACH SPECIAL USE DISTRICT RESTAURANTS, LIMITED RESTAURANTS, AND BARS</u> Boundaries: <u>North Beach NCD.</u> Controls: <u>Restaurants, as defined in Section 790.91 of this Code, Limited Restaurants as defined in Sections 790.90 of this Code, and Bars, as defined in Section 790.22 of this Code, may be permitted as a Conditional Use on the-ground level if, in addition to the criteria set forth in Section 303 of this Code, the Planning Commission finds that the Restaurant, Limited Restaurant, or Bar-would occupy a space that is currently or was last legally occupied by the same use as that being proposed; provided that such use has not been discontinued or abandoned pursuant to Sections 186.1(d) or 178(d) of this Code; and provided further that the following shall apply:</u> <u>(i) A Bar may occupy a space that is currently or was last legally occupied by a Bar;</u> <u>(ii) A Restaurant may occupy a space that is currently or was last legally occupied by a Restaurant or Bar; and</u> <u>(iii) A Limited Restaurant may occupy a space that is currently or was last legally occupied by a Limited Restaurant, Restaurant, or Bar.</u>
<u>§ 722.44</u>	<u>§ 790.91780.3</u>	<u>NORTH BEACH LIQUOR LICENSES FOR RESTAURANTS</u> Boundaries: <u>North Beach NCD.</u>

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		<p>Controls: <i>In the District, a Restaurant use may only add ABC license types <u>41, 47, 49, 59,</u> or 75 as a conditional use on the ground level if, in addition to the criteria set forth in Section 303, the Planning Commission finds that the restaurant is operating as a Bona-Fide Eating Place. <u>To verify that the Restaurant is continuing to operate as a Bona-Fide Eating Place, upon request by the Zoning Administrator, the Restaurant shall provide the Zoning Administrator with records showing the Restaurant's gross receipts within the year preceding the request. All records and information submitted to the Zoning Administrator shall be submitted under penalty of perjury.</u> Should a <u>Restaurant use</u> fail to operate as a Bona-Fide Eating Place for any length of time, the <u>Conditional Use</u> authorization shall be subject to abatement through administrative action or revocation <u>by the Planning Commission pursuant to Section 303 of this Code.</u></i></p>
<p style="text-align: center;">* * * *</p>	<p style="text-align: center;">* * * *</p>	<p style="text-align: center;">* * * *</p>
<p>§ 722 § 722.91</p>	<p>§§ <u>102, 207(c)(4)</u></p>	<p>ACCESSORY DWELLING UNITS</p> <p>Boundaries: <i>Within the boundaries of the North Beach NCD.</i></p> <p>Controls: An "Accessory Dwelling Unit," as defined in Section 102 and meeting the requirements of Section 207(c)(4), is permitted to be constructed within an existing building in areas that allow residential use or within an existing and authorized auxiliary structure on the same lot, provided that it does <u>within the existing building envelope. One ADU allowed in buildings with 4 or fewer Dwelling Units; no limit on ADUs in buildings with 5 or more Dwelling Units. ADUs may</u> not eliminate or reduce a ground-story retail or commercial space.</p>
<p>§722.94 § <u>722.95</u></p>	<p>§§ 150, 153-157, 159-160, <u>204.5, 249.49, 155(t)</u></p>	<p>NORTH BEACH OFF-STREET PARKING, RESIDENTIAL</p> <p>Boundaries: North Beach NCD <u>and Telegraph Hill-North Beach Residential SUD</u></p> <p>Controls:</p> <p>A. Installing a garage in an existing residential building of four or more units requires a mandatory</p>

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		<p>discretionary review by the Planning Commission; Section 311 notice is required for a building of less than four units. In approving installation of the garage, the Commission shall find that:</p> <p>(1) the proposed garage opening/addition of off-street parking will not cause <u>the elimination or reduction of ground-story retail or commercial space; the "removal" or "conversion of residential unit," as those terms are defined in Section 317 of this Code;</u> (2) the proposed garage opening/addition of off-street parking will not <u>substantially decrease the livability of a square footage of any dwelling unit without increasing the floor area in a commensurate amount;</u> (3) the building has not had two or more any "no-fault" evictions, <u>as defined in based on Sections 37.9(a)(78)-(1316) of the San Francisco Administrative Code, with each eviction associated with a separate unit(s)</u> within the past <u>10</u>ten years, (4) the garage would not front on a public right-of-way narrower than 41 feet, and (5) the proposed garage/addition of off-street parking installation is consistent with the Priority Policies of Section 101.1 of this Code.</p> <p>Prior to the Planning Commission hearing <u>for a building of four or more units</u>, or prior to issuance of notification under Section 311(c)(2) of this Code <u>for a building of less than four units</u>, the Planning Department shall require a signed affidavit by the project sponsor attesting to (1), (2), and (3) above, which the Department shall independently verify, <u>and the Department shall determine whether</u> The Department shall also have made a determination that the project complies with (4) and (5) above. <u>If the project does not meet the above requirements, the project application shall automatically be deemed incomplete and the application shall not be granted.</u></p>
<p><u>§ 722.22,</u> <u>§ 722.23,</u> <u>§ 722.56,</u> <u>§ 722.94,</u></p>	<p><u>§§ 790.8, 790.10, 155(r)(2)</u></p>	<p><u>VEHICULAR ACCESS RESTRICTIONS</u></p> <p><u>Boundaries: North Beach NCD</u></p> <p><u>Controls: Garage entrances, driveways or other vehicular access to off-street parking or loading shall not be permitted on Columbus Avenue between Washington and North Point</u></p>

§ 722.95		<u>Streets, Grant Avenue between Columbus Avenue and Filbert Street, and Green Street between Grant Avenue and Columbus/Stockton Streets.</u>
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Section 10. The Planning Code is hereby amended by revising Section 780.3, to read as follows:

SEC. 780.3. NORTH BEACH SPECIAL USE DISTRICT.

(a) Purposes. In order to (1) preserve and maintain the mix and variety of neighborhood-serving retail sales and personal services of a type ~~which~~ that supplies commodities or offers personal services to residents of North Beach and nearby neighborhoods; (2) preserve and maintain the District's small-scale, fine grain storefronts; (3) protect and encourage upper-story Residential Uses; and (4) preserve the contributions of Legacy Businesses to the history and identity of North Beach, there shall be a North Beach Special Use District applicable to the North Beach Neighborhood Commercial District, as designated on the Sectional Map SU01 of the Zoning Map of the City and County of San Francisco.

(b) Definitions. The following definitions apply to the North Beach Special Use District:

(1) Specialty Food Manufacturing. A Commercial Use that includes the manufacturing and processing of foods on the premises for retail and/or wholesale sales and also provides a customer service counter for sale of such manufactured or processed food directly to the consumer. This use may have seating as a minor and incidental use that occupies less than 15% of the Occupied Floor Area of the establishment. This use includes, but is not limited to bakeries, coffee roasters, confectionaries, chocolatiers, and makers of ice cream, gelato, or sorbet, where the preceding businesses make or prepare their products on the premises. This use shall not provide any alcohol sales for consumption on or off the premises.

(2) Legacy Business. A business as defined under Administrative Code Section 2A.242 and included in the Legacy Business Registry.

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

1 ~~(a)~~ (1) **Restaurants, Limited Restaurants, and Bars.** Restaurants, as defined in
2 Section 790.91 of this Code, Limited Restaurants as defined in Section 790.90 of this Code, and
3 Bars, as defined in Section 790.22 of this Code, may be permitted as a ~~e~~Conditional ~~u~~Use on
4 the ground level ~~if, in addition to the criteria set forth in~~ pursuant to Section 303 of this Code, ~~only~~
5 ~~if the Zoning Administrator first determines~~ the Planning Commission finds that the Restaurant,
6 Limited Restaurant, or Bar ~~does not~~ would occupy: ~~(1) a space that is currently or was last~~ legally
7 ~~occupied by a Basic Neighborhood Sale or Service, as defined in Section 780.3(b), or by a permitted~~
8 ~~principal use under Section 722 (North Beach Controls); or the same use as that being proposed;~~
9 ~~provided that such use has not been discontinued or abandoned pursuant to Sections 186.1(d) or~~
10 ~~178(d) of this Code; and provided further that the following conditions shall apply:~~

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

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

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

17 (2) ~~— a vacant space last occupied by a nonconforming use or a permitted~~
18 ~~e~~Conditional ~~u~~Use ~~under Section 722 (North Beach Controls) that has been discontinued or abandoned~~
19 ~~pursuant to Section 186.1(d) or Section 178(d) of this Code.~~

20 ~~(b) — For purposes of this Section, a Basic Neighborhood Sale or Service shall mean a use~~
21 ~~within the North Beach Neighborhood Commercial District that provides goods and/or services which~~
22 ~~are needed by residents and workers in North Beach and surrounding neighborhoods. Basic~~
23 ~~Neighborhood Sales or Services shall be considered to include, but not be limited to the following~~
24 ~~goods and/or services: Other Retail Sales and Services as defined in Section 790.102, Personal~~
25 ~~Services as defined in Section 790.116, Medical Services as defined in Section 790.114, Liquor Stores~~

1 ~~as defined in Section 790.55, Trade Shops as defined in Section 790.124, Animal Hospitals as defined~~
2 ~~in Section 790.6, and Limited Restaurants as defined in Section 790.90.~~

3 ~~(c) — Notwithstanding subsection (a) above, and notwithstanding the nonresidential use size~~
4 ~~limitations of the North Beach Neighborhood Commercial District specified in Section 121.2 of this~~
5 ~~Code, the Planning Commission may authorize an existing Restaurant in the District to expand to a~~
6 ~~second location within the District if, in addition to the criteria in Section 303, the Commission finds~~
7 ~~that:~~

8 ~~(1) — the existing Restaurant has been in continuous operation within the District for~~
9 ~~at least five years;~~

10 ~~(2) — the proposed second location is a ground level space of 5,000 square feet or~~
11 ~~more that has been vacant for at least 15 months;~~

12 ~~(3) — the Restaurant project at the proposed second location will use at least 40~~
13 ~~percent of the space for a Basic Neighborhood Sales or Service use, as defined in subsection (b) above;~~

14 ~~(4) — the expansion of the existing Restaurant into a second location is consistent with~~
15 ~~the General Plan and the eight priority policies of Section 101.1 of this Code; and~~

16 ~~(5) — the expansion of the existing Restaurant into a second location will provide a net~~
17 ~~substantial benefit to the District. For purposes of this subsection (c), a "net substantial benefit" means~~
18 ~~that, on balance, the proposed second location will provide a desirable new service or addition to the~~
19 ~~surrounding neighborhood and to the District as a whole and will not conflict with the purpose and~~
20 ~~intent of this Section 780.3.~~

21 (2) **Liquor Licenses for Restaurants.** In the District, a Restaurant use may provide
22 on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 41, 47, 49,
23 59, or 75) as a conditional use on the ground level if, in addition to the criteria set forth in Section 303,
24 the Planning Commission finds, based on information submitted to the Department by the applicant,
25 that the restaurant is operating and/or will operate as a Bona-Fide Eating Place. To verify that a

1 Restaurant is continuing to operate as a Bona-Fide Eating Place, upon request by the Zoning
2 Administrator, the Restaurant shall provide the Zoning Administrator with records showing the
3 Restaurant's gross receipts within the year preceding the request. All records and information
4 submitted to the Zoning Administrator shall be submitted under penalty of perjury. Should a
5 Restaurant use fail to operate as a Bona-Fide Eating Place for any length of time, the Conditional Use
6 authorization shall be subject to abatement through administrative action or revocation by the
7 Planning Commission pursuant to Section 303 of this Code.

8 (3) **Storefronts.** To preserve and maintain the District's small-scale, fine grain
9 storefronts, (A) the consolidation or merger of existing ground floor retail or commercial spaces or
10 storefronts shall be prohibited, and (B) Specialty Grocery uses shall not include a Non-Residential Use
11 size greater than 1,000 square feet.

12 (4) **Loss of Residential Units Prohibited.** To prevent the loss of existing Residential
13 Units within the District, the removal, demolition, merger, or conversion to a non-residential use of
14 Residential or unauthorized Units above the First Story are prohibited even if such loss of Residential
15 Units would otherwise be allowed pursuant to Section 317 of this Code.

16 (5) **Specialty Food Manufacturing.** In this District, a Specialty Food
17 Manufacturing use, as defined in this Section 780.3(b), may only be permitted on the Ground Floor or
18 below and shall require Conditional Use authorization pursuant to Section 303 of this Code.

19 (6) **Ground Floor Commercial Uses Required.** Unless otherwise prohibited or
20 limited by this Section 780.3, Section 722, or any other section of this Code, to promote active,
21 pedestrian-oriented streetscape, Active Commercial uses shall be required at the Ground Floor. This
22 requirement shall not be subject to modification.

23 (7) **Planned Unit Developments Prohibited.** In order to maintain the scale and
24 character of buildings, Planned Unit Developments shall be prohibited within the District.

1 (8) **Legacy Business.** Unless otherwise prohibited by this Section 780.3, Section
2 722, or any other section of this Code, any new Non-Residential Use proposed where the immediately
3 prior Commercial Use was a Legacy Business shall require Conditional Use authorization pursuant to
4 Section 303 of this Code.

5 (9) **Medical Service Uses.** Medical Service Uses, as defined in Section 790.114 of
6 this Code, shall be prohibited on the ground floor. On the second floor and above, Medical Service
7 Uses shall require Conditional Use authorization from the Planning Commission pursuant to Section
8 303.

9 (10) **Large-Scale Urban Agriculture.** Large-Scale Urban Agriculture uses are
10 prohibited in this District.

11 (11) **Conditional Use Authorizations.** In addition to the findings required under
12 Section 303 of this Code, for any use or project within the District that is subject to Conditional Use
13 authorization under this Section 780.3, Section 722, or any other section of this Code, the Planning
14 Commission shall be required to determine whether or not the use supports each of the purposes of the
15 North Beach SUD set forth in this Section 780.3.

16 Section 11. The Planning Code is hereby amended by revising Section 249.49, to read
17 as follows:

18 **SEC. 249.49. TELEGRAPH HILL - NORTH BEACH SPECIAL USE DISTRICT.**

19 * * * *

20 (c) **Controls.**

21 (1) **Number of Off-Street Residential Parking Spaces.** Up to three cars for
22 each four dwelling units is a Permitted use; up to one car for each dwelling unit requires a
23 Conditional use, subject to the criteria and procedures of Section 151.1(~~f~~)(g); above one car
24 for each dwelling unit is Not Permitted.

25 (2) **Installation of a Parking Garage.** Installation of a garage in an existing

1 residential building of four or more units requires a mandatory discretionary review hearing by
2 the Planning Commission; Section 311 Notice is required for a building of less than four units.
3 In approving installation of the garage, the Commission shall find that: (1) the proposed
4 garage opening/addition of off-street parking will not cause the elimination or reduction of
5 ground-story retail or commercial space; the "removal" or "conversion of residential unit," as those
6 terms are defined in Section 317 of this Code; (2) the proposed garage opening/addition of off-
7 street parking will not ~~substantially~~ decrease the livability of a square footage of any dwelling unit
8 without increasing the floor area in a commensurate amount; (3) the building has not had ~~two or~~
9 ~~more any~~ "no-fault" evictions, as defined in based on Sections 37.9(a)(78)-(1316) of the San
10 Francisco Administrative Code, with each eviction associated with a separate unit(s) within the past
11 10 ten years, (4) the garage would not front on a public right-of-way narrower than 41 feet, and
12 (5) the proposed garage/addition of off-street parking installation is consistent with the Priority
13 Policies of Section 101.1 of this Code.

14 Prior to the Planning Commission hearing for a building of four or more units, or prior to
15 issuance of notification under Section 311(c)(2) of this Code for a building of less than four units,
16 the Planning Department shall require a signed affidavit by the project sponsor attesting to (1),
17 (2), and (3) above, which the Department shall independently verify, and the Department shall
18 determine whether. The Department shall also have made a determination that the project complies
19 with (4) and (5) above. If the project does not meet all of the above requirements, the project
20 application shall automatically be deemed incomplete and the application shall not be granted.

21 Section 12. The Planning Code is hereby amended by revising Section 121.1, to read
22 as follows:
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1 **SEC. 121.1. DEVELOPMENT OF LARGE LOTS, NEIGHBORHOOD COMMERCIAL**
 2 **DISTRICTS.**

3 In order to promote, protect, and maintain a scale of development which is appropriate
 4 to each district and compatible with adjacent buildings, new construction or significant
 5 enlargement of existing buildings on lots of the same size or larger than the square footage
 6 stated in the table below shall be permitted only as conditional uses subject to the provisions
 7 set forth in Sections 316 through 316.8 of this Code.

District	Lot Size Limit
* * * *	* * * *
North Beach	5,000 <u>2,500</u> sq. ft.
* * * *	* * * *

12
 13 Section 13. The Planning Code is hereby amended by revising Section 253.1, to read
 14 as follows:

15 **SEC. 253.1. REVIEW OF PROPOSED BUILDINGS AND STRUCTURES IN THE**
 16 **BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT.**

17 (a) In the 65-A-1 Height and Bulk District, as designated on Sectional Map 1H of the
 18 Zoning Map, any new or expanding building or structure exceeding 40 feet in height shall be
 19 permitted as a conditional use only upon approval by the City Planning Commission according
 20 to the provisions in Sections 316 through 316.~~8~~6 of this Code. The height of the building or
 21 structure so approved by the City Planning Commission shall not exceed 65 feet.

22 (b) In authorizing any such proposal for a building or structure exceeding 40 feet in
 23 height, the ~~City~~ Planning Commission shall find that in addition to the criteria of Section
 24 303(c), ~~that~~ the proposal is consistent with the expressed purposes of this Code, of the
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1 Broadway Neighborhood Commercial District, and of the height and bulk districts, set forth in
2 Sections 101, 714.1, and 251 hereof, and that the following criteria are met:

3 (1) The height of the new or expanding development will be compatible with
4 the individual neighborhood character and the height and scale of the adjacent buildings.

5 (2) ~~When the height of the new or expanding development exceeds twice the existing~~
6 ~~height of adjacent buildings, transitions will be provided between the taller and shorter buildings.~~

7 (3) The height and bulk of the new or expanding development will be designed
8 to allow maximum sun access to nearby parks, plazas, and major pedestrian corridors.

9 Section 14. The Planning Code is hereby amended by revising Sections 790.34,
10 790.90, 790.91, and 790.102, to read as follows:

11 **SEC. 790.34. EATING AND DRINKING USE.**

12 A retail use ~~which that~~ provides food and/or beverages for either on or off-site food
13 consumption including Bars, Restaurants, and Limited-Restaurants ~~and Take Out Food.~~

14 **SEC. 790.90. LIMITED-RESTAURANT.**

15 (a) A retail eating and/or drinking use ~~which that~~ serves ready-to-eat foods and/or
16 drinks to customers for consumption on or off the premises, that may or may not have seating.
17 It may include wholesaling, manufacturing, or processing of foods, goods, or commodities on
18 the premises as an accessory use as set forth in Section 703.2(b)(1)(C)(v), depending on the
19 zoning district in which it is located.

20 (b) It includes, but is not limited to, ~~specialty~~ foods provided by sandwich shops, coffee
21 houses, pizzerias, ice cream shops, bakeries, delicatessens, and confectioneries meeting the
22 above characteristics, but ~~is~~ is distinct from a Specialty Grocery, as defined in Section 790.102(b), a
23 Restaurant, as defined in Section 790.91, and a Bar, as defined in Section 790.22. It may also
24 operate as a Take Out Food use. Within the North Beach SUD, it is also distinct from a Specialty Food
25 Manufacturing use, as defined in Section 780.3(b).

1 (c) It shall not provide on-site beer and/or wine sales for consumption on the
2 premises, but may provide off-site beer and/or wine sales for consumption off the premises
3 with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine),
4 provided it may use no more than 15% of the Occupied Floor Area of the establishment (including all
5 areas devoted to the display and sale of alcoholic beverages) for the display and sale of alcoholic
6 beverages within the accessory use limits as set forth in Section 703.2(b)(1)(C)(vi).

7 (d) This use must comply with the controls set forth in Section 703.5.

8 **SEC. 790.91. RESTAURANT.**

9 A retail eating or eating and drinking use ~~which~~that serves prepared, ready-to-eat cooked
10 foods and/or drinks to customers for consumption on ~~or off~~ the premises, ~~that may or may not~~
11 ~~have and that has~~ seating. ~~It may have a Take-Out Food use as defined by Planning Code Section~~
12 ~~790.122 a~~As a minor and incidental use, it may serve such foods to customers for off-site
13 consumption. It may provide on-site beer, wine, and/or liquor sales for drinking on the premises
14 (with ABC license types 41, 47, 49, 59, or 75); however, if it does so, it shall be required to
15 operate as a Bona-Fide Eating Place as defined in Section 790.142. It is distinct and
16 separate from a Limited-Restaurant as defined in Section 790.90. This use must comply with
17 the controls set forth in Section 703.5.

18 It shall not be required to operate within an enclosed building pursuant to Section 703.2(b)(1)
19 so long as it is also a Mobile Food Facility as defined in Section 102.34. Any associated
20 outdoor seating and/or dining area is subject to regulation as an Outdoor Activity Area as set
21 forth elsewhere in this Code.

22 **SEC. 790.102. SALES AND SERVICES, OTHER RETAIL.**

23 A retail use ~~which~~that provides goods and/or services but is not listed as a separate
24 zoning category in zoning category numbers .41 through .639G listed in Article 7 of this code,
25 including but not limited to, sale or provision of the following goods and services:

1 (a) **Grocery, General groceries.** As used herein, a ~~g~~General Grocery use groceries
2 means: ~~(1)~~ Aan individual retail food establishment that:

3 ~~(A)(1)~~ (A)(1) Offers a diverse variety of unrelated, non-complementary food and non-
4 food commodities, such as beverages, dairy, dry goods, fresh produce and other perishable
5 items, frozen foods, household products, and paper goods;

6 ~~(B)(2)~~ (B)(2) May provide beer, wine, and/or liquor sales for consumption off the
7 premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer
8 and wine) or type 21 (off-sale general), provided it may use no more than 15% of the Occupied
9 Floor Area of the establishment (including all areas devoted to the display and sale of alcoholic
10 beverages) for the display and sale of alcoholic beverages within the accessory use limits as set forth in
11 Section 703.2 (b)(1)(C)(vi);

12 ~~(C)(3)~~ (C)(3) May prepare ~~Prepares~~ minor amounts of or no food on site for immediate
13 consumption; ~~and~~

14 ~~(D)(4)~~ (D)(4) Markets the majority of its merchandise at retail prices; ~~and~~

15 (5) Shall comply with the controls set forth in Section 703.5.

16 (6) Conditional Use authorization shall be required for conversion of a General
17 Grocery use greater than 5,000 square feet, pursuant to Section 202.3 and 303(l).

18 (b) **Grocery, Specialty groceries.** As used herein, a ~~s~~Specialty Grocery use groceries
19 means: ~~(1)~~ Aan individual retail food establishment without seating that:

20 ~~(A)(1)~~ (A)(1) Offers specialty food products such as baked goods, pasta, cheese,
21 confections, coffee, meat, seafood, produce, artisanal goods, and other specialty food
22 products, and may also offer additional food and non-food commodities related or
23 complementary to the specialty food products;

24 ~~(B)(2)~~ (B)(2) May provide beer, wine, and/or liquor sales for consumption off the
25 premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer

1 and wine) or type 21 (off-sale general) provided it may use no more than 15% of the Occupied
2 Floor Area of the establishment (including all areas devoted to the display and sale of alcoholic
3 beverages) for the display and sale of alcoholic beverages~~within the accessory use limits as set forth in~~
4 Section 703.2 (b)(1)(C)(vi);

5 ~~(C)(3) May prepare~~ Prepares minor amounts ~~of or no~~ food on site for immediate
6 consumption ~~off-site; and~~

7 ~~(D)(4) Markets the majority of its merchandise at retail prices; and~~

8 (5) Shall comply with the controls set forth in Section 703.5.

9 * * * *

10 Section 15. The Planning Code is hereby amended by deleting Section 790.122 as
11 follows:

12 ~~**SEC. 790.122. TAKE OUT FOOD.**~~

13 ~~A retail eating or eating and drinking use without seating which provides ready to eat food to a~~
14 ~~high volume of customers, who carry out the food for off premises consumption. It sells in disposable~~
15 ~~wrappers or containers ready to eat food, which is prepared on the premises and generally intended~~
16 ~~for immediate consumption off the premises.~~

17 ~~It includes, but is not limited to, delicatessens, ice cream and cookie stores, and retail bakeries.~~
18 ~~It does not include retail grocery stores with accessory take out food activity, as described in Section~~
19 ~~703.2(b)(1)(C) of this Code, or retail uses that sell prepackaged or bulk ready to eat foods with no~~
20 ~~onsite food preparation area, such as confectionery or produce stores.~~

21 ~~It may provide off-site beer, wine, and/or liquor sales for consumption off the premises (with~~
22 ~~ABC license 20 or 21).~~

23 Section 16. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
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1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

3 Section 17. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
4 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
5 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
6 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
7 additions, and Board amendment deletions in accordance with the "Note" that appears under
8 the official title of the ordinance.

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

17

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

20 By: _____
21 Christopher T. Tom
22 Deputy City Attorney
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