

1 [Zoning - North Beach NCD]  
 2 AMENDING PART II, CHAPTER II OF THE SAN FRANCISCO MUNICIPAL CODE  
 3 (PLANNING CODE) BY AMENDING SECTIONS 178 AND 186.1 TO REQUIRE USES THAT  
 4 EXCEED SPECIFIED USE SIZE PROVISIONS IN THE NORTH BEACH NEIGHBORHOOD  
 5 COMMERCIAL DISTRICT TO OBTAIN CONDITIONAL USE AUTHORIZATION PRIOR TO A  
 6 CHANGE IN USE AND TO REDUCE THE PERIOD OF ABANDONMENT FOR  
 7 CONDITIONAL AND NONCONFORMING USES IN THIS DISTRICT FROM THREE (3)  
 8 YEARS TO 18 (EIGHTEEN) MONTHS; BY AMENDING SECTION 121.2 TO REDUCE THE  
 9 SIZE LIMIT OF NONRESIDENTIAL USES LOCATED IN THIS DISTRICT TO TWO  
 10 THOUSAND (2000) SQUARE FEET FOR CONDITIONAL USE AUTHORIZATION AND  
 11 FOUR THOUSAND (4000) SQUARE FEET FOR THE MAXIMUM SIZE; AND BY AMENDING  
 12 SECTION 722.21 IN THE NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT  
 13 ZONING CONTROL TABLE TO REFLECT THE USE SIZE MODIFICATIONS.

14 Note: Additions are underlined; deletions are in ((double parentheses)).  
 15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. (a) **General Findings.** (1) In response to San Francisco residents' and  
 17 merchants' concerns, including increased traffic congestion, proliferation of food service uses,  
 18 the loss of neighborhood-oriented businesses and changes in the local neighborhood  
 19 character, the City and County of San Francisco created Neighborhood Commercial Individual  
 20 Area Districts (NCDs) in 1987. These NCDs were established in many San Francisco  
 21 neighborhoods, including North Beach. Descriptions of these NCDs and the zoning that  
 22 applies within their boundaries are set forth in Article 7 of the San Francisco Municipal Code,  
 23 Part II, Chapter II (Planning Code).

24 (2) The North Beach Neighborhood Commercial District (North Beach  
 25 NCD), as defined in Planning Code Section 722, is a neighborhood-serving marketplace,

1 citywide specialty shopping, and dining district, as well as a tourist attraction. The intent of  
2 zoning controls in the North Beach NCD is to maintain the existing scale of development,  
3 promote a balanced mix of retail sales and services and restaurants, preserve the existing  
4 equilibrium of neighborhood-serving, citywide specialty shopping, and dining uses.

5 (3) The North Beach NCD has traditionally fostered small and locally-  
6 owned business enterprises and entrepreneurship providing local employment opportunities  
7 and revenue expansion. The North Beach NCD also is identified by numerous one-of-a-kind  
8 businesses in small-scale storefronts, which reflect the surrounding neighborhood's ethnic  
9 and lifestyle characteristics, building scale, architectural style, and historical development.

10 (4) Because of the North Beach NCD's unique character, this District is  
11 renowned throughout the United States and the world, and is one of the most popular tourist  
12 destinations in San Francisco, thereby contributing to the economic benefits of the City's  
13 visitor trade.

14 (5) Since the adoption of the North Beach NCD, the consolidation of  
15 many of the traditional small-scale storefronts has detracted from the visual and historic old-  
16 world character of the District. Currently, the unique character of this District is further  
17 threatened by proposed large scale uses that are incompatible in size and scale with the  
18 neighborhood and would irreversibly alter the old-world character of the District. These  
19 proposed uses also would adversely impact the existing small-scale businesses located in the  
20 District.

21 (6) Residents, merchants, and neighborhood associations have  
22 expressed concern that the current zoning controls in the North Beach NCD are inadequate  
23 to: (i) control the size and scale of commercial uses; (ii) prevent further interior use size  
24 expansions and storefront consolidations; (iii) encourage the restoration of the original small  
25 scale storefronts that previously had been consolidated; and (iv) protect against adverse

1 changes to the unique physical characteristics of the neighborhood, including building and  
2 architectural style.

3 (7) In order to encourage and promote a return to conforming uses and  
4 use sizes, and thereby enhance the likelihood that original small-scale storefronts will be  
5 restored, the Planning Commission should undertake a conditional use authorization process  
6 as set forth in Article 3 when there is a proposed change of use to a use that exceeds the  
7 square footage thresholds and limitations proposed for the North Beach NCD. In addition, to  
8 fulfill these goals, the period of abandonment for conditional and nonconforming uses requires  
9 a reduction in the circumscribed time period.

10 (8) In order to address the concerns stated above, preserve the  
11 neighborhood character of the North Beach NCD, and maintain the livability of this District and  
12 its adjacent residential areas, the commercial use sizes in the North Beach NCD require  
13 additional regulation.

14 (b) **Priority Policy Findings.** Pursuant to Section 101.1 of the Planning Code,  
15 the Board of Supervisors makes the following findings:

16 (1) The proposed legislation is consistent with Priority Policy 1 in that it  
17 will create greater regulatory control over the size of nonresidential uses within the North  
18 Beach NCD, and therefore, preserve and enhance the existing neighborhood-serving uses  
19 and enhance future opportunities for resident employment and the ownership of other  
20 neighborhood-serving business.

21 (2) The proposed legislation is consistent with Priority Policy 2 in that it  
22 has no adverse effect on existing housing and will help to preserve the character of the  
23 neighborhood.

24 (3) The proposed legislation is consistent with Priority Policy 3 in that it  
25 has no effect on the City's current or future supply of affordable housing.

1 (4) The proposed legislation is consistent with Priority Policy 4 in that it  
2 has no negative impact on commuter traffic or neighborhood parking.

3 (5) The proposed legislation is consistent with Priority Policy 5 in that it  
4 does not involve commercial office development, which may displace any industrial or service  
5 sector employment, and will enhance the viability of existing neighborhood-serving  
6 establishments, thereby enhancing future opportunities for resident employment and  
7 ownership.

8 (6) The proposed legislation is consistent with Priority Policy 6 in that it  
9 will not adversely affect the City's ability to achieve earthquake preparedness to protect  
10 against injury and loss of life in an earthquake.

11 (7) The proposed legislation is consistent with Priority Policy 7 in that it  
12 will not affect any landmarks or historic buildings.

13 (8) The proposed legislation is consistent with Priority Policy 8 in that it  
14 has no effect on parks and open space and their access to sunlight and vistas.

15 Section 2. Part II, Chapter II of the San Francisco Municipal Code (Planning Code) is  
16 hereby amended by amending Section 178, to read as follows:

17 **SEC. 178. CONDITIONAL USES.** The following provisions shall apply to conditional  
18 uses:

19 (a) **Definition.** For the purposes of this Section, a permitted conditional use shall  
20 refer to:

21 (1) Any use or feature authorized as a conditional use pursuant to Article 3 of  
22 this Code, provided that such use or feature was established within the time limits specified as  
23 a condition of authorization or, if no time limit was specified, within a reasonable time from the  
24 date of authorization; or

25 (2) Any use or feature which is classified as a conditional use in the district in

1 which it is located and which lawfully existed either on the effective date of this Code, or on  
2 the effective date of any amendment imposing new conditional use requirements upon such  
3 use or feature; or

4 (3) Any use deemed to be a permitted conditional use pursuant to Section  
5 179 of this Code.

6 (b) **Continuation.** Except as provided for temporary uses in Section 205 of this  
7 Code, and except where time limits are otherwise specified as a condition of authorization,  
8 any permitted conditional use may continue in the form in which it was authorized, or in the  
9 form in which it lawfully existed either on the effective date of this Code or the effective date of  
10 any amendment imposing new conditional use requirements upon such use or feature, unless  
11 otherwise provided in this Section or in Article 2 of this Code.

12 (c) **Enlargements or Alteration.** A permitted conditional use may not be  
13 significantly altered, enlarged, or intensified, except upon approval of a new conditional use  
14 application pursuant to the provisions of Article 3 of this Code.

15 (d) **Abandonment.** A permitted conditional use which is discontinued for a period of  
16 three years, or otherwise abandoned, shall not be restored, except upon approval of a new  
17 conditional use application pursuant to the provisions of Article 3 of this Code. For purposes  
18 of this Subsection, the period of nonuse for a permitted conditional use to be deemed  
19 discontinued in the North Beach Neighborhood Commercial District shall be eighteen (18)  
20 months.

21 (e) **Changes in Use.** The following provisions shall apply to permitted conditional  
22 uses with respect to changes in use:

23 (1) A permitted conditional use may be changed to another use listed in  
24 Articles 2, 7 or 8 of this Code as a principal use for the district in which it is located and the  
25 new use may thereafter be continued as a permitted principal use.

1 (2) A permitted conditional use may be changed to another use listed in  
2 Articles 2, 7 or 8 of this Code as a conditional use for the district in which the property is  
3 located, subject to the other applicable provisions of this Code, only upon approval of a new  
4 conditional use application, pursuant to the provisions of Article 3 of this Code.

5 (3) A permitted conditional use may not be changed to another use not  
6 permitted or prohibited by Articles 2, 7 or 8 of this Code. If a permitted conditional use has  
7 been wrongfully changed to another use in violation of the foregoing provisions and the  
8 violation is not immediately corrected when required by the Zoning Administrator, the wrongful  
9 change shall be deemed to be a discontinuance or abandonment of the permitted conditional  
10 use.

11 (4) Once a permitted conditional use has been changed to a principal use  
12 permitted in the district in which the property is located, or brought closer in any other manner  
13 to conformity with the use limitations of this Code, the use of the property may not thereafter  
14 be returned to its former permitted conditional use status, except upon approval of a new  
15 conditional use application pursuant to the provisions of Article 3 of this Code.

16 (5) In the North Beach Neighborhood Commercial District, any use that  
17 exceeds the use size provisions of Section 121.2(a) or 121.2(b) may be changed to a new use  
18 only upon approval of a new conditional use application. The Commission's approval of such  
19 conditional use application shall explicitly address the use size findings of Section 303(c).

20 (f) Notwithstanding the foregoing provisions of this Section 178, a structure  
21 occupied by a permitted conditional use that is damaged or destroyed by fire, or other  
22 calamity, or by Act of God, or by the public enemy, may be restored to its former condition and  
23 use without the approval of a new conditional use application, provided that such restoration is  
24 permitted by the Building Code, and is started within one year and diligently pursued to  
25 completion. Except as provided in Subsection (g) below, no structure occupied by a permitted

1 conditional use that is voluntarily razed or required by law to be razed by the owner thereof  
2 may thereafter be restored except upon approval of a new conditional use application  
3 pursuant to the provisions of Article 3 of this Code.

4 (g) None of the provisions of this Section 178 shall be construed to prevent any  
5 measures of construction, alteration or demolition necessary to correct the unsafe or  
6 dangerous condition of any structure, other feature, or part thereof, where such condition has  
7 been declared unsafe or dangerous by the Superintendent of the Bureau of Building  
8 Inspection or the Chief of the Bureau of Fire Prevention and Public Safety, and where the  
9 proposed measures have been declared necessary, by such official, to correct the said  
10 condition; provided, however, that only such work as is absolutely necessary to correct the  
11 unsafe or dangerous condition may be performed pursuant to this Section.

12 Section 3. Part II, Chapter II of the San Francisco Municipal Code (Planning Code) is  
13 hereby amended by amending Section 186.1, to read as follows:

14 **SEC. 186.1. EXEMPTION OF NONCONFORMING USES IN NEIGHBORHOOD**  
15 **COMMERCIAL DISTRICTS.** The purpose of this Section is to provide for the further  
16 continuance in NC Districts of nonconforming uses created by adoption of Ordinance No. 69-  
17 87, as herein described, and subsequent ordinances that change the uses allowed in NC  
18 Districts, which are beneficial to, or can be accommodated within the neighborhood  
19 commercial areas in which they are located.

20 It is hereby found and declared that certain uses which traditionally have been  
21 permitted to locate in neighborhood commercial areas can be beneficial to a neighborhood  
22 commercial area in small or limited numbers, but which if allowed to proliferate, can disrupt  
23 the balanced mix of neighborhood-serving retail stores and services. It is further found and  
24 declared that in order to prevent undesirable overconcentrations of such uses, the  
25 establishment of additional such uses shall be prohibited pursuant to controls governing uses

SUPERVISOR LENO  
BOARD OF SUPERVISORS

1 in NC Districts. At the same time, however, it is desirable to provide for the further  
2 continuance, expansion, enlargement, alteration, changes, discontinuance, and relocation of  
3 such existing uses, which are nonconforming as a result of zoning controls governing uses in  
4 NC Districts.

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

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

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

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

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



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

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

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

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

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

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

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

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

3 (4) In the North Beach Neighborhood Commercial District, any use that exceeds  
4 the use size provisions of Section 121.2(a) or 121.2(b) may be changed to a new use only  
5 upon the approval of a new conditional use application. The Commission's approval of such  
6 conditional use application shall explicitly address the use size findings of Section 303(c).

7 (d) **Discontinuance.** A nonconforming use which is discontinued for a period  
8 of three years, or otherwise abandoned or changed to another use which is listed in Article 7  
9 of this Code as a principal or conditional use for the district in which the use is located shall  
10 not be reestablished. For purposes of this Subsection, the period of nonuse for a  
11 nonconforming use to be deemed discontinued in the North Beach Neighborhood Commercial  
12 District shall be eighteen (18) months.

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

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

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

24 (3) Deed restrictions are recorded for the original premises in the  
25 Official Records of the City and County of San Francisco, which restrictions prohibit for the

1 duration of the Code sections prohibiting the use for the district in which the use is located, the  
2 establishment and operation of a new use of the same type of use as the relocated use,  
3 unless such new use is relocating from within the district.

4 Section 4. Part II, Chapter II of the San Francisco Municipal Code (Planning Code) is  
5 hereby amended by amending Section 121.2, to read as follows:

6 **SEC. 121.2. USE SIZE LIMITS (NONRESIDENTIAL), NEIGHBORHOOD**  
7 **COMMERCIAL DISTRICTS.** (a) In order to protect and maintain a scale of development  
8 appropriate to each district, nonresidential uses of the same size or larger than the square  
9 footage stated in the table below may be permitted only as conditional uses subject to the  
10 provisions set forth in Sections 316 through 316.8 of this Code. The use area shall be  
11 measured as the gross floor area for each individual nonresidential use.

<b>District</b>	<b>Use Size Limits</b>
<u>North Beach</u>	<u>2,000 sq. ft.</u>
Castro Street, Inner Clement Street, Outer Clement Street, Upper Fillmore Street, Haight Street, ((North Beach,)) Sacramento Street, Union Street, 24th Street-Mission, 24th Street-Noe Valley, West Portal Avenue	2,500 sq. ft.
NC-1, Broadway, Hayes-Gough, Upper Market Street, Polk Street, Valencia Street	3,000 sq.ft.
NC-2	4,000 sq. ft.

1 NC-3,  
2 NC-S

6,000 sq. ft.

3 In addition to the criteria of Section 303(c) of this Code, the Commission shall consider  
4 the extent to which the following criteria are met:

5 (1) The intensity of activity in the district is not such that allowing the larger  
6 use will be likely to foreclose the location of other needed neighborhood-serving uses in the  
7 area.

8 (2) The proposed use will serve the neighborhood, in whole or in significant  
9 part, and the nature of the use requires a larger size in order to function.

10 (3) The building in which the use is to be located is designed in discrete  
11 elements which respect the scale of development in the district.

12 (b) In order to protect and maintain a scale of development appropriate to each  
13 district, nonresidential uses which exceed the square footage stated in the table below shall  
14 not be permitted, except that in the North Beach Neighborhood Commercial District this  
15 Subsection 121.2(b) shall not apply to a Movie Theater use as defined in Section 790.64 or  
16 Other Entertainment use as defined in Section 790.38 in a building existing prior to November  
17 1, 1999 that was originally constructed as a multi-story, single-tenant commercial occupancy.  
18 The use area shall be measured as the gross floor area for each individual nonresidential use.

19 **District**

**Use Size Limits**

20 West Portal Avenue  
21 North Beach

4000 sq. ft.  
4000 sq. ft.

22 Section 5. Part II, Chapter II of the San Francisco Municipal Code (Planning Code) is  
23 hereby amended by amending Section 722.21, to read as follows:  
24  
25

1 **North Beach Neighborhood Commercial District**

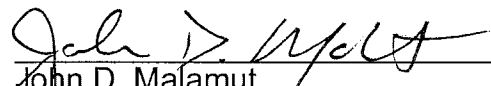
2 **Zoning Control Table**

No.	Zoning Category	§ References	North Beach Controls
722.21	Use Size ( <i>Non Residential</i> )	§790.130	P up to ((2,499)) 1,999 sq.ft.; C ((2,500)) <u>2,000</u> sq.ft to 3,999 sq.ft. NP 4,000 sq.ft. and above § 121.2

9 APPROVED AS TO FORM:

10 LOUISE H. RENNE, City Attorney

11 By:

12   
13 John D. Malamut  
14 Deputy City Attorney



# City and County of San Francisco

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

## Tails

### Ordinance

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**File Number:** 991586

**Date Passed:**

Ordinance amending Planning Code Sections 178 and 186.1 to require uses that exceed specified use size provisions in the North Beach Neighborhood Commercial District to obtain conditional use authorization prior to a change in use and to reduce the period of abandonment for conditional and nonconforming uses in this district from three (3) years to 18 (eighteen) months; by amending Section 121.2 to reduce the size limit of nonresidential uses located in this district to two thousand (2000) square feet for conditional use authorization and four thousand (4000) square feet for the maximum size; and by amending Section 722.21 in the North Beach Neighborhood Commercial District Zoning Control Table to reflect the use size modifications.

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November 15, 1999 Board of Supervisors — PASSED, ON FIRST READING

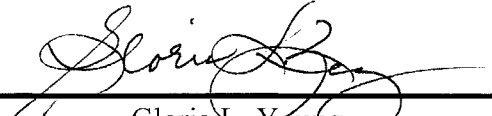
Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

November 22, 1999 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

File No. 991586

I hereby certify that the foregoing Ordinance  
was FINALLY PASSED on November 22,  
1999 by the Board of Supervisors of the City  
and County of San Francisco.



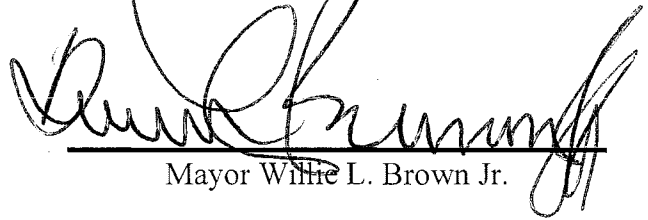
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Gloria L. Young  
Clerk of the Board

DEC - 3 1999

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Date Approved



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Mayor Willie L. Brown Jr.