

1 [24th Street-Noe Valley Neighborhood Commercial District]  
2 AMENDING PART II, CHAPTER II OF THE SAN FRANCISCO MUNICIPAL CODE (CITY  
3 PLANNING CODE) BY AMENDING SECTION 728.40 TO PROHIBIT RETAIL COFFEE  
4 STORES AND ACCESSORY TAKE-OUT FOOD SERVICE USE ASSOCIATED WITH  
5 THESE STORES OR SPECIALTY GROCERIES IN THE 24TH STREET-NOE VALLEY  
6 NEIGHBORHOOD COMMERCIAL DISTRICT; AMENDING SECTION 728 BY ADDING A  
7 NEW TABLE TO DESCRIBE THIS PROHIBITION; AMENDING SECTION 703.2 TO CROSS-  
8 REFERENCE THE PROHIBITION ON ACCESSORY TAKE-OUT FOOD SERVICE USE;  
9 AND ADOPTING FINDINGS PURSUANT TO CITY PLANNING CODE SECTION 101.1.

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

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

12 Section 1. **Findings.** (a) **General Findings.**

13 (1) The 24th Street-Noe Valley Neighborhood Commercial District (the "Noe Valley  
14 NCD"), as defined in the San Francisco Municipal Code Part II, Chapter II (Planning Code)  
15 Section 728.1, is a day-time oriented, multi-purpose commercial district that provides a  
16 mixture of convenience and comparison shopping goods and services to a predominantly  
17 local market.

18 (2) The Noe Valley NCD has witnessed the recent addition of coffee retail stores  
19 (as defined in Planning Code Section 790.102(n)) and accessory take-out food service use  
20 (pursuant to Section 703.2(b)(1)(C) and as defined in Planning Code Section 790.122).  
21 Coffee retail stores and accessory take-out food service uses are permitted in this district  
22 without public review, and there is public concern that these uses may adversely impact Noe  
23 Valley NCD's existing small scale, mixed-use neighborhood commercial character. While the  
24 overall total of the various food service uses has remained generally the same since the Noe  
25

1 Valley NCD was created in the mid-1980s, the number of such uses in the Noe Valley NCD  
2 exceeds the density for food services recommended for Neighborhood Commercial Districts  
3 by the Commerce and Industry element of the General Plan. Further, the number of food  
4 service uses in the Noe Valley NCD has presented an apparent conflict with the ban on  
5 additional establishments dedicated to ready-to-eat food service that was intended when the  
6 Noe Valley NCD controls were first enacted on a permanent basis.

7 (3) On April 17, 1996, the City and County of San Francisco adopted Resolution No.  
8 334-96, on file with the Clerk of the Board of Supervisors in File No. 111-96-1, to prohibit for  
9 18 months the establishment of new specialty grocery and retail coffee stores and associated  
10 accessory take-out food service in order to study problems generated by such uses in the  
11 Noe Valley NCD.

12 (4) This action is necessary to maintain the variety and mix of retail sales and  
13 services in the Noe Valley NCD and the character of the Noe Valley NCD.

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

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

21 (2) The proposed legislation is consistent with Priority Policy 2 in that it has no  
22 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 has no effect  
25 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 has no  
2 negative impact on commuter traffic or neighborhood parking because it prohibits traffic  
3 generating uses which were permitted for a building's 1st floor and conditionally authorized  
4 for a building's 2nd floor.

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

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

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

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

16 Section 2. The San Francisco Municipal Code Part II, Chapter II (Planning Code), is  
17 amended by amending Section 728.40, as set forth in the "**24th Street-Noe Valley**  
18 **Neighborhood Commercial District Zoning Control Table**," by adding the symbol "#" after  
19 the "P" and "C" where they appear under the "**Controls by Story**" column.

20 Section 3. The San Francisco Municipal Code Part II, Chapter II (Planning Code), is  
21 amended by amending Section 728 to add a new Table entitled "**SPECIFIC PROVISIONS**  
22 **FOR THE 24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT**"  
23 following the Table entitled "**24TH STREET-NOE VALLEY NEIGHBORHOOD**  
24 **COMMERCIAL DISTRICT ZONING CONTROL TABLE.**" This new table shall read as  
25 follows:

**SPECIFIC PROVISIONS FOR THE  
24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT**

<b>Article 7 Code Section</b>	<b>Other Code Section</b>	<b>Zoning Controls</b>
§ 728.40	§ 790.102(b) and (n) § 703.2(b)(1)(C)	24TH STREET-NOE VALLEY SPECIALTY RETAIL USES

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

**Controls:** Retail coffee stores, as defined in Code § 790.102(n), are prohibited. Retail coffee stores and specialty groceries, defined in Code § 790.102(b), are prohibited from establishing accessory take-out food service use pursuant to Code § 703.2(b)(1)(C).

Section 4. The San Francisco Municipal Code Part II, Chapter II (Planning Code), is amended by amending Section 703.2 to read as follows:

**SEC. 703.2. USES PERMITTED IN NEIGHBORHOOD COMMERCIAL DISTRICTS.**

A use is the specific purpose for which a property or building is used, occupied, maintained, or leased. Whether or not a use is permitted in a specific district is set forth or summarized and cross-referenced in Sections 710.1 through 730.95 of this Code for each district class.

1 (a) **Use Categories.** The uses, functions, or activities, which are permitted in each  
 2 Neighborhood Commercial District class include those listed below by zoning control category  
 3 and number and cross-referenced to the Code Section containing the definition.

4  
 5 **Section Number of**

6 **No. Zoning Control Categories for Uses Use Definition**

7

8	.24	Outdoor Activity Area	§ 790.70
9	.25	Drive-up Facility	§ 790.30
10	.26	Walk-up Facility	§ 790.140
11	.27	Hours of Operation	§ 790.48
12	.38	Residential Conversion	§ 790.84
13	.39	Residential Demolition	§ 790.86
14	.40	Other Retail Sales and Services	§ 790.102
15	.41	Bar	§ 790.22
16	.42	Full-service Restaurant	§ 790.92
17	.43	Large Fast-food Restaurant	§ 790.90
18	.44	Small Self-Service Restaurant	§ 790.91
19	.46	Movie Theater	§ 790.64
20	.47	Adult Entertainment	§ 790.36
21	.48	Other Entertainment	§ 790.38
22	.49	Financial Service	§ 790.110
23	.50	Limited Financial Service	§ 790.112
24	.51	Medical Service	§ 790.114
25	.52	Personal Service	§ 790.116

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1	.53	Business or Professional Service	§ 790.108
2	.54	Massage Establishment	§ 790.60
3	.55	Tourist Hotel	§ 790.46
4	.56	Automobile Parking	§ 790.8
5	.57	Automotive Gas Station	§ 790.14
6	.58	Automotive Service Station	§ 790.17
7	.59	Automotive Repair	§ 790.15
8	.60	Automotive Wash	§ 790.18
9	.61	Automobile Sale or Rental	§ 790.12
10	.62	Animal Hospital	§ 790.6
11	.63	Ambulance Service	§ 790.2
12	.64	Mortuary	§ 790.62
13	.65	Trade Shop	§ 790.124
14	.66	Storage	§ 790.117
15	.70	Administrative Service	§ 790.106
16	.80	Hospital or Medical Center	§ 790.44
17	.81	Other Institutions, Large	§ 790.50
18	.82	Other Institutions, Small	§ 790.51
19	.83	Public Use	§ 790.80
20	.90	Residential Use	§ 790.88
21	.95	Community Residential Parking	§ 790.10

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23           (b)    **Use Limitations.** The uses permitted in Neighborhood Commercial Districts are

24 either principal, conditional, accessory, or temporary uses as stated in this Section, and

25 include those uses set forth or summarized and cross-referenced in the zoning control

1 categories as listed in Paragraph (a) in Sections 710.1 through 729.95 of this Code for each  
2 district class.

3 (1) **Permitted Uses.** All permitted uses shall be conducted within an enclosed  
4 building in Neighborhood Commercial Districts, unless otherwise specifically allowed in this  
5 Code. Exceptions from this requirement are: uses which, when located outside of a building,  
6 qualify as an outdoor activity area, as defined in Section 790.70 of this Code; accessory off-  
7 street parking and loading and other uses listed below which function primarily as open-air  
8 uses, or which may be appropriate if located on an open lot, outside a building, or within a  
9 partially enclosed building, subject to other limitations of this Article 7 and other sections of  
10 this Code.

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12	No.	Zoning Control Category
13		
14	.56	Automobile Parking
15	.57	Automotive Gas Station
16	.58	Automotive Service Station
17	.60	Automotive Wash
18	.61	Automobile Sale or Rental
19	.81	Other Institutions, Large (selected)
20	.83	Public Use (selected)
21	.95	Community Residential Parking
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23 If there are two or more uses in a structure and none is classified below under Section  
24 703.2(b)(1)(C) of this Code as accessory, then each of these uses will be considered  
25 separately as independent principal, conditional or temporary uses.

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1 (A) **Principal Uses.** Principal uses are permitted as of right in a Neighborhood  
2 Commercial District, when so indicated in Sections 710.1 through 729.95 of this Code for  
3 each district class.

4 (B) **Conditional Uses.** Conditional uses are permitted in a Neighborhood  
5 Commercial District when authorized by the Planning Commission; whether a use is  
6 conditional in a given district is indicated in Sections 710.10 through 729.95. An  
7 establishment which sells beer or wine with motor vehicle fuel is a conditional use, and shall  
8 be governed by Section 229. Conditional uses are subject to the provisions set forth in  
9 Sections 178, 179, and 316 through 316.8 of this Code.

10 (C) **Accessory Uses.** Except as prohibited in Section 728 and subject ((Subject)) to  
11 the limitations set forth below and in Sections 204.1 (Accessory Uses for Dwelling Units in R  
12 and NC Districts), 204.4 (Dwelling Units Accessory to Other Uses), and 204.5 (Parking and  
13 Loading as Accessory Uses) of this Code, a related minor use which is either necessary to  
14 the operation or enjoyment of a lawful principal use or conditional use, or is appropriate,  
15 incidental and subordinate to any such use, shall be permitted as an accessory use when  
16 located on the same lot. Any use which does not qualify as an accessory use shall be  
17 classified as a principal or conditional use, unless it qualifies as a temporary use under  
18 Sections 205 through 205.2 of this Code.

19 No use will be considered accessory to a permitted principal or conditional use which  
20 involves or requires any of the following:

21 (i) The use of more than 1/3 of the total floor area occupied by such use and the  
22 principal or conditional use to which it is accessory, except in the case of accessory off-street  
23 parking and loading;

24 (ii) Any bar, restaurant, other entertainment, or any retail establishment which  
25 serves liquor for consumption on-site;

1 (iii) Any take-out food use, as defined in Section 790.122, except for a take-out food  
2 use which occupies 100 square feet or less (including the area devoted to food preparation  
3 and service and excluding storage and waiting areas) in a ((retail)) general grocery or  
4 specialty ((food)) grocery store;

5 (iv) Any take-out food use, as defined in Section 790.122, except for a take-out food  
6 use operating as a minor and incidental use within a full-service restaurant;

7 (v) The wholesaling, manufacturing or processing of foods, goods, or commodities  
8 on the premises of an establishment which does not also use or provide for primarily retail  
9 sale such foods, goods or commodities at the same location where such wholesaling,  
10 manufacturing or processing takes place.

11 The foregoing rules shall not prohibit take-out food activity which operates in  
12 conjunction with a fast-food restaurant or a self-service restaurant. A fast-food restaurant or a  
13 self-service restaurant, by definition, includes take-out food as an accessory and necessary  
14 part of its operation.

15 (D) **Temporary Uses.** Temporary uses are permitted uses, subject to the provisions  
16 set forth in Section 205 of this Code.

17 (2) **Not Permitted Uses.**

18 (A) Uses which are not specifically listed in this Article are not permitted unless they  
19 qualify as a nonconforming use pursuant to Sections 180 through 186.1 of this Code or are  
20 determined by the Zoning Administrator to be permitted uses in accordance with Section  
21 307(a) of this Code.

22 (B) No use, even though listed as a permitted use, shall be permitted in a  
23 Neighborhood Commercial District which, by reason of its nature or manner of operation,  
24 creates conditions that are hazardous, noxious, or offensive through the emission of odor,  
25

1 fumes, smoke, cinders, dust, gas, vibration, glare, refuse, water-carried waste, or excessive  
2 noise.

3 (C) The establishment of a use that sells alcoholic beverages, other than beer and  
4 wine, concurrent with motor vehicle fuel is prohibited, and shall be governed by Section 229.

5  
6 APPROVED AS TO FORM:

7 LOUISE H. RENNE, City Attorney

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10 By:

  
11 John D. Malamut  
12 Deputy City Attorney

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11/18/98



# City and County of San Francisco

Veterans Building  
401 Van Ness Avenue, Room 308  
San Francisco, CA 94102-4532

## Tails Ordinance

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**File Number:** 980335

**Date Passed:**

Ordinance amending Planning Code Section 728.40 to prohibit retail coffee stores and accessory take-out food service use associated with these stores or specialty groceries in the 24th Street-Noe Valley Neighborhood Commercial District; amending Section 728 by adding a new table to describe this prohibition; amending Section 703.2 to cross-reference the prohibition on accessory take-out food service use; and adopting findings pursuant to City Planning Code Section 101.1.

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December 7, 1998 Board of Supervisors — PASSED ON FIRST READING

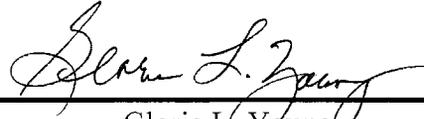
Ayes: 9 - Ammiano, Bierman, Brown, Katz, Kaufman, Leno, Teng, Yaki, Yee  
Absent: 2 - Medina, Newsom

December 14, 1998 Board of Supervisors — FINALLY PASSED

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

File No. 980335

I hereby certify that the foregoing Ordinance  
was **FINALLY PASSED** on December 14,  
1998 by the Board of Supervisors of the City  
and County of San Francisco.



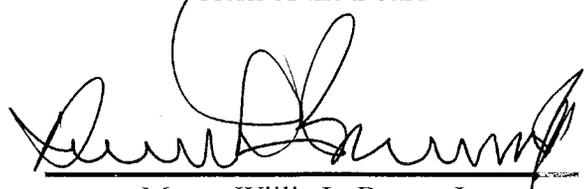
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Gloria L. Young  
Clerk of the Board

DEC 24 1998

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Date Approved



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Mayor Willie L. Brown Jr.

File No. 980335 continued...