

1 [Coffee Shops in West Portal Neighborhood Commercial District]  
2 AMENDING PART II, CHAPTER II, OF THE SAN FRANCISCO MUNICIPAL CODE  
3 ("PLANNING CODE") BY AMENDING SECTION 790.102 TO MODIFY THE  
4 DEFINITION OF "SALES AND SERVICES, OTHER RETAIL" BY ALLOWING, AS  
5 A CONDITIONAL USE, A LIMITED EXCEPTION TO THE PROHIBITION ON THE  
6 USE OF COOKING EQUIPMENT AND ON-SITE FOOD PREPARATION NOT  
7 CONNECTED WITH BEVERAGE PREPARATION FOR RETAIL BEVERAGE STORES IN  
8 THE WEST PORTAL NEIGHBORHOOD COMMERCIAL DISTRICT (NCD).

9 (Note: additions are underlined. Deletions are indicated by  
10 ((double parenthesis)).

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

13 Section 1. **FINDINGS.**

14 (a) The Board of Supervisors hereby finds and declares  
15 that the following conditions exist which create a need to amend  
16 Planning Code Sections 729.40 and 790.102 and the "Specific  
17 Provisions for the West Portal District", at the end of the West  
18 Portal Zoning Control Table which constitutes Sections 729.10  
19 through Section 729.95 of the Planning Code:

20 (1) Planning Code Section 729.1 states that the West  
21 Portal Avenue zoning controls are designed to preserve the  
22 existing family oriented, village character of West Portal Avenue  
23 and that special controls on food service uses are designed to  
24 protect the existing mix of retail uses and prevent  
25 further intensification and congestion in the district.

Supervisor Newsom

1           (2)           At present, the West Portal NCD, pursuant to Planning  
2 Code Section 729.40, allows, on the first and second floors,  
3 "Other Retail Sales and Services". Part of the definition of  
4 "Other Retail Sales and Services" in Planning Code Section  
5 790.102 is a retail drinking use that contains no more than 15  
6 seats and no more than 400 square feet of floor area devoted to  
7 seating and which involves no on-site food preparation or  
8 cooking.

9           (3)           Beverage stores in the West Portal NCD are seen as  
10 desirable uses and some of these, especially those not part of a  
11 national chain, cannot compete well for retail space when limited  
12 to the menu offerings provided by the "Retail Coffee Store"  
13 portion of the "Other Retail Sales and Services" definition of  
14 Section 790.102. The West Portal NCD is smaller than most  
15 Individual Area Neighborhood Commercial Districts while serving a  
16 large residential area, which results in a greater demand for  
17 space, making it more difficult for small, independent operators  
18 to compete in the West Portal District. The proposed amendment  
19 would exempt beverage stores in the West Portal NCD that  
20 otherwise meet the definition and limitations of Subsection  
21 790.102(n) from the prohibition on cooking, food preparation or  
22 serving ready-to-eat food.

23           (4)           The proposed exception allowing on-site preparation  
24 of food would apply only to uses that meet the other limitations  
25 qualifying the use as a beverage store ("Retail coffee store")

1 under Section 790.102. The potential impacts sought to be  
2 mitigated by the general prohibition on additional eating  
3 establishments in the West Portal NCD can be addressed by review  
4 by the Planning Commission and the addition of conditions  
5 attached to the granting of a conditional use needed for the  
6 exception.

7 (5) One of the Priority General Plan Policies passed by  
8 the voters as an Initiative Ordinance in 1986 and found in  
9 Planning Code Section 101.1(b)(1) states, "That existing  
10 neighborhood-serving retail uses be preserved and enhanced and  
11 future opportunities for resident employment in and ownership of  
12 such businesses [be] enhanced".

13 (6) The Board finds that it is necessary to the public  
14 health, safety and welfare that existing neighborhood-serving  
15 retail uses be preserved and enhanced in the West Portal NCD in  
16 order to ensure that residents of the neighborhood are not  
17 needlessly inconvenienced in shopping for everyday needs.

18 (b) Priority Policy Findings. Pursuant to Section 101.1  
19 of the Planning Code, the Board of Supervisors makes the  
20 following findings:

21 (1) The legislation is consistent with Priority Policy 1  
22 in that it will help enhance the viability of a type of  
23 commercial use in the West Portal NCD that is neighborhood  
24 serving.

25 (2) The legislation is consistent with Priority Policy 2

1 in that it will help preserve the existing neighborhood character  
2 and the cultural and economic diversity of the West Portal NCD by  
3 helping a greater variety of uses to compete for limited  
4 commercial space.

5 (3) The legislation is consistent with Priority Policy 3  
6 in that it will not affect the City's supply of affordable  
7 housing.

8 (4) The legislation is consistent with Priority Policy 4  
9 in that the conditional use provision will allow City review of  
10 the exception to help avoid operations that may cause conflicts  
11 with the public transit lines that operate in the West Portal  
12 NCD.

13 (5) By helping the economic viability of a slightly new  
14 type of retail business in the West Portal NCD, the legislation  
15 is consistent with Priority Policy 5 in that it will help  
16 maintain a diverse economic base in that district.

17 (6) The legislation will have no effect on earthquake  
18 preparedness, landmark preservation and light access to parks and  
19 open spaces which are the subjects of Priority Policies 6, 7 and  
20 8, respectively.

21 Section 2. Part II, Chapter II of the San Francisco  
22 Municipal code ("Planning Code"), is hereby amended by adding the  
23 "pound" symbol [#] after the letter "P" in the "1st" [floor]  
24 column of Section 729.40 in the West Portal NCD Zoning Control  
25 Table to read as follows:

1	2	3	4	5	6	7	8	9	10	Controls by Story		
										1st	2nd	3rd
No.	Zoning Category	§ Reference										
	729.40	Other Retail Sales										
		and Services	§ 790.102	P_#	P							

5 Section 3. Part II, Chapter II of the San Francisco  
 6 Municipal Code ("Planning Code"), is hereby amended by adding  
 7 language to the "Specific Provisions for the West Portal  
 8 District", at the end of the West Portal Zoning Control Table  
 9 which constitutes Sections 729.10 through Section 729.95 so the  
 10 "Specific Provisions" will read as follows:

11 SPECIFIC PROVISIONS FOR THE WEST PORTAL DISTRICT

12	13	14	15	16	17	18	19	20	21	22	23	24	25
Article 7	Other												
Code Section	Code Section	Zoning Controls											
§ 729.40	790.102	Boundaries:	<u>The entire West Portal</u>										
			<u>Neighborhood Commercial</u>										
			<u>District</u>										
		Controls:	<u>A Retail Coffee Store or</u>										
			<u>other non-alcoholic beverage</u>										
			<u>store as defined by</u>										
			<u>Subsection 790.102(n) may be</u>										
			<u>granted a conditional use to</u>										
			<u>be exempt from the</u>										
			<u>prohibition described in that</u>										
			<u>subsection of cooking devices</u>										
			<u>and on-site food preparation</u>										

not connected with beverage preparation, provided that the cooking device allowed shall be limited to one small device for warming sandwich ingredients and provided that all other provisions of Subsection 790.102(n) are met.

§ 729.53

Boundaries: The entire West Portal Neighborhood Commercial District

Controls: Applicable only for the use of stock brokerage. A stock brokerage may apply for Conditional Use if there are no more than a total of seven financial uses and/or stock brokerages within the district. If there are more than seven financial services and/or stock brokerages in the district, stock brokerages shall not be permitted.

Section 4. Part II, Chapter II of the San Francisco Municipal

1 code ("Planning Code"), is hereby amended by amending Section  
2 790.102 to read as follows.

3 **SEC. 790.102. SALES AND SERVICES, OTHER RETAIL.** A retail  
4 use which provides goods and/or services but is not listed as a  
5 separate zoning category in zoning category numbers .41 through  
6 .63 listed in Article 7 of this Code, including, but not limited  
7 to, sale or provision of the following goods and services:

8 (a) General groceries;

9 (b) Specialty groceries such as cheese, confections,  
10 coffee, meat, produce;

11 (c) Pharmaceutical drugs and personal toiletries;

12 (d) Personal items such as tobacco and magazines;

13 (e) Self-service laundromats and dry cleaning, where no  
14 portion of a building occupied by such use shall have any opening  
15 other than fixed windows and exits required by law within 50 feet  
16 of any R District;

17 (f) Household goods and service (including paint, fixtures  
18 and hardware, but excluding other building materials);

19 (g) Variety merchandise;

20 (h) Florists and plant stores;

21 (i) Apparel and accessories;

22 (j) Antiques, art galleries and framing service;

23 (k) Home furnishings, furniture and appliances;

24 (l) Books, stationery, music and sporting goods;

25 (m) Toys, gifts, and photographic goods and services; and

1 (n) Retail coffee stores. As used herein, retail coffee  
2 store means:

3 (1)((.)) A retail drinking use which provides ready-to-drink  
4 coffee and/or other nonalcoholic beverages for consumption on or  
5 off the premises, which may or may not provide seating. Its  
6 intended design is not to serve prepared ready-to-eat food for  
7 consumption on or off the premises, except where a conditional use  
8 is granted for an exception in the West Portal NCD pursuant to  
9 the "Specific Provisions for the West Portal District". Such use  
10 exhibits the following characteristics:

11 (A)((.)) Contains no more than 15 seats with no more than 400  
12 square feet of floor area devoted to seating,

13 (B)((.)) A limited menu of beverages prepared on the premises  
14 and able to be quickly prepared for consumption on or off the  
15 premises,

16 (C)((.)) Beverages served in disposable or nondisposable  
17 containers for consumption on or off the premises,

18 (D)((.)) Beverages are ordered and served at a customer  
19 service counter,

20 (E)((.)) Beverages are paid for prior to consumption,

21 (F)((.)) Public service area, including queuing areas and  
22 service counters, which counters are designed specifically for  
23 the sale and distribution of beverages;

24 (G)((.)) Beverages are available upon a short waiting time,

25 (H)((.)) Equipment to prepare beverages for consumption,



1       (I)((.)) Limited amount of nonprepackaged food goods may be  
2 served, such as pastries or similar goods,

3       (J)((.)) No on-site food preparation, and no equipment to  
4 cook or reheat food or prepare meals other than that connected to  
5 beverage preparation, except where a conditional use is granted  
6 for an exception in the West Portal NCD pursuant to the "Specific  
7 Provisions for the West Portal District".

8       (K)((.)) Coffee beans, tea, syrups, herbs and other beverage-  
9 based products and equipment to make and/or reconstitute  
10 beverages or consume coffee, tea and/or other beverages may be  
11 sold.

12       It may include any use permitted for specialty grocery, as  
13 defined in Section 790.102(b), but if so, such use shall not  
14 include accessory take-out food activity, as described in Section  
15 703.2(b)(1)(C) of this Code, except to the extent permitted by  
16 this Subsection 790.102(n). It is distinct and separate from a  
17 small self-service or large fast-food restaurant, as defined in  
18 Section 790.90 and 790.91 of this Code, or a full-service  
19 restaurant as defined in Section 790.92 of this Code.

20       (2)((.)) It shall be conducted in accordance with the  
21 following conditions:

22       (A)((.)) All debris boxes shall be kept in enclosed  
23 structures,

24       (B)((.)) The operator shall be responsible for cleaning the  
25 sidewalk in front of or abutting the building to maintain the

sidewalk free of paper or other litter during its business hours,  
in accordance with Article 1, Section 34 of the San Francisco  
Police Code,

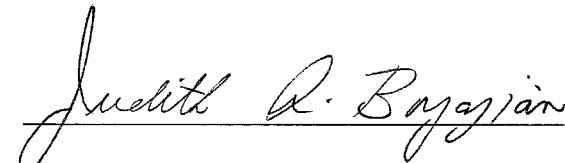
(C)((.)) Noise and odors shall be contained within the  
premises so as not to be a nuisance to nearby residents or  
neighbors.

This Section excludes tourist motels, as distinguished from  
tourist hotels in Section 790.46 of this Code, amusement game  
arcades as defined in Section 790.4 of this Code and household  
goods self-storage facilities, which are included in storage as  
defined in Section 790.117 of this Code. It also excludes the  
sale of heating fuel and the sale or rental of commercial  
equipment (excluding office equipment) and construction  
materials, other than paint, fixtures and hardware.

APPROVED AS TO FORM:

LOUISE H. RENNE, CITY ATTORNEY

By:



JUDITH A. BOYAJIAN  
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:** 990188

**Date Passed:**

Ordinance amending Planning Code by amending Section 790.102 to modify the definition of "Sales and Services, Other Retail" by allowing, as a conditional use, a limited exception to the prohibition on the use of cooking equipment and on-site food preparation not connected with beverage preparation for retail beverage stores in the West Portal Neighborhood Commercial District (NCD).

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April 12, 1999 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 10 - Ammiano, Becerril, Bierman, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

Absent: 1 - Brown

April 19, 1999 Board of Supervisors — SEVERED FROM CONSENT AGENDA

April 19, 1999 Board of Supervisors — CONTINUED

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Teng, Yaki, Yee

Absent: 1 - Newsom

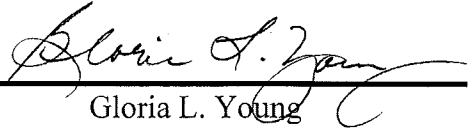
May 3, 1999 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Teng, Yaki, Yee

Absent: 1 - Katz

File No. 990188

I hereby certify that the foregoing Ordinance was FINALLY PASSED on May 3, 1999 by the Board of Supervisors of the City and County of San Francisco.



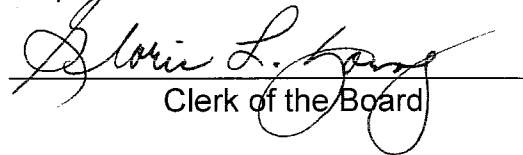
Gloria L. Young  
Clerk of the Board

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
Mayor Willie L. Brown Jr.

Date: May 17, 1999

I hereby certify that the foregoing ordinance, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.



Clerk of the Board

File No.  
990188