

1 [Planning Code - North Beach, Telegraph Hill, Broadway and Chinatown Area Controls;  
2 Formula Retail]

3 **Ordinance amending the Planning Code to support Legacy Businesses; expand the**  
4 **definition of historic buildings and impose additional requirements in the Broadway**  
5 **Neighborhood Commercial District (NCD) and North Beach Special Use District (SUD);**  
6 **prohibit certain uses in the North Beach SUD; reduce the lot size limit in the North**  
7 **Beach SUD; modify the requirements for approval of parking garages in the Telegraph**  
8 **Hill-North Beach Residential SUD, the North Beach NCD, and Chinatown Mixed Use**  
9 **Districts; revise the definition of Formula Retail; affirming the Planning Department’s**  
10 **determination under the California Environmental Quality Act; making findings of**  
11 **consistency with the General Plan, and the eight priority policies of Planning Code,**  
12 **Section 101.1; and making findings of public convenience, necessity, and welfare**  
13 **under Planning Code, Section 302.**

14 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
15 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
16 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
17 **Board amendment additions** are in double-underlined Arial font.  
18 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
19 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
20 subsections or parts of tables.

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

22 Section 1. Findings.

23 (a) The Planning Department has determined that the actions contemplated in this  
24 ordinance comply with the California Environmental Quality Act (California Public Resources  
25 Code Sections 21000 *et seq.*). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. 170419, and is incorporated herein by reference. The Board affirms  
2 this determination.

3 (b) On July 19, 2017, the Planning Commission, in Resolution No. 19966, adopted  
4 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
5 City’s General Plan and eight priority policies of Planning Code Section 101.1. The Board  
6 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
7 Board of Supervisors in File No. 170419, and is incorporated herein by reference.

8 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code  
9 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth  
10 in Planning Commission Resolution No. 19966, and the Board incorporates such reasons  
11 herein by reference.

12  
13 Section 2. The Planning Code is hereby amended by revising Sections 121.1, 155,  
14 249.25, 249.49, 253.1, 303.1, 722, and 780.3, to read as follows:

15  
16 **SEC. 121.1. DEVELOPMENT OF LARGE LOTS, NEIGHBORHOOD COMMERCIAL**  
17 **DISTRICTS.**

18 (a) Purpose. In order to promote, protect, and maintain a scale of development ~~which~~  
19 that is appropriate to each district and compatible with adjacent buildings, new construction or  
20 significant enlargement of existing buildings on lots of the same size or larger than the square  
21 footage stated in the table below shall be permitted only as Conditional Uses.

22

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

* * * *	* * * *
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\* \* \* \*

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

\* \* \* \*

**(t) Garage Additions in the North Beach Neighborhood Commercial District, North Beach-Telegraph Hill Special Use District, and Chinatown Mixed Use Districts.**

Notwithstanding any other provision of this Code to the contrary, a mandatory discretionary review hearing by the Planning Commission is required in order to install a garage in an existing *or proposed* structure of ~~four~~*two* units or more in the North Beach NCD, the North Beach-Telegraph Hill *Residential* SUD, and the Chinatown Mixed Use Districts; ~~Section 311 notice is required for a building of less than four units.~~

In ~~approving order to approve the~~ installation of ~~the any~~ garage ~~in these districts~~, the ~~Commission City~~ shall find that: (1) the proposed garage opening/addition of off-street parking will not cause ~~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;~~ (2) the proposed garage opening/addition of off-street parking will not ~~substantially eliminate or decrease the livability of a square footage of any dwelling unit without increasing the floor area in a commensurate amount;~~ (3) the building has not had two or more evictions with each eviction associated with a separate unit(s) within the past ten years, and (4) ~~the garage would not front on an Alley pursuant to Section 155(r)(2) of this Code or on a public right-of-way narrower than 41 feet, and (5)~~ the proposed garage/addition of off-street parking is consistent with the Priority Policies of Section 101.1 of this Code. Prior to ~~the Commission hearing, or prior to~~ the issuance of notification under Section 311~~(e)(2)~~ or 312 of this Code, the ~~Planning~~ Department shall

1 require a signed affidavit by the project sponsor attesting to (1), (2), and (3) above, which the  
2 Department shall independently verify, and the Department shall determine whether ~~The~~  
3 ~~Department shall also have made a determination that~~ the project complies with subsection (4)  
4 above. If the project sponsor does not provide such signed affidavit, or the garage would front on an  
5 Alley or on a public right-of-way narrower than 41 feet, the Department shall disapprove the  
6 application and no Planning Commission hearing shall be required.

7

8 **SEC. 249.49. TELEGRAPH HILL - NORTH BEACH RESIDENTIAL SPECIAL USE**  
9 **DISTRICT.**

10 (a) **Purposes.** To regulate the amount of off street parking and limit the installation of  
11 garages in existing all residential structures in order to ensure that they do not significantly  
12 increase the level of automobile traffic, increase pollution, cause the removal of on-street parking  
13 spaces, or impair pedestrian use on narrow public rights-of-way in the District, and to preserve  
14 existing affordable housing by preventing the ability to add parking from providing the addition of off-  
15 site parking, which provides an incentive to convert existing affordable residential buildings ~~from~~  
16 ~~rental buildings~~ to market-rate tenancies in common housing.

17 \* \* \* \*

18 (c) **Controls.**

19 \* \* \* \*

20 (2) Installation of a Parking Garage. Installation of a garage in an existing or  
21 proposed residential building of ~~four~~ two or more units requires a mandatory discretionary  
22 review hearing by the Planning Commission; ~~Section 311 Notice is required for a building of less~~  
23 ~~than four units.~~ In approving order to approve the installation of ~~the any~~ garage in these districts, the  
24 Commission shall find that: (1) the proposed garage opening/addition of off-street parking will  
25 not cause the elimination or reduction of ground-story retail or commercial space; the "removal" or

1 ~~"conversion of residential unit," as those terms are defined in Section 317 of this Code;~~ (2) the  
2 proposed garage opening/addition of off-street parking will not ~~substantially eliminate or~~  
3 decrease the ~~livability of a square footage of any~~ dwelling unit ~~without increasing the floor area in a~~  
4 ~~commensurate amount~~; (3) the building has not had two or more ~~"no fault" evictions, as defined in~~  
5 ~~37.9(a)(78) (1316) of the San Francisco Administrative Code, with each eviction associated with a~~  
6 ~~separate unit(s)~~ within the past ~~10~~~~ten~~ years, ~~with each eviction associated with a separate unit(s)~~, (4)  
7 the garage would not front on ~~an Alley pursuant to Section 155(r)(2) of this Code or on~~ a public  
8 right-of-way narrower than 41 feet, and (5) the proposed garage ~~or~~ addition of off-street  
9 parking ~~installation~~ is consistent with the Priority Policies of Section 101.1 of this Code.

10 Prior ~~to the Planning Commission hearing, or prior~~ to issuance of any required  
11 notification under Section 311~~(e)(2)~~ or 312 of this Code, the ~~Planning~~ Department shall require  
12 a signed affidavit by the project sponsor attesting to (1), (2), and (3) above, which the  
13 Department shall independently verify, and the Department shall determine whether. ~~The~~  
14 ~~Department shall also have made a determination that~~ the project complies with (4) and (5) above.  
15 If the project sponsor does not provide such signed affidavit, or the garage would front on an Alley or  
16 public right-of-way narrower than 41 feet, the Department shall disapprove the application and no  
17 Planning Commission hearing shall be required.

18  
19 **SEC. 253.1. REVIEW OF PROPOSED BUILDINGS AND STRUCTURES IN THE**  
20 **BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT.**

21 \* \* \* \*

22 (b) In authorizing any such proposal for a building or structure exceeding 40 feet in  
23 height, the Planning Commission shall find, in addition to the criteria of Section 303(c), that  
24 the proposal is consistent with the expressed purposes of this Code, of the Broadway  
25

1 Neighborhood Commercial District, and of the height and bulk districts, set forth in Sections  
2 101, 714 and 251 of this Code, and that the following criteria are met:

3 (1) The height of the new or expanding development will be compatible with the  
4 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  
6 existing height of adjacent buildings, transitions will be provided between the taller and shorter  
7 buildings.

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

10 (4) The architectural and cultural character and features of existing buildings shall be  
11 preserved and enhanced. The Historic Preservation Commission or its staff shall review any proposed  
12 alteration of historic resources and must determine that such alterations comply with the Secretary of  
13 Interior’s Standards for the Treatment of Historic Properties before the City approves any permits to  
14 alter such buildings. For purposes of this section, “historic resources” shall include Article 10  
15 Landmarks and buildings located within Article 10 Historic Districts, buildings and districts identified  
16 in surveys adopted by the City, buildings listed or potentially eligible for individual listing on the  
17 National or California Registers, and buildings located within listed or potentially eligible National  
18 Register or California Register historic districts. The Planning Department shall also consult  
19 materials available through the California Historical Resources Information System (CHRIS) and  
20 Inventory to determine eligibility.

21  
22 **SEC. 303.1. FORMULA RETAIL USES.**

23 \* \* \* \*

24 (c) **Retail Sales or Service Activity or Retail Sales or Service**  
25 **Establishment.**" For the purposes of this Section 303.1, a retail sales or service activity or

1 retail sales or service establishment shall include the following uses whether functioning as a  
2 principal or accessory use, as defined in Articles 1, 2, 7, and 8 of this Code:

- 3 - Bar, §102;
- 4 - Drive-up Facility, §§ 102, 890.30;
- 5 - Eating and Drinking Use, §102;
- 6 - Liquor Store, §102;
- 7 - Sales and Service, Other Retail, § 890.102, and Retail Sales and Service,

8 General;

- 9 - Restaurant, §102;
- 10 - Limited-Restaurant, §102;
- 11 - Sales and Service, Retail, §§ 102, 890.104, *including but not limited to the*

12 *following specific uses: Adult Business, Animal Hospital, Bar, Cat Boarding, Chair and Foot Massage,*  
13 *Tourist Oriented Gift Store, General Grocery, Specialty Grocery, Gym, Hotel, Jewelry Store, Kennel,*  
14 *Liquor Store, Massage Establishment, Chair and Foot Massage, Mobile Food Facility, Mortuary*  
15 *(Columbarium), Motel, Non-Auto Sales, Pharmacy, Restaurant, Limited Restaurant, General Retail*  
16 *Sales and Service, Financial Services, Fringe Financial Services, Limited Financial Services, Health*  
17 *Services, Instructional Service, Personal Service, Retail Professional Service, Self-Storage, Tobacco*  
18 *Paraphernalia Establishment, and Trade Shop;*

- 19 - Service, Financial, §§ 102, 890.110;
- 20 - Movie Theater, §§ 102, 890.64;
- 21 - Amusement and Game Arcade, §§ 102, 890.4;
- 22 - Service, Limited Financial, except single automated teller machines at the street

23 front that meet the Commission's adopted Performance-Based Design Guidelines and  
24 automated teller machines located within another use that are not visible from the street,  
25 §102;

- 1 - Service, Fringe Financial, §§ 102, 890.113;
- 2 - Tobacco Paraphernalia Establishment, §§ 102, 890.123;
- 3 - Massage Establishment, §§ 102, 890.60;
- 4 - Service, Personal, §§ 102. 890.116;
- 5 - Service, Instructional, §102;
- 6 - Gym, §102;
- 7 - General Grocery, §102;
- 8 - Specialty Grocery, §102;
- 9 - Pharmacy, §102;
- 10 - Jewelry Store, §§ 102, 890.51;
- 11 - Tourist Oriented Gift Store, §§ 102, 890.39; and
- 12 - Non-Auto Vehicle Sales or Rental, §§ 102, 890.69.

13 \* \* \* \*

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

15 \* \* \* \*

16  
 17 **Table 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT**  
 18 **ZONING CONTROL TABLE**

Zoning Category	§ References	North Beach NCD Controls
<b>BUILDING STANDARDS</b>		
* * * *		
Street Frontage and Public Realm		
* * * *		

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Vehicular Access Restrictions	§§ 155(r) and (t)	Prohibited on Columbus Avenue between Washington and North Point Streets, Grant Avenue between Columbus Avenue and Filbert Street, and Green Street between Grant Avenue and Columbus/Stockton Streets, and Alleys in the NBNCD and Telegraph Hill-NB Residential SUD. Mandatory discretionary review required to install garages in buildings with <del>four</del> <u>two</u> or more units.
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Miscellaneous

Lot Size (Per Development)	§§ 102, 121.1	P up to <del>4,999</del> <u>2,499</u> square feet; C <del>5,000</del> <u>2,500</u> square feet and above
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\* \* \* \*

**NON-RESIDENTIAL STANDARDS AND USES**

\* \* \* \*

Sales and Service Use Category	<u>Controls by Story</u>		
	<u>1st</u>	<u>2nd</u>	<u>3rd+</u>

\* \* \* \*

<u>Services, Health</u>	<u>§102</u>	<u>NP</u>	<u>C</u>	<u>C</u>
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(1) NORTH BEACH OFF-STREET PARKING, RESIDENTIAL (Section 155(t))

1 **Boundaries:** North Beach NCD, North-Beach Telegraph Hill SUD

2 **Controls:**

3 (a) Installing a garage in an existing or proposed residential building of ~~four~~two or more  
4 units requires a mandatory Discretionary Review by the Planning Commission; ~~Section 311~~  
5 ~~notice is required for a building of less than four units.~~ In ~~approving order to approve the~~ installation  
6 of ~~the any~~ garage in these districts, the Commission shall find that:

7 (i) the proposed garage opening/addition of off-street parking will not cause the  
8 elimination or reduction of ground-story retail or commercial space; the "removal" or "conversion of  
9 residential unit," as those terms are defined in Section 317 of this Code;

10 (ii) the proposed garage opening/addition of off-street parking will not substantially  
11 decrease the livability of a square footage of any dwelling unit ~~without increasing the floor area in~~  
12 ~~a commensurate amount;~~

13 (iii) the building has not had two or more "no-fault" evictions, as defined in Sections  
14 37.9(a)(78)-(1316) of the San Francisco Administrative Code, with each eviction associated with a  
15 separate unit(s) within the past 10~~ten~~ years;

16 (iv) the garage would not front on an Alley pursuant to Section 155(r)(2) of this Code or  
17 on a public right-of-way narrower than 41 feet, and

18 (v) the proposed garage/addition of off-street parking ~~installation~~ is consistent with  
19 the Priority Policies of Section 101.1 of this Code.

20 (b) Prior to ~~scheduling the Planning Commission hearing, or prior to~~ issuance of any required  
21 notification under Section 311~~(e)(2)~~ or 312 of this Code, the ~~Planning~~ Department shall require  
22 a signed affidavit by the project sponsor attesting to ~~(1), (2), and (3)~~ (i) (ii) and (iii) above,  
23 which the Department shall independently verify, and the Department shall determine whether-  
24 ~~The Department shall also have made a determination that. The Department shall also have made a~~  
25 ~~determination that~~ the project complies with ~~(4) and (5)~~ (iv) and (v) above. If the project sponsor

1 does not provide such affidavit or the Department determines that the garage would violate  
2 subsection (iv) above, the Department shall disapprove the application and no Planning Commission  
3 hearing shall be required.

4 \* \* \* \*

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

8 (a) **Purposes.** In order to (1) preserve and maintain the mix and variety of  
9 neighborhood-serving retail sales and personal services of a type that supplies commodities  
10 or offers personal services to residents of North Beach and nearby neighborhoods; (2), to  
11 preserve and maintain the District's small-scale, fine grain storefronts; (3), and to protect and  
12 encourage upper-story Residential Uses; (4) preserve and enhance the architectural and cultural  
13 heritage of North Beach; and (5) preserve the contributions of Legacy Businesses to the history and  
14 identity of North Beach, there shall be a North Beach Special Use District applicable to the  
15 North Beach Neighborhood Commercial District, as designated on the Sectional Map SU01 of  
16 the Zoning Map of the City and County of San Francisco.

17 (b) **Definitions.** The following definition s applies shall apply only to the North Beach  
18 Special Use District:

19 (1) **Specialty Food Manufacturing.** A Commercial Use that includes the  
20 manufacturing and processing of foods on the premises for retail and/or wholesale sales and  
21 also provides a customer service counter for sale of such manufactured or processed food  
22 directly to the consumer. It may have seating as a minor and incidental use that occupies less  
23 than 15% of the Occupied Floor Area of the establishment. It includes, but is not limited to,  
24 bakeries, coffee roasters, confectionaries, chocolatiers, makers of homemade ice cream and  
25

1 handmade gelato or sorbet. It shall not provide any alcohol sales for consumption on or off  
2 the premises.

3 (2) **Legacy Business.** A business as defined under Administrative Code Section  
4 2A.242 and included in the Legacy Business Registry.

5 (3) **Historic Buildings.** “Historic buildings” shall include Planning Code Article 10  
6 Landmarks and buildings located within Article 10 Historic Districts, buildings and districts identified  
7 by surveys adopted by the City, buildings listed or potentially eligible for individual listing on the  
8 National or California Registers, and buildings located within listed or potentially eligible National  
9 Register or California Register historic districts. The Planning Department shall also consult  
10 materials available through the California Historical Resources Information System (CHRIS) and  
11 Inventory to determine eligibility.

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

13 \* \* \* \*

14 (6) **Legacy Business.** Unless otherwise prohibited by this Section 780.3, Section  
15 722, or any other section of this Code, any new Non-Residential Use proposed where the immediately  
16 prior Commercial Use was a Legacy Business shall require Conditional Use authorization pursuant to  
17 Section 303 of this Code.

18 (7) **Architectural and Cultural Heritage of North Beach.** Section 101.1 of the  
19 Planning Code includes the priority policy that historic buildings be preserved. The architectural and  
20 cultural character and features of existing historic buildings shall be preserved and enhanced. The  
21 Historic Preservation Commission or its staff shall review any proposed alterations to historic  
22 buildings, as defined in subsection 780.3(b)(3), and must determine that such alterations comply with  
23 the Secretary of Interior’s Standards for the Treatment of Historic Properties before the City approves  
24 any permits to alter such buildings.

25 (8) **Additional Controls:** The following additional controls shall apply in the North

1 Beach Special Use District. (1) A Planned Unit Development shall not be permitted; (2) Large-Scale  
2 Urban Agriculture uses shall not be permitted; (3) Hours of Operation shall not be permitted from 2  
3 a.m. to 6 a.m.; (4) Unless otherwise prohibited or limited by this Section 780.3, Section 722, or any  
4 other section of this Code, active commercial uses, as defined in Planning Code Section 145.4(c), shall  
5 be required at the Ground Floor; and (5) A Health Service use, as defined in Section 102 of this Code,  
6 shall be prohibited on the ground floor. On the second floor and above, a Health Service use shall  
7 require Conditional Use authorization pursuant to Section 303 of this Code.

8 (9) **Conditional Use Authorizations.** In addition to the findings required under  
9 Section 303 of this Code, for any use or project within the District that is subject to Conditional Use  
10 authorization under this Section 780.3, Section 722, or any other section of this Code, the Planning  
11 Commission shall find that the proposed project supports the purposes of the North Beach SUD set  
12 forth in this Section 780.3.

13  
14 Section 3. Effective and Operative Dates. This ordinance shall become operative as  
15 of July 20, 2017. This ordinance shall become effective 30 days after enactment. Enactment  
16 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or  
17 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors  
18 overrides the Mayor’s veto of the ordinance.

19  
20 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends  
21 to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,  
22 punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that  
23 are explicitly shown in this ordinance as additions, deletions, Board amendment additions,  
24 and Board amendment deletions in accordance with the “Note” that appears under the official  
25 //

1 title of the ordinance.

2

3

4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By: \_\_\_\_\_  
7 KATE H. STACY  
8 Deputy City Attorney

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