

1 [Planning Code - Conversion of Certain Limited Restaurants to Restaurants - North Beach
2 Neighborhood Commercial-District Special Use District]

3 **Ordinance amending the Planning Code to allow certain Limited Restaurants in the**
4 **North Beach Neighborhood Commercial- Special Use District to convert to Restaurants**
5 **that may apply for liquor licenses; and affirming the Planning Department’s**
6 **determination under the California Environmental Quality Act; and making findings of**
7 **consistency with the General Plan and the eight priority policies of Planning Code**
8 **Section 101.1.**

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

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

17 Section 1. The Board of Supervisors of the City and County of San Francisco hereby
18 finds and determines that:

19 (a) Environmental and Planning Code Findings.

20 (1) The Planning Department has determined that the actions contemplated
21 in this ordinance comply with the California Environmental Quality Act (California Public
22 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
23 Board of Supervisors in File No. 200673, and is incorporated herein by reference. The Board
24 affirms this determination.

25 (2) On August 27, 2020, the Planning Commission, in Resolution No. 20779,
adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
3 the Board of Supervisors in File No. 200673, and is incorporated herein by reference.

4 (3) On August 27, 2020, the Planning Commission, in Resolution No. 20779,
5 approved this legislation, recommended it for adoption by the Board of Supervisors, and
6 adopted findings that it will serve the public necessity, convenience and welfare. Pursuant to
7 Planning Code Section 302, the Board adopts these findings as its own. A copy of said
8 Resolution is on file with the Clerk of the Board of Supervisors in File No. 200673, and is
9 incorporated herein by reference herein.

10 (b) Specific Findings.

11 (1) The COVID-19 pandemic has created unprecedented challenges for
12 small businesses in San Francisco, including for food establishments that fall under the
13 definitions for Restaurants and Limited Restaurants under the Planning Code. The City has
14 responded with multiple policies to provide food establishments and other small businesses
15 with grants, low- and no-interest loans, and allow innovative uses of the public realm through
16 the Shared Spaces program.

17 (2) The North Beach neighborhood has among the highest concentrations of
18 liquor licenses of any neighborhood in San Francisco, and has long restricted new liquor
19 licenses as well as adopted policies to decrease the number of liquor licenses in the
20 neighborhood through various attrition mechanisms. That said, surveys by restaurant industry
21 stakeholders now suggest that the financial impacts of the COVID-19 pandemic many have
22 long-lasting effects on the restaurant industry, potentially prompting as many as 50% of
23 restaurants in San Francisco to close entirely, and many to dramatically alter their business
24 models as they seek ways to adapt to the new economic conditions.

1 (3) The actions contemplated in this ordinance aim to provide relief to Limited
2 Restaurants that also operate as Bona Fide Eating Places in the North Beach Special Use
3 District but that have nevertheless been precluded from acquiring liquor licenses due to the
4 aforementioned high concentration of liquor licenses and resulting policies to reduce the
5 number of liquor licenses in the neighborhood. This narrow relief is intended to apply to
6 Limited Restaurants that have provided meal service to patrons and otherwise have met the
7 definition of Bona Fide Eating Places under the Planning Code, even though the definition of
8 Limited Restaurants also includes specialty food establishments like gelaterias and specialty
9 bakeries that do not provide meal service.

10
11 Section 2. The Planning Code is hereby amended by revising Sections 722 and 780.3,
12 to read as follows:

13
14 **SEC. 722. NORTH BEACH NEIGHBORHOOD COMMERCIAL DISTRICT.**

15 * * * *

16 (6) NORTH BEACH LIQUOR LICENSES FOR RESTAURANTS (Section 780.3): A
17 Restaurant Use may only add ABC license types 02, 23, 41, 47, 49, 59 or 75 as a Conditional
18 Use on the First Story if, in addition to the criteria set forth in Section 303, the Planning
19 Commission finds that the Restaurant is operating as a Bona Fide Eating Place as defined in
20 Section 102. Should a Restaurant fail to operate as a Bona Fide Eating Place for any length of
21 time, the Conditional Use authorization shall be subject to immediate revocation. To verify that
22 the Restaurant is continuing to operate as a Bona Fide Eating Place, records of the
23 Restaurant's gross receipts, showing that a minimum of 51% of its gross receipts within the
24 last year is from food sales prepared and sold to guests on the premises, shall be provided to
25

1 the Department upon request. All records and information shall be submitted to the
2 Department under penalty of perjury.

3
4 **SEC. 780.3. NORTH BEACH SPECIAL USE DISTRICT.**

5 * * * *

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

7 * * * *

8 (2) Alcohol Licenses.

9 (A) A Restaurant may provide on-site beer, wine, and/or liquor sales
10 for drinking on the premises (with ABC license types 02, 23, 41, 47, 49, 59 or 75) as a
11 Conditional Use on the First Story if, in addition to the criteria set forth in Section 303, the
12 Planning Commission finds, based on information submitted to the Department by the
13 applicant, that the Restaurant is and will continue to operate as a Bona-Fide Eating Place as
14 defined in Section 102. Should a Restaurant fail to operate as a Bona-Fide Eating Place for
15 any length of time, the Conditional Use authorization shall be subject to immediate revocation
16 per Planning Code Section 303(f). To verify that the Restaurant is continuing to operate as a
17 Bona-Fide Eating Place, records of the Restaurant’s gross receipts, showing that a minimum
18 of 51% of its gross receipts within the last year preceding the Department’s request is from
19 food sales prepared and sold to guests on the premises, shall be provided to the Department
20 upon request. All records and information shall be submitted to the Department under penalty
21 of perjury.

22 (B) Subject to the requirements set forth in this subsection (B), a Limited
23 Restaurant that existed as of March 1, 2020, may apply for a permit to convert to Restaurant use within
24 three ~~three~~ six months after the effective date of the ordinance in Board File No. 200673.

1 (i) The application to convert to Restaurant Use shall include
2 records submitted under penalty of perjury showing that the Limited Restaurant has operated as a
3 Bona Fide Eating Place for at least ~~four~~ three full calendar months between ~~March 4~~ November 1,
4 2019 and ~~February 29~~ September 1, 2020. The Department shall reject the application if the records
5 do not support the application for such conversion; otherwise, it shall approve it.

6 (ii) If the application to convert is approved pursuant to this
7 subsection, Restaurant Use shall be principally permitted, including for purposes of being eligible
8 to apply for a Conditional Use Authorization and, notwithstanding any other Section of the
9 Planning Code, shall not require separate Conditional Use Authorization -to permit the sale of
10 alcohol on the premises under Section 780.3(c)(2)(A).

11 (iii) Applications to convert pursuant to this subsection shall be
12 exempt from the notice provisions of Planning Code Section 311 and from the requirement
13 under Section 780.3 that Restaurants only occupy spaces that were previously occupied by a
14 Restaurant or a Bar.

15 (iv) This subsection 780.3(c)(2)(B) shall expire ~~three~~ six months
16 after the effective date of the ordinance in Board File No. 200673, and the City Attorney shall
17 thereafter cause this subsection to be removed from the Planning Code and the remaining subsections
18 of this Section 780.3 to be renumbered accordingly.

19 * * * *

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21 Section 3. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor's veto of the ordinance.

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

7 APPROVED AS TO FORM:
8 DENNIS J. HERRERA, City Attorney

9 By: /s/ Andrea Ruiz-Esquide
10 ANDREA RUIZ-ESQUIDE
11 Deputy City Attorney

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