



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Amendment

HEARING DATE: FEBRUARY 28, 2019  
90-DAY DEADLINE: MARCH 18, 2019

*Project Name:* **Small Business Permit Streamlining**  
*Case Number:* **2019-000048PCA** [Board File No. 181211]  
*Initiated by:* Supervisor Brown, Mayor Breed / Introduced December 11, 2018  
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*Recommendation:* **Approval**

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### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Health, Police, and Planning Codes to create more avenues for establishment and approval of certain types of Entertainment, Bar, Restaurant, Retail Sales & Service, and Limited Commercial Uses in RH, RM, & RTO Districts, and Outdoor Activity Areas.

#### The Way It Is Now:

1. The Planning Code defines "Bar" and "Restaurant" uses to include several state liquor license types. The license types included are as follows:
  - a. "Bar": 23 (Small Beer Manufacturer), 42 (On-Sale Beer and Wine for Public Premises), 48 (On-Sale General for Public Premises), and 61 (On-Sale Beer for Public Premises).
  - b. "Restaurant": 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place), 47 ( On-Sale General for Bona Fide Public Eating Place), 49 (On-Sale General for Seasonal Business), 59 (On-Sale Beer and Wine for Seasonal Business), and 75 (On-Sale General Brew-Pub).
2. The Planning Code is silent on whether a nonprofit theater that serves alcohol during performances (allowed under state license Type 64), would require the theater to receive a use permit for a Bar.
3. An entertainment venue must have both Restaurant and Nighttime Entertainment uses as principal uses to hold a restaurant-style liquor license and admit patrons of all ages. Under the definition of a "Restaurant", this means the venue must also operate as a Bona Fide Eating Place, under which food sales must constitute at least 51% of gross receipts.
4. Certain Retail Sales & Service Uses in NC-1 Districts are permitted unless the business is located within  $\frac{1}{4}$  mile of any Neighborhood Commercial District (NCD) or Restricted Use District (RUD) with more restrictive controls.
5. Limited Commercial Uses (LCUs) in RH, RM, & RTO districts may change to another use that is permitted in a NC-1 zoning district, unless it is located within  $\frac{1}{4}$  mile of a stricter NCD or RUD with more restrictive controls.

6. The Planning Code defines Amusement Game Arcade as any business that includes 11 or more mechanical amusement devices (including pinball machines and arcade games). A business with 10 or fewer devices is considered either a General Entertainment Use or an Accessory Use.
7. In most districts an Outdoor Activity Area located in the rear or side of the property requires either neighborhood notification or a Conditional Use (CU) authorization.

**The Way It Would Be:**

1. The definitions of “Bar” and “Restaurant” would be expanded to include several new state license types:
  - a. “Bar” would now additionally include Type 02 (Winegrower).
  - b. “Restaurant” would now additionally include Type 23 (Small Beer Manufacturer), and Type 87 (Neighborhood-Restricted Special On-Sale General License).
2. The Planning Code would clarify under the “Bar” definition that a nonprofit theater that serves alcohol during performances (allowed under state license Type 64), would *not* constitute a Bar use.
3. An entertainment venue that holds both Restaurant and Nighttime Entertainment use permits as principal uses would *not* be required to operate as a Bona Fide Eating Place.
4. Certain Retail Sales & Service Uses in NC-1 Districts would be permitted unless the business is located within **300 feet** of any NCD with more restrictive controls (Please note, RUDs would be deleted from this provision)
5. LCUs in RH, RM, & RTO districts may change to another use that is permitted in a NC-1 zoning district, unless it is located within **300 feet** of a stricter NCD with more restrictive controls (Please note, RUDs would be deleted from this provision).
6. “Amusement Game Arcade” would be deleted from the Planning Code as a separate use definition. Instead, this type of use would be allowed under a General Entertainment Use.
7. NCDs where an Outdoor Activity Area currently requires a CU would be amended to Permit Outdoor Activity Areas operating between the hours of 6am-10pm. Operations outside of those hours would require a CU. If neighborhood notice is currently required, it would still be required under this amendment.

**BACKGROUND**

In February 2018, the Office of Economic and Workforce Development published “State of the Retail Sector: Challenges and Opportunities for San Francisco’s Neighborhood Commercial Districts” (the “Retail Study”). Prepared by Strategic Economics, the Retail Study included briefs studying: the national restructuring of the retail, restaurant, and personal services industries; the factors required to support successful San Francisco retail districts; and opportunities, costs, and challenges for retail, restaurant, and personal services businesses in San Francisco, and the adaptations that businesses are making in response to changing conditions. Supervisor Brown and the Mayor have worked with the Office of Economic and Workforce Development to draft the proposed legislation to remedy some of the issues identified in the Retail Study, which will be discussed further below.

## **ISSUES AND CONSIDERATIONS**

### **“State of the Retail Sector” Study**

The Retail Study identified a national trend in retail stores to which San Francisco is not alone. The new trend focuses on creating “experiences” for consumers, rather than tangible objects the consumer purchases. This has taken many forms, including many retailers incorporating multiple use types, such as food and drink sales, events, and classes into one single business. While San Francisco possesses many competitive advantages that benefit local retailers and restaurants, the Retail Study observed that a significant number of Neighborhood Commercial Districts are experiencing an increase in vacancy rates. The Retail Study also found that San Francisco businesses face challenges connected to the City’s land use regulations and permitting requirements, which can add significant cost and time to the process of opening a new business and may limit retailers’ flexibility to adapt to changing economic conditions.

The Retail Study additionally found that nightlife and entertainment uses complement neighborhood retail sales and services by providing destinations and gathering spaces for potential retail customers. Despite these significant contributions to the local economy, nightlife and entertainment businesses often face zoning barriers, burdensome permitting requirements, and duplicative inspections.

### **ABC License Types versus Planning Code Definitions**

The Planning Code defines “Bar” and “Restaurant” uses to include a number of state liquor license types, but does not provide clear guidance regarding the treatment of businesses with several types of licenses. A business using a Type 23 brewery liquor license is defined as a “Bar” in the Planning Code, even though this license may be used by a brewery in conjunction with either a bar or restaurant. The lack of clarity on this point has required multiple brewpubs to seek Letters of Determination, adding time and money to move projects forward. Additionally, the definitions of Bar and Restaurant do not include a Type 02 winery liquor license, even though this license may be employed by a winery with either a bar or a restaurant.

A Type 64 license authorizes a nonprofit theater to serve alcoholic beverages to patrons no more than two hours before, during, and no later than 1 hour after theatrical performances. The Planning Code Sec. 102 does not mention a Type 64 liquor license in any of the Use definitions. The lack of clear guidance in the Planning Code has led to confusion about whether a Type 64 license would create a Bar use in these non-profit theaters.

A Type 87 license authorizes the Department to issue up to five new original neighborhood-restricted special on-sale general licenses each year, until a total of thirty new licenses within identified census tracts within the city. The licenses are neighborhood-restricted special on-sale general licenses, and businesses who possess them are required to be operated as Bona Fide Eating Place. They are additionally restricted from having any off-sale privileges and are generally non-transferable. The Planning Code does not mention the Type 87 license under any of its definitions. Adding the Type 87 to the definition of Restaurant will ensure there is no conflict with the operating conditions of the license in the State Code.

**ABC License Types Guide\***

	<i>General Description</i>	<i>Allows On-Site Sales?</i>	<i>Allows Off-Site Sales?</i>	<i>Other Restrictions:</i>
<b>02</b> <i>Winegrower</i> <i>(Winery)</i>	Wine & Brandy for production. May be duplicated for Bona Fide Eating Place (BFEP), Bar, or tasting room. If BFEP, may also sell beer and other wine.	Yes	Yes	Wine & Brandy sold must be produced by license holder
<b>23</b> <i>Small Beer Manufacturer</i> <i>(Brew Pub or Micro-Brewery)</i>	Beer for production. May be duplicated for a Bona Fide Eating Place, Bar, or tasting room. If BFEP, may also sell other beer and wine.	Yes	Yes	Limit of 60,000 or less barrels of beer production per year
<b>64</b> <i>Non-Profit Theater</i>	Alcohol sales to ticketholders no earlier than 2 hrs before & no later than 1hr after a ticketed theatrical performance.	Yes	No	Must be a 501(c)(3) Non-profit theater & performance must be a bona fide theater performance.
<b>87</b> <i>Neighborhood Restricted On-Sale</i>	Non-transferable alcohol sales only issuable in identified census tracts. Must operate as a Bona Fide Eating Place	Yes	No	5 new licenses issued within census tracts identified each year until 30 are issued.

\*For additional information, please see Exhibits A, B, & C

An entertainment venue must hold both Restaurant *and* Nighttime Entertainment use permits as principal uses to have a restaurant-style liquor license *and* admit patrons of all ages. Under Section 102 of the Planning Code, a “Restaurant” serving alcohol must operate as a “Bona Fide Eating Place,” defined to include requirements that the business (1) must receive at least 51% of its gross receipts from food sales; and (2) must be open and serving meals at least five days a week. The requirement to operate as a Bona Fide Eating Place places these venues in direct conflict with the Planning Code. The largest difference between a Bar and a Restaurant is the portion of sales that comes from food versus alcohol. If a venue

holds both a Bar and Restaurant use as principal uses, as is required, they logically cannot operate as both having at least 51% of gross receipts from food sales and less than 51% of gross receipts coming from food sales. A typical example of a business that operates under these two uses in San Francisco is comedy clubs. Comedy clubs usually make much of their profit from a combination of ticket sales, food sales, and alcohol sales. It is rare that this type of use earns at least 51% of its sales from food, even though serving food during performances is an integral part of the experience. This Ordinance seeks to clarify that an entertainment venue that holds both Restaurant and Nighttime Entertainment use permits, would *not* be required to operate as a Bona Fide Eating Place.

### **Arcade Game Definition**

The Planning Code defines “Amusement Game Arcade” as any business that includes 11 or more mechanical amusement devices (including pinball machines and arcade games). A business with 10 or fewer devices is considered either a General Entertainment Use, or an Accessory Use depending on the particulars of the establishment in question. Amusement Game Arcade is distinctly differentiated from General Entertainment, even though a General Entertainment use is defined as “entertainment or leisure pursuits to the general public including...billiard halls, bowling alleys, skating rinks, and mini-golf.” In many zoning districts, General Entertainment is either principally permitted or permitted with a CU authorization; however, with some exceptions, Amusement Game Arcades are generally not permitted. Amusement Game Arcade was added to Section 102 of the Planning Code in the 1980’s, when there was some concern that videogame arcades may become a distraction for children who should be in school, or that this type of use could lead to gambling.

In recent years, several new businesses combining Amusement Game Arcade with other food, beverage, and retail uses have emerged. This led to a piecemeal approach to allowing these uses on a district-by-district basis, including independent Ordinances to allow Amusement Game Arcades in SLI Districts South of Market, the Haight, and Upper Market. Staff finds that these uses are not materially distinct from billiards halls and other General Entertainment uses, and therefore does not warrant a distinct land use designation. The proposed Ordinance would remove the definition of “Amusement Game Arcade” from the Planning Code. The removal means that businesses proposing to have more than 10 arcade games would be allowed anywhere that General Entertainment uses are allowed. If the business combines arcade games with a Bar, Restaurant, or any other land use, all appropriate zoning controls for operating those additional uses would remain.

### **Limited Commercial Use**

In the 1970s when the City adopted the RH zoning districts, it prohibited all commercial uses in these new residential districts. This included small corner stores or any other low impact commercial use. To maintain neighborhood vitality and convenience, these historic uses were later “grandfathered” in and categorized as Limited Commercial Uses. The City still maintains a master list of all LCUs in the city. LCUs are typically small commercial storefronts, like corner grocery stores or coffee shops in Residential Districts. While you cannot add new spaces like this to RH Districts<sup>1</sup>, the Code allows these historic land

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<sup>1</sup> New LCUs are allowed in RTO Districts, but they are limited in size and location and are called Limited Corner Commercial Uses, or LCCUs.

uses to persist in perpetuity and allows them to be reconstituted through the Conditional Use process if they were previously abandoned.

### **Buffer Restrictions in NC Districts**

Section 710 of the Planning Code (zoning table note 2) provides that in NC-1 zoning districts Retail Sales and Service uses, including Restaurant and Bar uses, are principally permitted, unless the business is located within one quarter mile of any neighborhood commercial district or restricted use district with more restrictive controls. In those cases, the more restrictive zoning control applies. Similarly, for Limited Commercial Uses, or LCU's, in RH, RM, and RTO districts may change to another use if that new use is allowed in an NC-1 zoning district, unless there is a more restrictive NCD or RUD located within one quarter mile of the proposed use. In those cases, the more restrictive rules would apply.

This requirement has prevented businesses from opening due to zoning restrictions in other neighborhoods. This requirement applies even if a zoning district with more permissive zoning is located between the proposed use and the more restrictive district. The proposed change seeks to implement a recommendation from the Planning Department's 2009 report, NC @ 20, which stated that "it is recommended that a suitable relaxation of the ¼ mile radius provisions be examined" (page 66).

### **Outdoor Activity Areas**

An "Outdoor Activity Area" is defined in the Planning Code as an area "located outside of a building or in a courtyard, which is provided for the use or convenience of patrons of a commercial establishment including, but not limited to, sitting, eating, drinking, dancing, and food-service activities." In many zoning districts, an Outdoor Activity Area in front of a building is principally permitted, while back patios and rooftop areas require a CU authorization. Further, in most NCDs, a change of use to establish an Outdoor Activity Area also requires Section 311 Neighborhood Notification. Outdoor patios, courtyards, and rooftops add unique character to businesses, and enhance the vibrancy of the City's commercial corridors. Despite these benefits, the CU authorization requirement creates significant time and cost barriers that may be prohibitive for small businesses. This is especially true for businesses that seek to operate an Outdoor Activity Area during normal business hours, when they pose less of an impertinence to the surrounding buildings.

### **General Plan Compliance**

The Commerce and Industry Element of the General Plan calls for managing economic growth and change to ensure enhancement of the total city environment, maintaining a sound and diverse economic base and fiscal structure, and providing expanded employment opportunities for city residents.. Within the Element, Policies 2.1 and 2.3 focus on retaining commercial activity and attracting new activity by fostering a favorable social and cultural climate. The proposed Ordinance assists in accomplishing these policy goals by clarifying alcohol license types in the Planning Code's use definitions to align with state laws, and allowing new commercial activity in districts where it once was prohibited by overly restrictive boundaries. This added commercial activity will help maintain a favorable social and cultural climate in San Francisco as it adds to the number of recreational activities available to employees and residents. The Ordinance enhances San Francisco as a location for gathering places for residents and visitors alike to enjoy.

### **Implementation**

The Department has determined that this Ordinance will impact our current implementation procedures; however, the proposed changes can be implemented without increasing permit costs or review time.

### **RECOMMENDATION**

The Department recommends that the Commission *approve* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

### **BASIS FOR RECOMMENDATION**

The Department supports the proposed ordinance because it will remove unnecessary and restrictive bureaucratic hurdles, while also maintaining reasonable controls to ensure neighborhood compatibility. The changes the Ordinance makes alleviates problems identified the Retail Study and the Planning Department's 2009 Report on Neighborhood Commercial District "NC@20", as hindering the establishment of new neighborhood-serving businesses. While the Ordinance removes the ¼ mile buffer around NC Districts with more restrictive controls, it maintains a 300 foot buffer to ensure noncompatible or non-desirable uses are not allowed adjacent to district with their own specific controls. Further, the Ordinance removes the need for local businesses to seek a letter of determination from the Zoning Administrator by clarifying alcohol license types in the Planning Code's use definitions to align with state laws. It also eliminates an unnecessary use definition, Amusement Game Arcades, in order to align with emerging entertainment trends. These proposed changes will help bring more commercial activity to our Neighborhood Commercial Districts, maintaining a favorable social and cultural climate in San Francisco and assisting in reducing storefront vacancies in the City's Neighborhood Commercial Districts.

### **REQUIRED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

### **ENVIRONMENTAL REVIEW**

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

### **PUBLIC COMMENT**

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

#### **Attachments:**

- Exhibit A: Common ABC License Types
- Exhibit B: ABC Type 87 Description & Information
- Exhibit C: ABC Type 64 Description
- Exhibit D: Chart of NC Districts & Outdoor Activity Areas, Bars, and Restaurants
- Exhibit E: Draft Planning Commission Resolution
- Exhibit F: Board of Supervisors File No. 181211

**COMMON ABC LICENSE TYPES  
AND THEIR BASIC PRIVILEGES**

LICENSE TYPE	DESCRIPTION
01	<b>BEER MANUFACTURER - (Large Brewery)</b> Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer’s licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer’s licensed premises or at a bona fide eating place contiguous to the manufacturer’s licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	<b>WINEGROWER - (Winery)</b> Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
20	<b>OFF SALE BEER &amp; WINE - (Package Store)</b> Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
21	<b>OFF SALE GENERAL - (Package Store)</b> Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	<b>SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery)</b> Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	<b>ON SALE BEER - (Bar, Tavern)</b> Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	<b>ON SALE BEER &amp; WINE – EATING PLACE - (Restaurant)</b> Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
42	<b>ON SALE BEER &amp; WINE – PUBLIC PREMISES - (Bar, Tavern)</b> Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	<b>ON SALE GENERAL – EATING PLACE - (Restaurant)</b> Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
48	<b>ON SALE GENERAL – PUBLIC PREMISES - (Bar, Night Club)</b> Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	<b>ON SALE GENERAL – SEASONAL -</b> Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.





LICENSE TYPE	DESCRIPTION
51	<b>CLUB</b> - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required. Minors are allowed on the premises.
52	<b>VETERAN'S CLUB</b> - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guest only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
57	<b>SPECIAL ON SALE GENERAL</b> - Generally issued to certain organizations who cannot qualify for club licenses. Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guests only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
59	<b>ON SALE BEER AND WINE – SEASONAL</b> - Authorizes the same privileges as a Type 41. Issued for a specific season. Inclusive dates of operation are listed on the license certificate.
60	<b>ON SALE BEER – SEASONAL</b> - Authorizes the sale of beer only for consumption on or off the premises where sold. Issued for a specific season. Inclusive dates of operation are listed on the license certificate. Wine or distilled spirits may not be on the premises. Minors are allowed on the premises.
61	<b>ON SALE BEER – PUBLIC PREMISES</b> - (Bar, Tavern) Authorizes the sale of beer only for consumption on or off the licensed premises. Wine or distilled spirits may not be on the premises. Minors are not allowed to enter and remain (warning signs required). Food service is not required.
67	<b>BED AND BREAKFAST INN</b> - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.
70	<b>ON SALE GENERAL – RESTRICTIVE SERVICE</b> - Authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment's overnight transient occupancy guests or their invitees. This license is normally issued to "suite-type" hotels and motels, which exercise the license privileges for guests' "complimentary" happy hour. Minors are allowed on the premises.
75	<b>ON SALE GENERAL – BREWPUB</b> - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. This license does not authorize the sale of alcoholic beverages for consumption off the premises where sold. Minors are allowed on the premises.
80	<b>BED AND BREAKFAST INN – GENERAL</b> - Authorizes the sale of beer, wine and distilled spirits purchased from a licensed wholesaler or winegrower only to registered guests of the establishment for consumption on the premises. Alcoholic beverages shall not be given away to guests, but the price of the alcoholic beverage shall be included in the price of the overnight transient occupancy accommodation. Removal of alcoholic beverages from the grounds is not permitted. Minors are allowed on the premises.
86	<b>INSTRUCTIONAL TASTING LICENSE</b> —Issued to the holder of and premises of a Type 20 or Type 21 licensee, authorizes the tasting of alcoholic beverages as authorized to be sold from the off-sale premises, on a limited basis. Requires physical separation from the off-sale premises while tasting is taking place and generally requires the participation of a specifically-authorized manufacturer or wholesaler licensee.



## SPECIAL EVENTS

The Department also issues licenses and authorizations for the retail sale of beer, wine and distilled spirits on a temporary basis for special events. The most common are listed below. Other less common ones are found in Business and Professions Code Section 24045.2, et seq.

**SPECIAL DAILY BEER AND/OR WINE LICENSE** - (Form ABC-221) Authorizes the sale of beer and/or wine for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to non-profit organizations. (Rule 59, California Code of Regulations)

**DAILY ON SALE GENERAL LICENSE** - (Form ABC-221) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to political parties or affiliates supporting a candidate for public office or a ballot measure or charitable, civic, fraternal or religious organizations. (Section 24045.1 and Rule 59.5 California Code of Regulations)

**CATERING AUTHORIZATION** - (Form ABC-218) Authorizes Type 47, 48, 51, 52, 57, 75 and 78 licensees (and catering businesses that qualify under Section 24045.12) to sell beer, wine and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events. Type 47, 48 and 57 licensees may cater alcoholic beverages at any ABC-approved location in the State. Type 51 and 52 licensees may only cater alcoholic beverages at their licensed premises. All licensees wishing to cater alcoholic beverages must obtain prior written authorization from the Department for each event. At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399 and Rule 60.5 California Code of Regulations)

**EVENT AUTHORIZATION** - (Form ABC-218) Authorizes Type 41, 42, 47, 48, 49, 57, 75 and 78 licensees to sell beer, wine and distilled spirits for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. *The licensee shall obtain prior approval of the local law enforcement agency.* At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises (including any license conditions) and violations of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399)

**WINE SALES EVENT PERMIT** - (Form ABC-239) Authorizes Type 02 licensees to sell bottled wine produced by the winegrower for consumption off the premises where sold and only at fairs, festivals or cultural events sponsored by designated tax exempt organizations. The licensee must notify the city and/or county where the event is being held and obtain approval from ABC for each event (Form ABC-222). The licensee must also comply with all restrictions listed in Business and Professions Code Section 23399.6.

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### Note:

1. "Minor" means any person under 21 years of age.
2. Consult Section 25663(b) regarding age of employees in off-sale premises; consult Sections 25663(a) and 25663.5 regarding age of employees in on-sale premises.
3. In certain situations, ABC may place reasonable conditions upon a license, such as restrictions as to hours of sale, employment of designated persons, display of signs, restrictions on entertainment or dancing, etc. If a license has been conditioned, it will be endorsed as such on the face of the license. (Conditional licenses, Sections 23800-23805.)

4. Licensees whose license allows minors on the premises may have a “house policy” restricting minors from entering certain areas of the premises or prohibiting minors in the premises during certain hours.
5. This handout contains only abbreviated information. Contact your local ABC office for full information before doing anything which may jeopardize your license. Also available from the ABC: Quick Summary of Selected ABC Laws (form ABC-608); Alcoholic Beverage Control Act (complete laws); Rules & Regulations; and P-90 (describes privileges of non-retail licenses).



**State of California**

**BUSINESS AND PROFESSIONS CODE**

**Section 23826.13**

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23826.13. (a) Notwithstanding any other provision of this chapter, in any county of the sixth class, the department may issue no more than a total of five new original neighborhood-restricted special on-sale general licenses to premises located in any of the census tracts listed in subdivision (b) per year beginning on January 1, 2017, until a total of 30 new licenses authorized by this section are issued.

(b) To qualify for a license issued pursuant to this section, the premises for which the license would apply shall be located within one of the following United States Bureau of Census census tracts located within the City and County of San Francisco, subject to the following limitations:

(1) United States Bureau of the Census census tract 612000, 232000, 234000, 233000, or 230030. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(2) United States Bureau of the Census census tract 258000 or 257020. No more than a total of four neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(3) United States Bureau of the Census census tract 264030. No more than a total of two neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within this tract.

(4) United States Bureau of the Census census tract 255000, 256000, 260020, 260010, 260040, 261000, or 263010. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(5) United States Bureau of the Census census tract 309000, 310000, or 312010. No more than a total of four neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(6) United States Bureau of the Census census tract 330000, 329010, 328010, 353000, or 354000. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(7) United States Bureau of the Census census tract 328020, 329020, 351000, or 352010. No more than a total of five neighborhood-restricted special on-sale general licenses shall be concurrently held at premises located within all of these tracts.

(c) In issuing the licenses pursuant to this section, the department shall follow the procedure set forth in Section 23961. A license shall not be issued pursuant to this

section to an applicant until any existing on-sale licenses issued to the applicant for the same premises are canceled.

(d) (1) A person who currently holds an on-sale general license for a premises, who currently holds any interest in an on-sale general license for a premises, who has held an on-sale general license for a premises within the 12 months prior to the date of the drawing required by Section 23961, or who has held any interest in an on-sale general license for a premises within the 12 months prior to the date of the drawing required by Section 23961, shall not apply for a license issued pursuant to this section for that licensed premises.

(2) In addition to the other requirements of this section, an application for a neighborhood-restricted on-sale general license shall be subject to all the requirements that apply to an on-sale general license for a bona fide eating place.

(3) Prior to submitting an application for a license issued pursuant to this section, the applicant shall conduct a minimum of one preapplication meeting to discuss the application with neighbors and members of the community within the census tract in which the premises are located.

(A) The applicant shall hold the meeting either on the premises or at an alternate location within a one-mile radius of the premises.

(B) The applicant shall mail notification of the preapplication meeting to all of the following individuals and organizations at least 14 calendar days before the meeting:

(i) Each resident within a 500-foot radius of the premises for which the license is to be issued.

(ii) Any relevant neighborhood associations for the neighborhood in which the premises is located, as identified on a list maintained by the Planning Department of the City and County of San Francisco.

(iii) The Chief of Police for the San Francisco Police Department.

(C) Applicants for a neighborhood-restricted special on-sale general license shall submit, on a form provided by the department, signed verification by the local governing body of the area in which the applicant premises are located, or its designated subordinated officer or body, that states the applicant has completed the preapplication meeting pursuant to this section.

(e) (1) A license issued pursuant to this section shall not be transferred between counties.

(2) A license issued pursuant to this section shall not be transferred to any other premises. This provision shall not apply to any licensee whose premises have been destroyed as a result of fire or any act of God or other force beyond the control of the licensee, for whom the provisions of Section 24081 shall apply.

(3) A license issued pursuant to this section shall not be transferred to any person, partnership, limited partnership, limited liability company, or corporation. This provision shall not apply to licenses transferred under Section 24071, 24071.1, or 24071.2.

(f) Following the cancellation or revocation of a license issued pursuant to this section, the department may issue one additional new original neighborhood-restricted

special on-sale general license following the procedure set forth in Section 23961 and the provisions of this section.

(g) A person that holds a neighborhood-restricted special on-sale general license issued pursuant to this section shall not exchange his or her license for an on-sale license for public premises.

(h) Except as specified herein, a neighborhood-restricted special on-sale general license may exercise all of the privileges, and is subject to all the restrictions, of an on-sale general license for a bona fide eating place.

(i) A neighborhood-restricted special on-sale general license issued pursuant to this section shall not, with respect to beer and wine, authorize the exercise of the rights and privileges granted by an off-sale beer and wine license.

(j) (1) The original and annual fees, and any additional fees and surcharges, shall be the same as those imposed upon an on-sale general license for a bona fide eating place.

(2) All moneys collected from the fees imposed pursuant to this section shall be deposited in the Alcohol Beverage Control Fund, pursuant to Section 25761.

(k) The department shall adopt rules and regulations to enforce the provisions of this section.

(Amended by Stats. 2017, Ch. 442, Sec. 2. (AB 471) Effective January 1, 2018.)



**State of California**

**BUSINESS AND PROFESSIONS CODE**

**Section 24045.7**

---

24045.7. (a) (1) The department may issue a special on-sale general license to any nonprofit theater company that is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States. Any special on-sale general license issued to a nonprofit theater company pursuant to this subdivision shall be for a single specified premises only.

(2) Theater companies holding a license under this subdivision may, subject to Section 25631, sell and serve alcoholic beverages to ticketholders only during, and two hours prior to and one hour after, a bona fide theater performance of the company.

(3) Notwithstanding any other provision in this division, a licensed manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, employee, or agent of that person, may serve on the board of trustees or as an officer, director, or employee of a nonprofit theater company operating a theater in Napa County or the City of Livermore licensed pursuant to this subdivision.

(4) An applicant for such a license shall accompany the application with an original issuance fee of one thousand dollars (\$1,000) and shall pay an annual renewal fee as provided in Section 23320.

(5) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exceptions established by this subdivision to the general prohibition against tied interests must be limited to their express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

(b) (1) The department may issue a special on-sale beer and wine license to any nonprofit theater company which has been in existence for at least eight years, which for at least six years has performed in facilities leased or rented from a local county fair association, and which is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States.

(2) Theater companies holding a license under this subdivision may, subject to Section 25631, sell and serve beer and wine to ticketholders only during, and two hours prior to, a bona fide theater performance of the company. Beer and wine may

be sold from an open-air concession stand which is not attached to the theater building itself, if the concession stand is located on fair association property within 30 feet of the theater building and the alcoholic beverages sold are consumed only in the theater building itself, or within a designated outdoor area in front of and between the concession stand and the main public entrance to the theater building. Nothing in this section permits a theater company to sell beer or wine during the run of a county fair.

(3) An applicant for a license under this subdivision shall accompany the application with an original issuance fee equal to the annual renewal fee and shall pay an annual renewal fee as provided in Section 23320.

(Amended by Stats. 2010, Ch. 273, Sec. 2. (AB 2793) Effective January 1, 2011.)



# Exhibit D

## Chart of NC Districts & Outdoor Activity Areas, Bars, and Restaurants

	OUTDOOR ACTIVITY AREA IN REAR OR SIDE YARDS	BAR	RESTAURANT	LIMITED RESTAURANT
NC-1	C	P( generally)	P( generally)	P( generally)
NC-2	C	P( generally)	P( generally)	P( generally)
NC-3	C	P( generally)	P( generally)	P( generally)
NC-S	C	P( generally)	P( generally)	P( generally)
Broadway	C	C	P( generally)	P( generally)
Castro	C	NP	C	P( generally)
Inner Clement	C	C	C	P
Outer Clement	C	C	C	C
Upper Fillmore	C	C	C	P
Haight	C	NP	NP	P
Excelsior	C	P	P	P
Japantown	C	P (noise controls)	P (noise controls)	P (noise controls)
North Beach	C	C	C	C
Polk Street	C	C	C	P
Sacramento St	P	NP	C	P
Union Street	C	NP	C	C
Pacific Ave	C	NP	C	P
24 <sup>TH</sup> Street	C	C	C	P( generally)
West Portal Ave	C	C	C	C
Inner Sunset	C	C	C	C
Noriega Street	C	C	P( generally)	P( generally)
Irving Street	C	C	P( generally)	P( generally)
Taraval Street	C	C	P( generally)	P( generally)
Judah Street	C	C	P( generally)	P( generally)

\*Change of Use to *establish* an Outdoor Activity Area, Bar, Restaurant, or Limited Restaurant require neighborhood notice in all of these Zoning Districts, except when located in Supervisorial Districts 4 and 11.



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Draft Resolution

HEARING DATE FEBRUARY 28, 2019

*Project Name:* **Small Business Permit Streamlining**  
*Case Number:* **2019-000048PCA [Board File No. 181211]**  
*Initiated by:* **Supervisor Brown, Mayor Breed / Introduced December 11, 2018**  
*Staff Contact:* **Audrey Butkus, Legislative Affairs**  
**Audrey.Butkus@sfgov.org, 415-575-9129**  
*Reviewed by:* **Aaron Starr, Manager of Legislative Affairs**  
**aaron.starr@sfgov.org, 415-558-6362**

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**RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD STREAMLINE SMALL BUSINESS PERMITTING BY, AMONG OTHER THINGS, AMENDING THE HEALTH CODE TO ALIGN REGULATION OF RESTAURANT ENCLOSURES FOR OUTDOOR FOOD SERVICE AND RESTROOM REQUIREMENTS WITH STATE STANDARDS; AMENDING THE PLANNING CODE TO CLARIFY THAT A TYPE 23 LIQUOR LICENSE MAY BE USED IN CONJUNCTION WITH A BAR OR RESTAURANT USE, TO AMEND THE DEFINITION OF A BAR TO PROVIDE FOR CONSISTENT TREATMENT OF TYPE 64 LIQUOR LICENSES, TO MODIFY NIGHTTIME ENTERTAINMENT USE FOOD SERVICE REQUIREMENTS, TO REDUCE THE DISTANCE MEASURED FOR RETAIL SALES AND SERVICES USES IN NEIGHBORHOOD COMMERCIAL ZONING DISTRICTS TO ANY NEIGHBORHOOD COMMERCIAL DISTRICT, TO REDUCE THE DISTANCE MEASURED FOR NONCONFORMING USES IN RH (RESIDENTIAL, HOUSE), RM (RESIDENTIAL, MIXED), AND RTO (RESIDENTIAL, TRANSIT-ORIENTED) DISTRICTS TO ANY NEIGHBORHOOD COMMERCIAL DISTRICT, TO AMEND THE DEFINITION OF GENERAL ENTERTAINMENT TO INCLUDE AMUSEMENT GAME ARCADE, TO ALLOW AS A PERMITTED USE AN OUTDOOR ACTIVITY AREA OPERATED BETWEEN 6 A.M. TO 10 P.M., AND TO ALLOW LIMITED RESTAURANT USE AS AN ACCESSORY USE; AMENDING THE POLICE CODE TO ELIMINATE CERTAIN DUPLICATIVE INSPECTIONS AND SIGNOFFS IN CONNECTION WITH PLACE OF ENTERTAINMENT PERMITS, AND AMENDING THE DEFINITION OF LIMITED LIVE PERFORMANCE LOCALE TO REMOVE THE REQUIREMENT FOR FOOD AND BEVERAGE SERVICE; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

WHEREAS, on December 11, 2018 Mayor Breed and Supervisor Brown introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 181211 which would streamline small business permitting by, among other things, amending the Health Code to align regulation of restaurant enclosures for outdoor food service and restroom requirements with state standards; amending the Planning Code to clarify that a Type 23 liquor license may be used in conjunction with a Bar or Restaurant use, to amend the definition of a Bar to provide for consistent treatment of Type 64 liquor licenses, to modify Nighttime Entertainment use food service requirements, to reduce the distance

measured for Retail Sales and Services uses in Neighborhood Commercial zoning districts to any neighborhood commercial district, to reduce the distance measured for nonconforming uses in RH (Residential, House), RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any neighborhood commercial district, to amend the definition of General Entertainment to include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an Accessory Use; amending the Police Code to eliminate certain duplicative inspections and signoffs in connection with Place of Entertainment permits, and amending the definition of Limited Live Performance Locale to remove the requirement for food and beverage service;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on February 28, 2019; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves** the proposed ordinance.

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds the proposed Ordinance will remove unnecessary and restrictive bureaucratic hurdles, while also maintaining reasonable controls to ensure neighborhood compatibility.
2. The changes the Ordinance makes alleviates problems identified the Retail Study and the Planning Department's 2009 Report on Neighborhood Commercial District "NC@20", as hindering the establishment of new neighborhood-serving businesses.
3. The Commission finds that while the Ordinance removes the ¼ mile buffer around NC Districts with more restrictive controls, it maintains a 300 foot buffer to ensure noncompatible or non-desirable uses are not allowed adjacent to district with their own specific controls. Further, the Ordinance removes the need for local businesses to seek a letter of determination from the Zoning Administrator by clarifying alcohol license types in the Planning Code's use definitions

to align with state laws. It also eliminates an unnecessary use definition, Amusement Game Arcades, in order to align with emerging entertainment trends.

4. The Commission finds the proposed changes will help bring more commercial activity to our Neighborhood Commercial Districts, maintaining a favorable social and cultural climate in San Francisco and assisting in reducing storefront vacancies in the City's Neighborhood Commercial Districts.
5. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

## COMMERCE AND INDUSTRY ELEMENT

### OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

*The proposed Ordinance will facilitate the establishment of a retail use that provides net benefits in the form recreational and community gathering spaces. Any potential undesirable consequences may be addressed through existing regulatory controls.*

### OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

#### Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

#### Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

*The proposed Ordinance clarifies alcohol license types in the Planning Code's use definitions to align with state laws, and allows new commercial activity in districts where it once was prohibited by overly restrictive boundaries. This added commercial activity will help maintain a favorable social and cultural climate in San Francisco as it adds to the number of recreational activities available to employees. The Ordinance enhances San Francisco as a location for gathering places for residents and tourists alike to enjoy.*

**OBJECTIVE 6**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

**Policy 6.1**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*The proposed Ordinance will remove bureaucratic hurdles and unnecessary restrictions which were identified in the Retail Study as hindering the establishment of new neighborhood-serving businesses, while also controlling the potential negative impacts to communities that can come with unregulated business development by retaining a 300 foot buffer for non-conforming uses in Residential Districts, and Retail Sales and Service Uses that are in close proximity to a different zoning district with stricter controls.*

**Policy 6.2**

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

*The Ordinance will assist in streamlining the permitting process for certain types of businesses such as Bars, Restaurants, and Non-Profit Theaters, thereby assisting small businesses to establish themselves in the City in what may otherwise be a process that can currently become overly complicated, time-consuming, or expensive.*

6. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

7. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on February 28, 2019.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: February 28, 2019

1 [Health, Planning, and Police Codes - Small Business Permit Streamlining]

2  
3 **Ordinance to streamline small business permitting by, among other things, amending**  
4 **the Health Code to align regulation of restaurant enclosures for outdoor food service**  
5 **and restroom requirements with state standards; amending the Planning Code to**  
6 **clarify that a Type 23 liquor license may be used in conjunction with a Bar or**  
7 **Restaurant use, to amend the definition of a Bar to provide for consistent treatment of**  
8 **Type 64 liquor licenses, to modify Nighttime Entertainment use food service**  
9 **requirements, to reduce the distance measured for Retail Sales and Services uses in**  
10 **Neighborhood Commercial zoning districts to any neighborhood commercial district,**  
11 **to reduce the distance measured for nonconforming uses in RH (Residential, House),**  
12 **RM (Residential, Mixed), and RTO (Residential, Transit-Oriented) districts to any**  
13 **neighborhood commercial district, to amend the definition of General Entertainment to**  
14 **include Amusement Game Arcade, to allow as a permitted use an Outdoor Activity Area**  
15 **operated between 6 a.m. to 10 p.m., and to allow Limited Restaurant use as an**  
16 **Accessory Use; amending the Police Code to eliminate certain duplicative inspections**  
17 **and signoffs in connection with Place of Entertainment permits, and amending the**  
18 **definition of Limited Live Performance Locale to remove the requirement for food and**  
19 **beverage service; affirming the Planning Department's determination under the**  
20 **California Environmental Quality Act; and making findings of consistency with the**  
21 **General Plan, and the eight priority policies of Planning Code, Section 101.1, and public**  
22 **necessity, convenience, and welfare findings pursuant to Planning Code, Section 302.**

23 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
24 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
25 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
**Board amendment additions** are in double-underlined Arial font.  
**Board amendment deletions** are in ~~strikethrough Arial font~~.



**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference. The Board affirms this determination.

(b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code Amendment will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. \_\_\_\_\_ is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

Section 2. Background, Purpose, and General Findings.

(a) In February 2018, the Office of Economic and Workforce Development published "State of the Retail Sector: Challenges and Opportunities for San Francisco's

1 Neighborhood Commercial Districts” (the “Retail Study”). Prepared by Strategic Economics,  
2 the Retail Study included briefs studying: the national restructuring of the retail, restaurant,  
3 and personal services industries; the factors required to support successful San Francisco  
4 retail districts; and opportunities, costs, and challenges for retail, restaurant, and personal  
5 services businesses in San Francisco, and the adaptations that businesses are making in  
6 response to changing conditions.

7 (b) The Retail Study identified a national trend in retail stores seeking to experiment  
8 with new strategies to capitalize on increasing consumer demand for experiences, as  
9 opposed to objects. The Retail Study observed that, to remain competitive with e-commerce  
10 businesses, retailers are increasingly seeking to incorporate food and drink sales, events, and  
11 classes into their businesses, and noted a number of San Francisco businesses  
12 experimenting with diverse offerings.

13 (c) While San Francisco possesses many competitive advantages that benefit local  
14 retailers and restaurants, the Retail Study observed that a significant number of neighborhood  
15 commercial districts are experiencing an increase in vacancy rates. The Retail Study also  
16 found that San Francisco businesses face challenges connected to the City’s land use  
17 regulations and permitting requirements, which can add significant cost and time to the  
18 process of opening a new business and may limit retailers’ flexibility to adapt to changing  
19 economic conditions.

20 (d) San Francisco’s nightlife and entertainment sector is an integral part of the City’s  
21 vibrant commercial corridors. Nightlife and entertainment businesses attract tourists and  
22 residents to the City’s diverse neighborhoods. The Retail Study found that nightlife and  
23 entertainment uses complement neighborhood retail sales and services by providing  
24 destinations and gathering spaces for potential retail customers.

25

1 (e) According to the U.S. Bureau of Labor Statistics, the nightlife and entertainment  
2 sector in San Francisco in 2017 was comprised of 3,715 restaurants, bars, live music venues,  
3 nightclubs, and other performance spaces with 63,695 employees citywide.

4 (f) A 2016 analysis by the Controller's Office found that nightlife generated \$6  
5 billion in consumer spending in 2015. The nightlife sector paid approximately \$80 million in  
6 local taxes in 2015, including \$60 million in sales tax and \$20 million in payroll and gross  
7 receipts taxes.

8 (g) Despite these significant contributions to the local economy, nightlife and  
9 entertainment businesses often face zoning barriers, burdensome permitting requirements,  
10 and duplicative inspections. Legislation to address these challenges will reduce storefront  
11 vacancies, improve the permitting process for small businesses, enable retailers to engage in  
12 creative strategies to attract customers and diversify revenues, and support the health of San  
13 Francisco's commercial corridors.

14  
15 Section 3. Article 8 of the Health Code is hereby amended by revising Sections 412  
16 and 440.5, to read as follows:

17 **SEC. 412. WIRE SCREENS, ETC., IN PLACES WHERE FOOD IS SOLD.**

18 It shall be unlawful for any person, firm, association, or corporation engaged in  
19 maintaining, conducting, carrying on, or managing a restaurant place, kitchen, meat market,  
20 fruit store, vegetable store, delicatessen store, bakery store, street vendor's store, or any  
21 other place in which or where food is prepared, sold, or disposed of for human consumption,  
22 to maintain, conduct, carry on, or manage said place or store, except in the manner provided  
23 for in this Section 412.

24 It shall be unlawful for any person, firm, association, or corporation to maintain,  
25 conduct, carry on, or manage a restaurant place or kitchen where foodstuffs are cooked, or

1 prepared, ~~sold or disposed of~~ for human consumption, unless the doors, windows, apertures, or  
2 other openings to the ~~premises or~~ place where ~~said restaurant or kitchen is conducted, maintained,~~  
3 ~~carried on or managed~~ food preparation occurs are effectively enclosed with finely woven wire  
4 mesh screens. Dining areas and bars are not required to be enclosed, provided that no food  
5 preparation occurs there other than adding ingredients to a beverage or dispensing into a serving  
6 container when the beverage is prepared for immediate service in response to an individual consumer  
7 order.

8 \* \* \* \*

9  
10 **SEC. 440.5. TOILET AND HANDWASHING FACILITIES TO BE PROVIDED.**

11 (a) Every ~~food establishment~~ permanent food facility, as defined in Section ~~27520113849~~ of  
12 the California Health and Safety Code, must provide toilet and handwashing facilities for use  
13 by employees. ~~Every such establishment as to which construction or substantial reconstruction or~~  
14 ~~rehabilitation is commenced on or after September 1, 1986, selling food for the purpose of immediate~~  
15 ~~consumption without the reasonable expectation of further preparation or addition to other foods, shall~~  
16 ~~make such toilet and handwashing facilities available for use by patrons without charge and.~~ Every  
17 permanent food facility shall provide clean toilet facilities in good repair for consumers, guests, or  
18 invitees if there is onsite consumption of food or if the permanent food facility was constructed after  
19 July 1, 1984, and has more than 20,000 square feet of floor space. In addition, such toilet facilities  
20 shall comply with the Plumbing Code of the City and County of San Francisco.

21 ~~—(b) Provisions of this Section shall not apply to roadside stands, food establishments which~~  
22 ~~are open to outside air or businesses which primarily sell at retail, meat, poultry and their by products.~~

23 (b) For purposes of this Section 440.5, “onsite consumption of food” means the  
24 consumption of food, provided by a permanent food facility to patrons or guests, at or within the facility  
25 or within an area operated or controlled by the facility. A permanent food facility that does not offer

1 onsite consumption of food may not have on its premises any dining tables, dining chairs, dining  
2 counters, or dining standing-tables.

3  
4 Section 4. The Planning Code is hereby amended by revising Sections 102, 145.2,  
5 145.4, 186, 303.1, 703, 710, 711, 712, 713, 714, 719, 721, 728, 754, 757, 758, 759, 760, 764,  
6 and 781.9, to read as follows:

7 **SEC. 102. DEFINITIONS.**

8 \* \* \* \*

9 ~~*Amusement Game Arcade. A Retail Entertainment Arts and Recreation Use that provides eleven or*~~  
10 ~~*more amusement game devices such as video games, pinball machines, or other such similar*~~  
11 ~~*mechanical and electronic amusement devices, in a quantity which exceeds that specified in Section*~~  
12 ~~*1036.23 of the Police Code as an Ancillary Use. Mechanical amusement devices are further regulated*~~  
13 ~~*in Sections 1036 through 1036.24 of the Police Code.*~~

14 \* \* \* \*

15 **Arts Activities.** A retail Entertainment, Arts and Recreation Use that includes performance,  
16 exhibition (except exhibition of films), rehearsal, production, post-production and some  
17 schools of any of the following: Dance, music, dramatic art, film, video, graphic art, painting,  
18 drawing, sculpture, small-scale glassworks, ceramics, textiles, woodworking, photography,  
19 custom-made jewelry or apparel, and other visual, performance, and sound arts and craft. It  
20 shall exclude accredited Schools and Post-Secondary Educational Institutions. It shall include  
21 commercial arts and art-related business service uses including, but not limited to, recording  
22 and editing services, small-scale film and video developing and printing; titling; video and film  
23 libraries; special effects production; fashion and photo stylists; production, sale, and rental of  
24 theatrical wardrobes; and studio property production and rental companies. Arts spaces shall  
25 include studios, workshops, archives, and theaters, and other similar spaces customarily used

1 principally for arts activities, exclusive of a Movie Theater, ~~Amusement Game Arcade~~ arcades that  
2 provide eleven or more amusement game devices, Adult Business, and any other establishment  
3 where liquor is customarily served during performances.

4 \* \* \* \*

5 **Bar.** A Retail Sales and Service Use that provides on-site alcoholic beverage sales for  
6 drinking on the premises, including bars serving beer, wine, and/or liquor to the customer  
7 where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC]  
8 license types 02, 23, 42, 48, or 61) and drinking establishments serving beer where minors  
9 are present (with ABC license types 40 or 60) in conjunction with other uses such as Movie  
10 Theaters and General Entertainment. Such businesses shall operate with the specified  
11 conditions in Section 202.2(a). A non-profit theater that provides on-site alcoholic beverage sales  
12 only for consumption by ticket-holding patrons on the premises, with ABC license type 64, shall not be  
13 considered a Bar use.

14 \* \* \* \*

15 **Entertainment, General.** A Retail Entertainment, Arts and Recreation Use that provides  
16 entertainment or leisure pursuits to the general public including dramatic and musical  
17 performances where alcohol is not served during performances, arcades that provide eleven or  
18 more amusement game devices (such as video games, pinball machines, or other such similar  
19 mechanical and electronic amusement devices), billiard halls, bowling alleys, skating rinks, and  
20 mini-golf, when conducted within a completely enclosed building, and which is adequately  
21 soundproofed or insulated so as to confine incidental noise to the premises. Mechanical  
22 amusement devices are further regulated in Sections 1036 through 1036.24 of the Police Code.

23 \* \* \* \*

24 **Entertainment, Arts and Recreation Use.** A Use Category that includes ~~Amusement Game~~  
25  ~~Arcade~~, Arts Activities, General Entertainment, Livery Stables, Movie Theater, Nighttime

1 Entertainment, Open Recreation Area, Outdoor Entertainment, Passive Outdoor Recreation  
2 and Sports Stadiums. Adult Business is not included in this definition, except for the purposes  
3 of Development Impact Fee Calculation as described in Article 4.

4 \* \* \* \*

5 **Restaurant.** A Retail Sales and Service use that serves prepared, ready-to-eat cooked foods  
6 to customers for consumption on the premises and which has seating. As a minor and  
7 incidental use, it may serve such foods to customers for off-site consumption. It may provide  
8 on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 02,  
9 23, 41, 47, 49, 59, ~~or 75,~~ or 87); however, if it does so, it shall be required to operate as a  
10 Bona Fide Eating Place. It is distinct and separate from a Limited-Restaurant. Such  
11 businesses shall operate with the specified conditions in Section 202.2(a)(1). It shall not be  
12 required to operate within an enclosed building so long as it is also a Mobile Food Facility. A  
13 business that is both a Restaurant use and a Nighttime Entertainment use shall not be required to  
14 operate as a Bona Fide Eating Place. Any associated outdoor seating and/or dining area is  
15 subject to regulation as an Outdoor Activity Area as set forth elsewhere in this Code.

16 \* \* \* \*

17  
18 **SEC. 145.2. OUTDOOR ACTIVITY AREAS IN NC DISTRICTS.**

19 The following provisions governing Outdoor Activity Areas shall apply in NC Districts.

20 In order to provide for limited commercial Outdoor Activity Areas, which promote  
21 active street life, but do not detract from the livability of surrounding uses, Outdoor Activity  
22 Areas in NC Districts shall be regulated below, except in the Outer Clement Street  
23 Neighborhood Commercial District, where Outdoor Activity Areas shall be a Principally  
24 Permitted Use if they existed prior to 1985. These provisions shall not apply to those Uses  
25 excepted from the requirement for location in an enclosed building.

1 (a) An Outdoor Activity Area operated by a Commercial Use is permitted as a  
2 Principal Use if located outside a building and contiguous to the front property line of the lot on  
3 which the Commercial Use is located, or if the Outdoor Activity Area is operated only between the  
4 hours of 6 a.m. and 10 p.m..

5 In NC-S Districts, an Outdoor Activity Area is permitted as a Principal Use if located  
6 within the boundaries of the property and in front of the primary facades which contain  
7 customer entrances and if it does not obstruct pedestrian traffic flow between store entrances  
8 and parking facilities, or if the Outdoor Activity Area is operated only between the hours of 6 a.m. and  
9 10 p.m..

10 (b) An Outdoor Activity Area which does not comply with the provisions of Paragraph 1 of  
11 this subsection (b) is permitted as a Conditional Use.

12 In addition to the criteria of Section 303(c) of this Code, the Planning Commission shall  
13 find that:

14 (1) The nature of the activity operated in the Outdoor Activity Area is compatible with  
15 surrounding uses;

16 (2) The operation and design of the Outdoor Activity Area does not significantly disturb  
17 the privacy or affect the livability of adjoining or surrounding residences;

18 (3) The Hours of Operation of the activity operated in the Outdoor Activity Area are  
19 limited so that the activity does not disrupt the viability of surrounding uses.

20  
21 **SEC. 145.4. REQUIRED GROUND FLOOR COMMERCIAL USES.**

22 \* \* \* \*

23 **Table 145.4**

<b>Reference for Commercial, Neighborhood</b>	<b>Reference for Mixed Use Districts</b>	<b>Use</b>
---	--	------------



1	<b>Commercial, and</b>		
2	<b>Residential- Commercial</b>		
3	<b>Districts</b>		
4	<del>102-N/A</del>	890.4	Amusement Game Arcade
5	* * * *		

6 \* \* \* \*

7

8 **SEC. 186. EXEMPTION OF LIMITED COMMERCIAL AND INDUSTRIAL**

9 **NONCONFORMING USES IN RH, RM, RTO, AND RED DISTRICTS.**

10 The purpose of this Section 186 is to provide for the further continuance in RH, RM,

11 RTO, and RED Districts of nonconforming uses of a limited commercial and industrial

12 character, as herein described, which are beneficial to, or can be accommodated within, the

13 residential areas in which they are located. It is hereby found and declared that, despite the

14 general incompatibility of nonconforming uses with the purposes of this Code, and with other

15 nearby uses, these limited commercial uses may be tolerated in residential areas, and tend to

16 provide convenience goods and services on a retail basis to meet the frequent and recurring

17 needs of neighborhood residents within a short distance of their homes or, within the South of

18 Market RED Districts, tend to provide jobs and continuation of small scale service and light

19 industrial activities. These uses tend to be small in scale, to serve primarily a walk-in trade,

20 and cause a minimum of interference with nearby streets and properties. Accordingly, this

21 Section recognizes the public advantages of these uses and establishes conditions for their

22 continued operation.

23 (a) **Exemption from Termination Provisions.** The following nonconforming uses in R

24 Districts shall be exempt from the termination provisions of Section 185, provided such uses

25 comply with all the conditions specified in subsection (b) below:

1 (1) Any nonconforming use at any Story in an RTO, RH<sub>2</sub> or RM District which is located  
2 more than ~~one-fourth-mile~~ 300 feet from the nearest Named Neighborhood Commercial District  
3 ~~or Restricted Use Subdistrict~~ described in Article 7 of this Code, and which complies with the use  
4 limitations specified for the First Story and below of an NC-1 District, as set forth in Section  
5 710 of this Code.

6 (2) Any nonconforming use in an RTO, RH<sub>2</sub> or RM District which is located within ~~one-~~  
7 ~~fourth-mile~~ 300 feet from any Individual Area Neighborhood Commercial District ~~or restricted use~~  
8 ~~subdistrict~~ and which complies with the most restrictive use limitations specified for the First  
9 Story and below of:

10 (A) an NC-1 District, as set forth in Section 710 of this Code; or

11 (B) any Named Neighborhood Commercial District within ~~one-fourth-mile~~ 300 feet of the  
12 use, as set forth in Sections 714 through 748 and 753 through 764 of this Code; ;

13 ~~—(C) Any Restricted Use Subdistrict within one-fourth-mile of the use, as set forth in Sections 781~~  
14 ~~through 781.7 of this Code.~~

15 (3) In the RED Districts, any nonconforming use which is a personal service use falling  
16 within zoning category 816.31; home and business service use falling within zoning categories  
17 816.42 through 816.47; live/work unit falling within zoning category 816.55; wholesale sales,  
18 storage, or light manufacturing uses falling within zoning categories 816.64 through 816.67.

19 (b) **Conditions on Limited Nonconforming Uses.** The limited nonconforming uses  
20 described above shall meet the following conditions:

21 (1) The building shall be maintained in a sound and attractive condition, consistent with  
22 the general appearance of the neighborhood;

23 (2) Any signs on the property shall be made to comply with the requirements of Section  
24 606(c) of this Code for Limited Commercial uses;

1 (3) The hours during which the use is open to the public shall be limited to the period  
2 between 6:00 a.m. and 10:00 p.m.;

3 (4) Public sidewalk space may be occupied in connection with the use provided that it is  
4 ~~only~~ occupied only with tables and chairs as permitted by this Municipal Code;

5 (5) Truck loading shall be limited in such a way as to avoid undue interference with  
6 sidewalks, or with crosswalks, bus stops, hydrants, and other public features;

7 (6) Noise, odors, and other nuisance factors shall be adequately controlled; and

8 (7) All other applicable provisions of this Code shall be complied with.

9 (c) **Formula Retail Uses.** All uses meeting the definition of "formula retail" use per Section  
10 303.1 shall not be permitted except by conditional use authorization under the procedures of  
11 Section 303 of this Code.

12 (d) **Street Frontage.** In addition to the requirements of Section 144 of this Code, the  
13 requirements of Section 145.1(c)(6) and (7) shall apply.

14 (e) **Awnings.** Awnings are permitted, subject to the standards in Section 136.1(a) of this  
15 Code. Canopies and marquees are not permitted.

16 (f) **Termination.** Any use affected by this Section 186 which does not comply with all of the  
17 conditions herein specified shall be subject to termination in accordance with Section 185 at  
18 the expiration of the period specified in that Section, but shall be qualified for consideration as  
19 a conditional use under Section 185(e). Any such use which is in compliance with such  
20 conditions at the expiration of such period but fails to comply therewith at any later date shall  
21 be subject to termination when it ceases to comply with any of such conditions.

22 (g) **Reactivation.** Limited commercial uses in RH, RM, RTO, and RED Districts that have  
23 been discontinued or abandoned, as defined in Section 183, may be reactivated with  
24 conditional use authorization under Section 303. In approving such a use and in addition to  
25 the findings required by Section 303, the Planning Commission shall find that:

1 (1) the subject space is located on or below the ground floor and was in commercial or  
2 industrial use prior to January 1, 1960; and

3 (2) the proposed commercial use meets all the requirements of this ~~s~~Section 186 and  
4 other applicable sections of this Code.

5 (h) **Other Applicable Provisions.** The provisions for nonconforming uses contained in  
6 Sections 180 through 183 shall continue to apply to all uses affected by this Section 186,  
7 except that the cost limit for structural alterations contained in Section 181(b)(4) shall not be  
8 applicable thereto.

9  
10 **SEC. 303.1. FORMULA RETAIL USES.**

11 \* \* \* \*

12 (c) **"Retail Sales or Service Activity or Retail Sales or Service Establishment."** For the  
13 purposes of this Section 303.1, a retail sales or service activity or retail sales or service  
14 establishment shall include the following uses whether functioning as a Principal or Accessory  
15 Use, as defined in Articles 1, 2, 7, and 8 of this Code:

16 \* \* \* \*

- 17 - Amusement Game Arcade ~~§§ 102,~~ 890.4;

18 \* \* \* \*

19  
20 **SEC. 703. NEIGHBORHOOD COMMERCIAL DISTRICT REQUIREMENTS.**

21 \* \* \* \*

22 (d) **Accessory Uses.** Subject to the limitations set forth below and in Sections 204.1  
23 (Accessory Uses for Dwellings in All Districts), 204.4 (Dwelling Units Accessory to Other  
24 Uses), and 204.5 (Parking and Loading as Accessory Uses) of this Code, Accessory Uses as  
25 defined in Section 102 shall be permitted when located on the same lot. Any Use that does

1 not qualify as an Accessory Use shall be classified as a Principal or Conditional Use unless it  
2 qualifies as a temporary use under Sections 205 through 205.4 of this Code.

3 No Use will be considered accessory to a permitted Principal or Conditional Use that  
4 involves or requires any of the following:

5 (1) The use of more than one-third of the total floor area occupied by such use and the  
6 Principal or Conditional use to which it is accessory, except in the case of accessory off-street  
7 parking and loading and as specified in subsection (d)(3) below as accessory wholesaling,  
8 manufacturing, or processing of foods, goods, or commodities;

9 (2) Any Bar or Restaurant, or any other retail establishment which serves liquor for  
10 consumption on-site; however, this shall not prohibit take-out food activity which operates in  
11 conjunction with a Limited Restaurant, Restaurant, General Grocery, and Specialty Grocery;

12 This shall also not prohibit a Limited Restaurant as an Accessory Use to a permitted Principal or  
13 Conditional Use except as specified in subsection (d)(7) below;

14 (3) The wholesaling, manufacturing, or processing of foods, goods, or commodities on  
15 the premises of an establishment that does not also use or provide for retail sale of such  
16 foods, goods, or commodities at the same location where such wholesaling, manufacturing, or  
17 processing takes place, with the following exceptions:

18 (A) In the North Beach Special Use District where such activities are limited to 15% of  
19 the total floor area occupied by the Principal or Conditional Use to which it is accessory unless  
20 the Principal or Conditional Use is Specialty Foods Manufacturing as defined in Section 780.3  
21 of this Code; and

22 (B) Notwithstanding the floor area limitation in subsection (d)(1), a Catering Use limited  
23 to food and beverage Catering shall be permitted as an Accessory Use to Limited Restaurants  
24 if the following requirements are met:

1 (i) The Catering Use does not operate more than 75% of the total time within the  
 2 Limited Restaurant's Hours of Operation on any given day; and

3 (ii) The Catering Use does not distribute or deliver individual meals to customers  
 4 directly from the subject lot, either by its own means, or through a third-party delivery service.

5 (4) Any retail Liquor Store.

6 (5) Medical Cannabis Dispensaries.

7 (6) Any General Entertainment or Nighttime Entertainment use, except for one that  
 8 involves a Limited Live Performance Permit as set forth in Police Code Section 1060 et seq.

9 (7) Within the North Beach SUD and NCD, a Limited Restaurant.

10 \* \* \* \*

11 **SEC.710. NC-1—NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT.**

12 \* \* \* \*

13 **Table 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1**  
 14 **ZONING CONTROL TABLE**

<i>Neighborhood Commercial Cluster NCT-1</i>		
<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
* * * *		
<b><u>NON-RESIDENTIAL STANDARDS</u></b>		
<b><u>COMMERCIAL USES CHARACTERISTICS</u></b>		
* * * *		
Outdoor Activity Area	§ 102, 145.2	P if located in front of building <u>or if operated between 6 a.m. and 10 p.m.</u> ; C if located elsewhere <u>and operated between 10 p.m. and 6 a.m.</u>
* * * *		

23 \* Not listed below

(1) Additional 5 feet for NC-1 parcels with a Commercial use on the ground floor within the following areas:

(a) Within the boundaries of Sargent Street to Orizaba Avenue to Lobos Street to Plymouth Avenue to Farellones Street to San Jose Avenue to Alemany Boulevard to 19th Avenue to Randolph Street to Monticello Street and back to Sargent Street.

(b) On Noriega, Irving, Taraval, and Judah Streets west of 19th Avenue.

(2) P if located more than ~~¼ mile~~ 300 feet from any NC District ~~or Restricted Use Subdistrict~~ with more restrictive controls; otherwise, same as more restrictive control.

(3) [Note deleted.]

(4) C required for 7 or more persons.

(5) C if a Macro WTS Facility; P if a Micro WTS Facility.

(6) C in Supervisorial District 4.

**SEC. 711. NC-2—SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.**

\* \* \* \*

**Table 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2  
ZONING CONTROL TABLE**

<u><b>SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NCT-2</b></u>		
<u><b>Zoning Category</b></u>	<u><b>§ References</b></u>	<u><b>Controls</b></u>
* * * *		
<b><u>NON-RESIDENTIAL STANDARDS AND USES COMMERCIAL USE CHARACTERISTICS</u></b>		
* * * *		
Outdoor Activity Area	§§ 102, 145.2	P if located in front <i>or if operated between 6 a.m. and 10 p.m.</i> ; C if located elsewhere <i>and operated between 10 p.m. and 6 a.m.</i>
* * * *		

1 **SEC. 712. NC-3 – MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT.**

2 \* \* \* \*

3 **Table 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3**  
 4 **ZONING CONTROL TABLE**

5 \* \* \* \*

Zoning Category	§ References	Controls		
* * * *				
<b>NON-RESIDENTIAL STANDARDS</b>				
* * * *				
<b>NON-RESIDENTIAL USES</b>		<b>Controls by Story</b>		
		1st	2nd	3rd
* * * *				
<i>Amusement Game Arcade</i>	§ 102	C	NP	NP
Entertainment, General	§ 102	P	P	NP
* * * *				

18 **SEC. 713. NC-S – NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT.**

19 \* \* \* \*

20 **Table 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S**  
 21 **ZONING CONTROL TABLE**

22 \* \* \* \*

Zoning Category	§ References	Controls		
* * * *				



1 **NON-RESIDENTIAL STANDARDS**

2 \* \* \* \*

3 **NON-RESIDENTIAL USES**

**Controls by Story**

4 **1st**

**2nd**

**3rd**

5 \* \* \* \*

6 *Amusement Game Arcade*

§ 102

€

NP

NP

7 Entertainment, General

§ 102

P(1)

P(1)

NP

8 \* \* \* \*

10 **SEC. 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT.**

11 \* \* \* \*

12 **Table 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT**  
 13 **ZONING CONTROL TABLE**

14 \* \* \* \*

Zoning Category	§ References	Controls		
* * * *				
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
* * * *				
<b>Controls by Story</b>				
		1st	2nd	3rd
* * * *				
<i>Amusement Game Arcade</i>	§ 102	€	NP	NP
Entertainment, General	§ 102	P	P	NP

****				
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**SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT.**

\*\*\*\*

**Table 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

\*\*\*\*

Zoning Category	§ References	Controls		
****				
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
****				
<b>Controls by Story</b>				
		<b>1st</b>	<b>2nd</b>	<b>3rd</b>
****				
<i>Amusement Game Arcade</i>	§ 102	<i>P</i>	<i>P</i>	<i>NP</i>
Entertainment, General	§ 102	C	NP	NP
****				

\*\*\*\*

~~(8) Within the Haight Street Neighborhood Commercial District, that portion of an General Entertainment use comprised of mechanical amusement game devices will be considered an Amusement Game Arcade Use, for the purposes of the Planning Code.~~

**SEC. 721. JAPANTOWN NEIGHBORHOOD COMMERCIAL DISTRICT.**

\*\*\*\*

1 **Table 721. JAPANTOWN NEIGHBORHOOD COMMERCIAL DISTRICT**

2 **ZONING CONTROL TABLE**

3 \* \* \* \*

4

Zoning Category		§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>					
* * * *					
<i>Amusement Game Arcade</i>		§ 102	<i>P</i>	<i>P</i>	<i>P</i>
Entertainment, General		§ 102	P(2)	P(2)	C(2)
* * * *					

12

13 **SEC. 728. 24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT.**

14 \* \* \* \*

15 **Table 728. 24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT**

16 **ZONING CONTROL TABLE**

17

<b><u>24TH STREET-NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT NCT</u></b>		
<b><u>Zoning Category</u></b>	<b><u>§ References</u></b>	<b><u>Controls</u></b>
* * * *		
<b><u>NON-RESIDENTIAL STANDARDS AND USES COMMERCIAL USE CHARACTERISTICS</u></b>		
* * * *		
Outdoor Activity Area	§§ 102, 145.2	P if located in front <i>or if operated between 6 a.m. and 10 p.m.</i> ; C if located elsewhere <i>and operated between 10 p.m. and 6 a.m.</i>
* * * *		

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1 \* \* \* \*

2 (4) 24TH STREET – NOE VALLEY SPECIALTY RETAIL USES

3 Boundaries: Only the area within the 24th Street – Noe Valley Neighborhood Commercial  
4 District. The controls shall not apply to NC-1 Districts or nonconforming uses within ~~1/4 mile~~ 300  
5 feet of this District as set forth in Code §§ 710-10 and 186.

6 **Controls:** Formula Retail Limited-Restaurants are NP.

7 **SEC. 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.**

8 \* \* \* \*

9 **Table 754. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**  
10 **ZONING CONTROL TABLE**

11 \* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
* * * *				
<i>Amusement Game Arcade</i>	§ 102	€	NP	NP
Arts Activities	§ 102	P(4)	P	C
* * * *				

20 **SEC. 757. FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.**

21 \* \* \* \*

22 **Table 757. FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**  
23 **ZONING CONTROL TABLE**

		<b><u>FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT NCT</u></b>
--	--	--

<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
* * * *		
<b><u>NON-RESIDENTIAL STANDARDS AND USES</u></b>		
<b><u>COMMERCIAL USE CHARACTERISTICS</u></b>		
* * * *		
Outdoor Activity Area	§§ 102, 145.2	P at 1st and 2nd Floors if located in front <i>or</i> operated between 6 a.m. and 10 p.m.; C if located elsewhere <i>and</i> operated between 10 p.m. and 6 a.m.
* * * *		

**SEC. 758 REGIONAL COMMERCIAL DISTRICT.**

\* \* \* \*

**Table 758. REGIONAL COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

<b><u>REGIONAL COMMERCIAL DISTRICT</u></b>		
<b><u>ZONING CONTROL TABLE NCT</u></b>		
<u>Zoning Category</u>	<u>§ References</u>	<u>Controls</u>
* * * *		
<b><u>NON-RESIDENTIAL STANDARDS AND USES</u></b>		
<b><u>COMMERCIAL USE CHARACTERISTICS</u></b>		
* * * *		
Outdoor Activity Area	§§ 102, 145.2	P at 1st and 2nd Floors if located in front <i>or</i> operated between 6 a.m. and 10 p.m.; C if located elsewhere <i>and</i> operated between 10 p.m. and 6 a.m.
* * * *		

**SEC. 759. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.**

\* \* \* \*

**Table 759. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**

**ZONING CONTROL TABLE**

\*\*\*\*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
****				
<i>Amusement Game Arcade</i>	§ 102	€	NP	NP
Entertainment, General	§ 102	P	P(2)	NP
****				

**SEC. 760. FILLMORE STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT.**

\*\*\*\*

**Table 760. FILLMORE STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT  
ZONING CONTROL TABLE**

\*\*\*\*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
****				
<i>Amusement Game Arcade</i>	§ 102	€	NP	NP
Entertainment, General	§ 102	P	P	NP
****				

1 **SEC. 764. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT**  
 2 **DISTRICT.**

3 \* \* \* \*

4 **Table 764. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT**  
 5 **DISTRICT**  
 6 **ZONING CONTROL TABLE**

7 \* \* \* \*

Zoning Category	§ References	Controls		
<b>NON-RESIDENTIAL STANDARDS AND USES</b>				
* * * *				
<i>Amusement Game Arcade</i>	§ 102	€	P	NP
Entertainment, General	§ 102	C(8)	NP	NP
* * * *				

15 \* \* \* \*

16 (8) Within the Upper Market Neighborhood Commercial Transit District, up to four mechanical  
 17 amusement devices are considered an accessory use ~~and up to ten mechanical amusement~~  
 18 ~~devices will be considered an Amusement Game Arcade use.~~

20 **SEC. 781.9. HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT.**

21 \* \* \* \*

22 (b) **Boundaries.** The Haight Street Alcohol Restricted Use Subdistrict (Haight Street Alcohol  
 23 RUSD) is coterminous with the Haight Street Neighborhood Commercial District as  
 24 designated on Sectional Maps ZN06 and ZN07-7. The Haight Street Alcohol RUSD is  
 25 designated on Sectional Maps SU06 and SU07. ~~These controls shall also apply within 1/4 mile of~~

1 ~~the Haight Street Alcohol RUSD to nonconforming Commercial Uses in R Districts pursuant to Section~~  
2 ~~186 and in NC-1 Districts pursuant to Section 710 of this Code.~~

3 \* \* \* \*

4  
5 Section 5. Amendment of Specific Zoning Control Tables. Zoning Control Tables 712,  
6 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 725, 726, 729, 730, 731, 732, 733,  
7 734, 750, 751, 752, 753, 754, 755, 756, 759, 760, 761, 762, 763, and 764 are hereby  
8 amended identically to the amendment of Zoning Control Table 711 in Section 4 of this  
9 ordinance, to provide in the “Controls” column that an Outdoor Activity Area is P if located in  
10 front of building or if operated between 6 a.m. and 10 p.m.; C if located elsewhere and if  
11 operated between 10 p.m. and 6 a.m.

12  
13 Section 6. Article 15.1 of the Police Code is hereby amended by revising Sections 1060  
14 and 1060.2 to read as follows:

15 **SEC. 1060. DEFINITIONS.**

16 For the purposes of this Article 15.1, unless otherwise provided in this Article, the  
17 following words and phrases shall mean:

18 \* \* \* \*

19 Limited Live Performance Locale.” A locale with all the following features:

20 (a) The presentation of Live Performances is a secondary purpose of the locale  
21 rather than its primary purpose.

22 (b) The locale is indoors, or consists of an outdoor plaza, courtyard, or similar  
23 space, enclosed by surrounding buildings, with or without open means of public ingress and  
24 egress, with an area in which Live Performances are presented that is no greater than 200  
25 square feet. For purposes of this provision, “outdoor plaza, courtyard, or similar space” also



1 shall include, regardless of the square footage of the Live Performance area, (1) any Plaza as  
2 identified in Administrative Code Chapter 94 or (2) any People Place as identified in  
3 Administrative Code Chapter 94A.

4 (c) Live Performances presented at the locale conclude by 10 p.m., except as  
5 otherwise provided in Section 1060.38.1.

6 (d) The locale is not a Private Residence.

7 (e) Patrons or members are admitted to the locale, ~~which serves food, beverages,~~  
8 ~~or food and beverages, including but not limited to alcoholic beverages, for consumption on the~~  
9 ~~premises,~~ except this requirement shall not apply to a Plaza as identified in Administrative  
10 Code Chapter 94 or a People Place as identified in Administrative Code Chapter 94A.

11 \* \* \* \*

12  
13 **SEC. 1060.2. FILING APPLICATION AND NOTICE TO OTHER CITY DEPARTMENTS FOR**  
14 **PLACE OF ENTERTAINMENT PERMIT.**

15 (a) Every Person seeking a Place of Entertainment permit or an amendment to a  
16 permit shall file an application with the Entertainment Commission upon a form provided by  
17 the Entertainment Commission and shall pay a filing fee as provided in Section 2.26 of this  
18 Code.

19 (b) The Director shall send the application to the following departments, which San  
20 Francisco Police Department, Fire Department, Department of Building Inspection, Department of  
21 Public Health, and Planning Department. Those departments shall complete all necessary  
22 inspections or approvals and shall endeavor to report their determinations to the Entertainment  
23 Commission within 20 City business days of receiving the application:

24 (1) The Police Department;

25 (2) The Planning Department;

1                   (3) The Department of Building Inspection, except that this subsection (b)(3) shall not  
2 apply if the Person provides evidence of the completion of a final inspection for an issued building  
3 permit for the premises, as required by Chapter 1A of the San Francisco Building Code, if the  
4 inspection was completed in the 12 months before the date of the Person’s application for a Place of  
5 Entertainment Permit;

6                   (4) The Department of Public Health, except that this subsection (b)(4) shall not apply  
7 if the Person provides evidence of a permit to operate a food preparation and service establishment on  
8 the premises, as required by Article 8 of the Health Code, current as of the date of the Person’s  
9 application for a Place of Entertainment Permit; and

10                   (5) The Fire Department, except that this subsection (b)(5) shall not apply if the Person  
11 provides evidence of a place of assembly permit for the premises, as required by Chapter 1 of the San  
12 Francisco Fire Code, current as of the date of the Person’s application for a Place of Entertainment  
13 Permit.

14  
15                   Section 7. Effective Date. This ordinance shall become effective 30 days after  
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
18 of Supervisors overrides the Mayor’s veto of the ordinance.

19  
20                   Section 8. Scope of Ordinance. With the exception of the amendments to Zoning  
21 Control Tables in Section 5 of this ordinance, in enacting this ordinance, the Board of  
22 Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections,  
23 articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the  
24  
25

1 Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board  
2 amendment additions, and Board amendment deletions in accordance with the “Note” that  
3 appears under the official title of the ordinance.  
4

5 Section 9. Undertaking for the General Welfare. In enacting and implementing this  
6 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not  
7 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is  
8 liable in money damages to any person who claims that such breach proximately caused injury.  
9

10 Section 10. Severability. If any section, subsection, sentence, clause, phrase, or word of  
11 this ordinance, or any application thereof to any person or circumstance, is held to be invalid or  
12 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect  
13 the validity of the remaining portions or applications of the ordinance. The Board of Supervisors  
14 hereby declares that it would have passed this ordinance and each and every section, subsection,  
15 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to  
16 whether any other portion of this ordinance or application thereof would be subsequently declared  
17 invalid or unconstitutional.  
18

19 APPROVED AS TO FORM:  
20 DENNIS J. HERRERA, City Attorney

21 By: \_\_\_\_\_  
22 EILEEN K. CHAUVET  
23 Deputy City Attorney  
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25