



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Planning Code Text Change

HEARING DATE: MAY 26, 2011

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*Project Name:* **Amendments relating to the Neighborhood Commercial Districts (NCD):  
Self-Service Restaurants, Retail Coffee Stores, and Video Stores**

*Case Number:* 2011.0172I [Board File No. 11-0152]

*Initiated by:* Supervisor Mirkarimi/ Introduced February 8, 2011

*Staff Contact:* Aaron Starr, Legislative Affairs  
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*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
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*Recommendation:* **Recommend Approval with Modifications**

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend Sections 710, 730, 733A, 733A.1, 790.90, 790.91, and 790.102 of the Planning Code to: (1) increase the maximum use size for Small Self-Service Restaurants in Neighborhood Commercial Districts to that of the non-residential use size limit for the district and eliminate the limit on the number of seats; (2) increase the minimum size for Large Self-Service Restaurants in Neighborhood Commercial Districts to that of the non-residential use size limit for the district; (3) principally permit Small Self-Service Restaurants and Video Stores in Neighborhood Commercial Cluster (NC-1) and Neighborhood Commercial Transit Cluster (NCT-1) Districts; (4) conditionally permit Large Self-Service Restaurants in the Inner Sunset Neighborhood Commercial District; (5) require that mechanical noise and vibration from Self-Service Restaurants be confined to the premises; and (6) remove the prohibition of on-site food preparation and cooking and reheating equipment in Retail Coffee Stores<sup>1</sup>.

### The Way It Is Now:

#### Use Categories

There are a total of 13 Definitions (7 Neighborhood Commercial / 6 Mixed Use) for line item eating and drinking uses in the Planning Code:

- **Article 7 Definitions:** Small Self-Serve Restaurant (790.91), Large Fast-Food Restaurant (790.90), Full Service Restaurant (790.92), Retail Coffee Shop (790.102n), Accessory Grocery Deli (703.2), Self-Service Specialty Food Stores (790.93) and Bar (790.22).

<sup>1</sup> **A note to the reader:** throughout this report existing and proposed Planning Code definitions are noted with the use of Capitalized Words instead of within "quotes". This style choice was made in an effort in increase readability and decrease clutter that may have resulted from the large number of such terms throughout the report.

- **Article 8 Definitions:** Bar (890.22), Small Fast-Food Restaurant (890.90), Large Fast-Food Restaurant (890.91), Full Service Restaurant (890.92), Bar (890.22) and Take-Out Food (890.122).

### **Use Size**

- Each Neighborhood Commercial District (NCD) in Article 7 and has a Non-Residential Use Size that is permitted as-of-right. Any Non-Residential Use proposed over that threshold requires Conditional Use (CU) authorization. As-of-right Non-Residential Use Sizes range from 1,999 sq. ft. to 5,999 in Article 7, with the majority being 2,499 sq. ft.
- Small-Self Service Restaurants and Large Fast-Food Restaurants are differentiated by their total square footage and the number of seats. Small Self-Service Restaurants are limited to 1,000 sq. ft. and 50 seats; Large Fast-Food Restaurants are defined as anything above 1,000 sq. ft.

### **Prohibited or Restricted Uses**

- Small Self-Service Restaurants and Video Stores in Neighborhood Commercial Cluster (NC-1) and Neighborhood Commercial Transit Cluster (NCT-1) require Conditional Use Authorization.
- Large Self-Service Restaurants are not permitted in the Inner Sunset Neighborhood Commercial District.
- Coffee Stores are not permitted to have on-site food preparation or equipment to cook or reheat food or prepare meals, except where a conditional use is granted for an exception in the West Portal NCD.

### **Noise and Odor Controls**

- Large Fast-Food Restaurants and Small Self-Service Restaurants currently carry a condition that noise and odors be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

### **The Way It Would Be:**

The proposed legislation removes seating limitations and relates restaurant use size to the tailored sizes of the various NC districts. The legislation is more permissive of restaurants in the smallest districts and allows food preparation in coffee stores.

- Maintain the current number of restaurant uses and not modify the restaurant definitions in Article 8.
- Increase the maximum use size for Small Self-Service Restaurants in Neighborhood Commercial Districts to that of the non-residential use size limits for the district and eliminate the limit on the number of seats;
- Change the name of Large Fast-Food Restaurants to Large Self-Service Restaurants;
- Increase the minimum size for Large Self-Service Restaurants in Neighborhood Commercial Districts to that of the Non-Residential Use Size limit for the district;
- Principally permit Small Self-Service Restaurants and Video Stores in NC-1 and NC-T Districts;
- Conditionally permit Large Self-Service Restaurants in the Inner Sunset Neighborhood Commercial District;

- Require that mechanical noise and vibration from Self-Service Restaurants be confined to the premises; and
- Remove the prohibition of on-site food preparation and cooking and reheating equipment in Retail Coffee Stores.

## REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

## RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance *with modifications* to include:

The Department proposes consolidating the number of line item definitions from 13 to three. (See Exhibit D for a graphic image of this consolidation and Exhibit C for the specific text for these new definitions.) The distinguishing characteristic that would group the new restaurant categories would be the historically most volatile: sale of alcohol. An eating/drinking establishment without on-site alcohol sales would be a Restaurant-Limited; a restaurant with wine and beer would be simply a Restaurant; and a full liquor license would be classified as a Bar. Further the Department recommends that the Video Store definition be removed and the use be put back under Sales and Service, Other Retail (790.100).

- **Simplify Definitions.** Reduce the total number of line item definitions in both Articles 7 and 8 to three: Restaurant, Restaurant-Limited and Bar. The Bar definition would not substantially change, but standardized operation conditions would be added. Restaurant would encompass Large Fast-Food (790.90 & 890.91), Small Self-Service (790.91 & 890.90), and Full-Service Restaurants (790.92 & 890.92). Restaurant-Limited would encompass Self-Service Specialty Food Stores (790.93), Take-Out Food (890.122), Accessory Grocery Deli (703.2) and Coffee Shops (790.102n). General and Specially Grocery Store (709.102 (a) & (b)) definitions would be amended to reflect the changes in restaurant definitions for the purposes of accessory uses and to include Standard Conditions.
- **Entitlement Process.** Staff proposes two options for translating the new definitions into controls for the Commission's consideration. Option 1 would continue CU requirements if any of the existing definitions encompassed in the new definitions currently require CU authorization. Option 2 allows Restaurant-Limited (no on-site alcohol) as of right in all NCDs, and would require CU authorization for Restaurants if Full-Service Restaurants are currently required to obtain a CU. Option 2 is preferred by the Department (see discussion below).
- **Standard Conditions of Approval.** The proposed definitions would add conditions in the Code on each eating and drinking use consistent with the standardized conditions currently used with CU authorization. These controls would address noise, litter, trash receptacles and odor issues.
- **Consolidate Definitions.** All definitions would be located in Article 7 of the Planning Code. Article 8 would reference the definitions in Article 7.
- **Remove Video Store Definition (790.135):** Instead this use would be covered by Sales and Service, Other Retail (790.102). Video stores are becoming obsolete due to the provision of on-demand video through cable providers and other internet-based video delivery systems. Therefore, the Department does not see a need to keep it as a separate use category.

- **Additional Controls.** Existing controls attached to restaurant uses (indicated by a # in the Planning Code) would remain for the most part. For instance, a new bar in the Upper Fillmore NCD could only be approved in conjunction with a Restaurant use.
- **Retain Existing Restaurant Caps.** Existing legislated limits on restaurant types would be transferred and applied to the new restaurant definitions. For example, the Union Street NCD currently has a restriction prohibiting more than 32 Full-Service Restaurants within the district. Under the Department's proposal, that limit would be applied to establishments that fit the new definition, Restaurant.

## **BASIS FOR RECOMMENDATION**

As part of our review of Supervisor Mirkarimi's legislation, the Planning Commission asked staff to reevaluate and consolidate existing restaurant definitions. In addition, "NC@20" – a review of NCD controls 20 years after being adopted - also recommended that existing restaurant definitions be evaluation based on changes that have occurred to the Planning Code since NCD controls were adopted.

### **Evolving Planning Code**

The citywide Neighborhood Commercial Controls were enacted in 1987<sup>2</sup> in response to land use issues identified by neighborhood groups, planners, and elected officials. Two issues of particular concern were restaurants displacing neighborhood serving retail uses and the proliferation of chain restaurant. As a way to address these concerns, restaurants were divided into very specific use types so that they could be more tightly controlled and regulated. Since then, two significant additions have been added to the Planning Code that address the same issues, but in a more effective way: Planning Code Section 312 Neighborhood Notification<sup>3</sup> first established in 2000 and Formula Retail Controls<sup>4</sup> were first added to the Planning Code in 2004<sup>5</sup>.

Prior to the establishment of required neighborhood notification by §312, neighbors and neighborhood groups were not routinely notified of proposed restaurants before approval by the Planning Department. There was no effective method for these groups to voice their concerns if they felt there was an over proliferation of restaurants in the area. Additionally, controlling large chain fast-food restaurants in NCDs was difficult and inconsistent prior to the Formula Retail controls. Now all formula retail establishments require a Conditional Use hearing before the Planning Commission, even if there is already a formal retail business in the existing space.

### **Overly Prescriptive Definitions**

The desire to restrict restaurants and large chain fast-food restaurants created the need to develop explicit definitions for different restaurant types in NCD. While this helped slow the establishment of

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<sup>2</sup> Added by Ord. 69-87, App. 3/13/87.

<sup>3</sup> Added by Ord. 279-00, File No. 001423, App. 12/15/2000.

<sup>4</sup> Added by Ord. 62-04, File No. 031501, App. 4/9/2004.

<sup>5</sup> The first Formula Retail controls established in 2004 in San Francisco applied only to the Hayes-Gough NCD. Since that time, these controls have been expanded to regulate Formula Retail uses in all NC Districts; the Japantown and Western SoMa SUDS; the Urban Mixed Use, Mixed Use-General, Residential Transit-Oriented, and Chinatown Visitor Retail districts; as well as the Residential Commercial districts along Van Ness between Golden Gate and Chestnut. See Ordinance Numbers 62-04, 8-05, 65-05, 173-05, 204-06, 180-06, 0269-08, 0298-08, 0301-08, 304-08 and the 2007 Voter's Initiative, Proposition G.

fast-food restaurants in NCD, it also dictated how a restaurant could operate and what they could offer their customers. For instance, coffee shops are restricted from serving prepared foods such as toasted bagels with cream cheese, and Small Self-Service Restaurants and Large-Fast Food Restaurants are required to have food ordered and served at the counter and have food served in disposable wrappers. Yet many newer restaurants models have customers order at the counter and then the food is brought to them. Further, requiring businesses to serve food in disposable wrappers is antithetical to the City's efforts on reducing the amount of trash it generates.

As restaurants have changed and the City's attitude toward restaurants has evolved, the distinction between the different eating and drinking uses has become obsolete. The Zoning Administrator issued several interpretations trying to fit new or emerging business models into the existing definitions. Small business owners have had to modify how they operate to be in compliance with the Planning Code or risk fines, and the Department's enforcement staff has had to police coffee stores to ensure that they don't have toasters and are serving ice cream in cups and not cones. Enforcing these regulations takes significant resources without any clear public benefit.

### **Number of Definitions**

Rather than attempting to refine the existing definitions, the Department finds it more practical and effective to combine existing definitions based on the one issue that has the greatest land use and quality of life impacts, alcohol sale and consumption. Under the Department's proposal, those uses that are currently permitted to have food service and on-site alcohol sale and consumption would simply be categorized as Restaurants. Uses that are currently permitted to serve food and have off-site alcohol sale would be categorized as Restaurant-Limited. The definitions for Bars, which permits on-site alcohol sale without food service, would remain the same except that standard operating conditions would be added to the definition.

Existing Formula Retail controls would still prevent or limit large chain restaurants in Neighborhood Commercial Districts. Neighborhood groups and residents would be notified of any restaurant seeking to establish in non-restaurant retail spaces, and entitlement requirements can still be tailored to individual neighborhoods. Neighborhood Commercial Districts with restrictions on bars or specific alcohol licenses would remain in effect. Conversely small business owners would be allowed operate their business with more flexibility and without fear of being in violation of the Planning Code, the new definitions would be clearer for new business owners and the Planning Department would not be charged with monitoring how food is ordered or served.

### **Other Impacts**

Restaurants have other impacts such as noise, odor and trash. To address these issues, Staff proposes that the new definitions include clearly defined operating conditions that would apply to any restaurant use in the City whether or not it is required to obtain CU authorization. These conditions have been taken from a list of standardized conditions of approval recently developed by the Department. Moreover, the success and popularity of a restaurant, rather than the service level or type of restaurant dictates how disruptive it will be to a neighborhood. Since the City can not regulate success, requiring standardized conditions for each restaurant would ensure that business owners know what the City's expectations are before opening and would provide greater assurances to neighbors.

### **Use Size**

The existing use definitions limit Small Self-Service Restaurants to 1,000 sq. ft., while a Self-Service Restaurant above that size is considered to be a Large Fast-Food Restaurant. One major change proposed by Mirkarimi's legislation that is also consistent with the Department's recommendation is the use of

existing Non-Residential Use Sizes to regulate restaurant sizes. Each neighborhood commercial district has a non-residential use size that, once exceeded, requires CU authorization. These use sizes are tailored to each district; for instance in NC-1 Districts (smaller commercial clusters often located within residential neighborhoods) the non-residential use size is 2,999 sq. ft. and in NC-3 Districts (larger commercial districts like those along Geary Boulevard) the non-residential use size is 5,999 sq. ft. The Department believes that these existing, tailored controls are sufficient to ensure that restaurant size would not be disruptive to each NCD's character.

### **Entitlement Process**

Attachment E charts two proposals for determining land use controls within specific zoning districts. Of the two options presented in the Department's recommendation, Option 2 is the Department's preferred option. Option 2 would permit the least impactful use, Restaurant-Limited, to be Principally Permitted in all NCDs, and Restaurants would be either Principally Permitted or Permitted with CU Authorization, depending on existing controls for Full-Service Restaurants. For example, if a Full-Service Restaurant currently requires a CU authorization or is not permitted in an NCD then the new Restaurant category would require a CU authorization.

Option 1 is a more conservative reading and would preserve all existing CUs by merely transferring any existing CU to the new definition. If a use is not currently permitted that would convert to a CU. For example, *not only* would any Full Service Restaurant, Large Fast-Food Restaurant or Small Self-Serve Restaurant trigger a CU for the new Restaurant use *but also* any existing CU for a Coffee Shop, Self-Service Specialty Food, Take Out or Accessory Deli would trigger a CU for the new Restaurant-Limited Use. This option would be the more conservative approach and would not only preserve existing CUs but also due to the definition consolidation would actually *increase* the frequency where CUs would be required.

Under current controls the most restricted eating use in NCDs is Large-Fast Food Restaurants, which is an artifact from initial attempts to prohibit or limit the number of large chain restaurants in NCDs. Since the establishment are now formula retail controls that more effectively regulate this type of use, outright prohibition of restaurants that fall under this definition is no longer necessary

### **ENVIRONMENTAL REVIEW**

The proposal to amend Planning Code Sections 710, 730, 733A, 733A.1, 790.90, 790.91, and 790.102 would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

### **PUBLIC COMMENT**

As of the date of this report, the Department has received approximately five emails inquiring about the proposed changes and one phone call. One email expressed concern about how the proposed changes would impact the West Portal Neighborhood Commercial District's cap on restaurants. Two emails expressed concerns on how the proposed changes would effect the prohibition on bars in the Upper Fillmore NCD and the Union Street NCD. The Department feels that its recommendation addresses these concerns by preserving both the total cap on new restaurants and the prohibition of new bars in those districts.

While not specific to this proposal, the Small Business Commission (SBC) has requested the simplification of restaurant definitions as generally described in the "NC@20" report. Further, SBC staff report that streamlining restaurant definitions is one of the priority recommendations of the SBC.

<b>RECOMMENDATION:</b> <b>Recommendation of Approval with Modifications</b>
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**Attachments:**

- Exhibit A:     Draft Planning Commission Resolution
- Exhibit B:     Board of Supervisors File No. 11-0152
- Exhibit C:     Department's Proposed Definitions
- Exhibit D:     Restaurant Definition Consolidation Flowchart
- Exhibit E:     Restaurant Uses Permitted by Zoning District, May 2011



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Draft Resolution

HEARING DATE MAY 26, 2011

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CA 94103-2479

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*Project Name:* **Amendments relating to the Neighborhood Commercial Districts:  
Self-Service Restaurants, Retail Coffee Stores, and Video Stores**

*Case Number:* 2011.0172T [Board File No. 11-0152]

*Initiated by:* Supervisor Mirkarimi/ Introduced February 8, 2011

*Staff Contact:* Aaron Starr, Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

*Reviewed by:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* **Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION SECTIONS 710, 730, 733A, 733A.1, 790.90, 790.91, AND 790.102 OF THE PLANNING CODE TO: (1) INCREASE THE MAXIMUM USE SIZE FOR SMALL SELF-SERVICE RESTAURANTS IN NEIGHBORHOOD COMMERCIAL DISTRICTS TO THAT OF THE NONRESIDENTIAL USE SIZE LIMIT FOR THE DISTRICT AND ELIMINATE THE LIMIT ON THE NUMBER OF SEATS; (2) INCREASE THE MINIMUM SIZE FOR LARGE SELF-SERVICE RESTAURANTS IN NEIGHBORHOOD COMMERCIAL DISTRICTS TO THAT OF THE NON-RESIDENTIAL USE SIZE LIMIT FOR THE DISTRICT; (3) PRINCIPALLY PERMIT SMALL SELF-SERVICE RESTAURANTS AND VIDEO STORES IN NEIGHBORHOOD COMMERCIAL CLUSTER (NC-1) AND NEIGHBORHOOD COMMERCIAL TRANSIT CLUSTER (NCT-1) DISTRICTS; (4) CONDITIONALLY PERMIT LARGE SELF-SERVICE RESTAURANTS IN THE INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT; (5) REQUIRE THAT MECHANICAL NOISE AND VIBRATION FROM SELF-SERVICE RESTAURANTS BE CONFINED TO THE PREMISES; AND (6) REMOVE THE PROHIBITION OF ON-SITE FOOD PREPARATION AND COOKING AND REHEATING EQUIPMENT IN RETAIL COFFEE STORES, AND ADOPT CERTAIN MODIFICATIONS TO THE PROPOSED ORDINANCE TO FURTHER SIMPLIFY EXISTING PLANNING CODE DEFINITIONS AND CONTROLS FOR FOOD AND DRINK ESTABLISHMENTS, ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

WHEREAS, on February 8, 2011, Supervisors Mirkarimi introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 11-0152 which would amend Sections 710, 730, 733A, 733A.1, 790.90, 790.91, and 790.102 of the Planning Code to: (1) increase the maximum use size for Small Self-Service Restaurants in Neighborhood Commercial Districts to that of the nonresidential use size limit for the district and eliminate the limit on the number of seats; (2) increase the minimum size for Large Self-Service Restaurants in Neighborhood Commercial Districts to that of the non-residential use size limit for the district; (3) principally permit Small Self-Service Restaurants and Video Stores in



Neighborhood Commercial Cluster (NC-1) and Neighborhood Commercial Transit Cluster (NCT-1) Districts; (4) conditionally permit Large Self- Service Restaurants in the Inner Sunset Neighborhood Commercial District; (5) require that mechanical noise and vibration from Self-Service Restaurants be confined to the premises; and (6) remove the prohibition of on-site food preparation and cooking and reheating equipment in Retail Coffee Stores.

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 26, 2011; 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

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance. Specifically, the Commission recommends the following modifications:

1. Reduce the total number of line item definitions in both Articles 7 and 8 to three: Restaurant, Restaurant-Limited and Bar. The Bar definition would not substantially change, but standardized operation conditions would be added. Restaurant would encompass Large Fast-Food (790.90 and 890.91), Small Self-Service (890.90 & 790.91), and Full-Service Restaurants (790.92 & 890.92). Restaurant-Limited would encompass Self-Service Specialty Food Stores (790.93), Take-Out Food (890.122), Accessory Grocery Deli (703.2) and Coffee Shops (790.102(n)). General and Specially Grocery Store (709.102 (a) & (b)) definitions would be amended to reflect the changes in restaurant definitions for the purposes of accessory uses and to include standard conditions.
2. Allow Restaurant-Limited as of right in all NCDs, and require CU authorization for Restaurants if Full-Service Restaurants are currently required to obtain a CU. Otherwise Restaurants would be principally permitted.
3. Add conditions to each eating and drinking use consistent with the standardized conditions currently used with CU authorization. These controls would cover noise, litter, trash receptacles and odor.
4. Place the new eating and drinking uses in Article 7 of the Planning Code and reference them when appropriate in Article 8 of the Planning Code.

5. Remove Planning Code Section 790.135 (Video Stores). This use would be covered by Planning Code Section 790.102 (Sales and Service, Other Retail).
6. Where appropriate, maintain existing controls attached to restaurant uses indicated by a # in the Planning Code.
7. Maintain existing caps on the number of permitted restaurants in specific Neighborhood Commercial Districts and apply these caps to the new definitions.
8. Amend the proposed ordinance to include the definitions that are attached to this Resolution for Restaurant, Restaurant Limited, Bar and Grocery Store, General and Specialty.

## 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. A review of Neighborhood Commercial District controls 20 years after being adopted titled "NC@20" recommended that existing restaurant definitions be reevaluated based on changes that have occurred to the Planning Code since those controls were adopted.
2. The existing restaurant definitions were devised to help stop the displacement of neighborhood serving retail uses and the proliferation of large chain fast-food restaurants. Since then, 312 Neighborhood Notification and Formula Retail Controls were added to the Planning Code and more appropriate address these issues and concerns.
3. Existing restaurant definitions are overly prescriptive and restrict how restaurants can operate without a clear land use benefit. Enforcement of these definitions is often difficult and ineffective.
4. Grouping restaurant types by alcohol license type and including operational conditions within the Planning Code is a more effective way to address the land use and quality of life impacts caused by restaurants.
5. Non-Residential Use Size controls that are tailored to individual neighborhoods provide adequate protection from over-sized restaurant uses.
6. Video stores are becoming obsolete due to on-demand video through cable providers and other internet based video delivery systems. Having a separate use category for Video Stores is no longer necessary.
7. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

## **I. COMMERCE & INDUSTRY ELEMENT**

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

### **GOALS**

THE THREE GOALS OF THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN RELATE TO CONTINUED ECONOMIC VITALITY, SOCIAL EQUITY, AND ENVIRONMENTAL QUALITY.

### **OBJECTIVE 1**

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

#### **POLICY 1.2**

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

*The changes to the proposed Ordinance by the Planning Commission include minimum and reasonable performance standards for restaurants and bars.*

### **OBJECTIVE 3**

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

#### **POLICY 3.1**

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

*Restaurants tend to employ unskilled and semi-skilled labor. The proposed changes to the restaurant definitions will make it easier to open and operate a restaurant which will attract, retain and expand a commercial use.*

### **OBJECTIVE 6**

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

#### **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.

#### **POLICY 6.3**

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

**POLICY 6.10**

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

*The existing controls are too prescriptive and often stifle new or emerging business models. These amendments will help foster small business enterprise and entrepreneurship by allowing more flexibility and creativity in how restaurants are run and operated. Integrating standardized operational conditions into the new eating and drinking definitions will help ensure that there is a balance between new or expanded commercial activity and residential uses in Neighborhood Commercial Districts. The proposed amendments will also help spur commercial revitalization in some neighborhood commercial districts by reducing the barriers for new restaurants to open and existing restaurants to adapt to a changing market place.*

8. **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 amendments will encourage neighborhood-serving retail uses and opportunities for employment in or ownership of such businesses in the City by making it easier for new restaurants to open and operate and for existing restaurants to adapt to a changing marketplace.*

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 amendments will not have an impact on housing in Neighborhood Commercial Districts. Controls are in place in section 317 of the Planning Code that severely restricts the conversion of housing units to commercial units.*

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

*The proposed amendments will have no 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 amendments will 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 amendments 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;

*Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.*

7. That the landmarks and historic buildings be preserved;

*Landmarks and historic buildings would be unaffected by the proposed amendments. Should a proposed use be located within a landmark or historic building, such site would be evaluated under Planning Code provisions and comprehensive Planning Department policies.*

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

*The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments. It is not anticipated that permits would be such that sunlight access, to public or private property, would be adversely impacted.*

- 8. 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 recommends that the Board ADOPT the proposed Ordinance as described in this Resolution and in the proposed Ordinance with the modification outlined above.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 26, 2011.

Linda D. Avery  
Commission Secretary

AYES:

NOES:

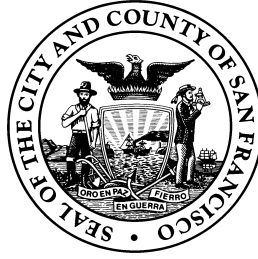
ABSENT:

**Resolution XXXXXX  
May 26, 2011**

**CASE NO. 2011.0172T  
Eating and Drinking Uses**

ADOPTED:

BOARD of SUPERVISORS



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February 15, 2011

Planning Commission  
Attn: Linda Avery  
1660 Mission Street, 5<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Commissioners:

On February 8, 2011, Supervisor Mirkarimi introduced the following proposed legislation:

**File No. 110152**

Ordinance amending the San Francisco Planning Code by amending Sections 710, 730, 733A, 733A.1, 790.90, 790.91, and 790.102 of the Planning Code to: (1) increase the maximum use size for Small Self-Service Restaurants in Neighborhood Commercial Districts to that of the non-residential use size limit for the district and eliminate the limit on the number of seats; (2) increase the minimum size for Large Self-Service Restaurants in Neighborhood Commercial Districts to that of the non-residential use size limit for the district; (3) principally permit Small Self-Service Restaurants and Video Stores in Neighborhood Commercial Cluster (NC-1) and Neighborhood Commercial Transit Cluster (NCT-1) Districts; (4) conditionally permit Large Self-Service Restaurants in the Inner Sunset Neighborhood Commercial District; (5) require that mechanical noise and vibration from Self-Service Restaurants be confined to the premises; and (6) remove the prohibition of on-site food preparation and cooking and reheating equipment in Retail Coffee Stores; adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Somera".

By: Alisa Somera, Committee Clerk  
Land Use & Economic Development Committee

Attachment

- c: John Rahaim, Director of Planning
- Scott Sanchez, Zoning Administrator
- Bill Wycko, Chief, Major Environmental Analysis
- AnMarie Rodgers, Legislative Affairs
- Nannie Turrell, Major Environmental Analysis
- Brett Bollinger, Major Environmental Analysis

1 [Planning Code - Zoning - Self-Service Restaurants, Retail Coffee Stores, and Video Stores]  
 2  
 3 **Ordinance amending the San Francisco Planning Code by amending Sections 710, 730,**  
 4 **733A, 733A.1, 790.90, 790.91, and 790.102 of the Planning Code to: (1) increase the**  
 5 **maximum use size for Small Self-Service Restaurants in Neighborhood Commercial**  
 6 **Districts to that of the non-residential use size limit for the district and eliminate the**  
 7 **limit on the number of seats; (2) increase the minimum size for Large Self-Service**  
 8 **Restaurants in Neighborhood Commercial Districts to that of the non-residential use**  
 9 **size limit for the district; (3) principally permit Small Self-Service Restaurants and**  
 10 **Video Stores in Neighborhood Commercial Cluster (NC-1) and Neighborhood**  
 11 **Commercial Transit Cluster (NCT-1) Districts; (4) conditionally permit Large Self-**  
 12 **Service Restaurants in the Inner Sunset Neighborhood Commercial District; (5) require**  
 13 **that mechanical noise and vibration from Self-Service Restaurants be confined to the**  
 14 **premises; and (6) remove the prohibition of on-site food preparation and cooking and**  
 15 **reheating equipment in Retail Coffee Stores; adopting findings, including**  
 16 **environmental findings, Section 302 findings, and findings of consistency with the**  
 17 **General Plan and the Priority Policies of Planning Code Section 101.1.**

18 NOTE: Additions are *single-underline italics Times New Roman*;  
 19 deletions are ~~*strike-through italics Times New Roman*~~.  
 20 Board amendment additions are double-underlined;  
 Board amendment deletions are ~~strikethrough normal~~.

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

22 Section 1. Findings.

23 (a) The Planning Department has determined that the actions contemplated in this  
 24 ordinance comply with the California Environmental Quality Act (California Public Resources  
 25



Code Section 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.

(b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code amendments 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 Board of Supervisors in File No. \_\_\_\_\_.

(c) This Board finds that these Planning Code amendments are consistent with the General Plan and with the priority policies of Planning Code Section 101.1 for the reasons set forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board hereby incorporates such reasons herein by reference.

Section 2. The San Francisco Planning Code is hereby amended by amending Section 710, to read as follows:

**SEC. 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1  
ZONING CONTROL TABLE**

			NC-1
No.	Zoning Category	§ References	Controls
<b>BUILDING STANDARDS</b>			
710.10	Height and Bulk Limit	§§ 102.12, 105, 106, 250—252, 260, 263.20. 270, 271	Varies See Zoning Map <i>Height Sculpting on alleys; § 261.1.</i> Additional 5 feet for NC-1 parcels with a commercial use on the ground floor within the boundaries of Sargent Street

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			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. see § 263.20
710.11	Lot Size [Per Development]	§§ 790.56, 121.1	P up to 4,999 sq. ft.; C 5,000 sq. ft. & above § 121.1
710.12	Rear Yard	§§ 130, 134, 136	Required at grade level and above § 134(a) (e)
710.13	Street Frontage		Required § 145.1
710.14	Awning	§ 790.20	P § 136.1(a)
710.15	Canopy	§ 790.26	
710.16	Marquee	§ 790.58	
710.17	Street Trees		Required § 143
<b>COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES</b>			
710.20	Floor Area Ratio	§§ 102.9, 102.11, 123	1.8 to 1 § 124(a) (b)
710.21	Use Size [Non-Residential]	§ 790.130	P up to 2,999 sq. ft.; C 3,000 sq. ft. & above

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			§ 121.2
710.22	Off-Street Parking, Commercial/Institutional	§§ 150, 153— 157, 159—160, 204.5	Generally, none required if occupied floor area is less than 5,000 sq. ft. §§ 151, 161(g)
710.23	Off-Street Freight Loading	§§ 150, 153— 155, 204.5	Generally, none required if gross floor area is less than 10,000 sq. ft. §§ 152, 161(b)
710.24	Outdoor Activity Area	§ 790.70	P if located in front; C if located elsewhere § 145.2(a)
710.25	Drive-Up Facility	§ 790.30	
710.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft.; C if not recessed § 145.2(b)
710.27	Hours of Operation	§ 790.48	P 6 a.m.—11 p.m.; C 11 p.m.—2 a.m.
710.30	General Advertising Sign	§§ 262, 602— 604, 608, 609	
710.31	Business Sign	§§ 262, 602— 604, 608, 609	P § 607.1(f)1

1	710.32	Other Signs	§§ 262, 602— 604, 608, 609	P § 607.1(c) (d) (g)
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No.	Zoning Category	§ References	NC-1		
			Controls by Story		
		§ 790.118	1 <sup>st</sup>	2nd	3rd+
710.38	Residential Conversion	§ 790.84	P		
710.39	Residential Demolition	§ 790.86	P	C	C
<b>Retail Sales and Services</b>					
710.40	Other Retail Sales and Services [Not Listed Below]	§ 790.102	P #		
710.41	Bar	§ 790.22	P #		
710.42	Full-Service Restaurant	§ 790.92	P #		
710.43	Large <i>Self-Service Fast Food</i> Restaurant	§ 790.90			
710.44	Small Self-Service Restaurant	§ 790.91	<u>P</u> € #		
710.45	Liquor Store	§ 790.55	P		
710.46	Movie Theater	§ 790.64			
710.47	Adult Entertainment	§ 790.36			
710.48	Other Entertainment	§ 790.38	C		
710.49	Financial Service	§ 790.110			

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710.50	Limited Financial Service	§ 790.112	P		
710.51	Medical Service	§ 790.114	P		
710.52	Personal Service	§ 790.116	P		
		§ 790.118	1 <sup>st</sup>	2nd	3rd+
710.53	Business or Professional Service	§ 790.108	P		
710.54	Massage Establishment	§ 790.60, § 1900 Health Code			
710.55	Tourist Hotel	§ 790.46			
710.56	Automobile Parking	§§ 790.8, 156, 160	C		
710.57	Automotive Gas Station	§ 790.14			
710.58	Automotive Service Station	§ 790.17			
710.59	Automotive Repair	§ 790.15			
710.60	Automotive Wash	§ 790.18			
710.61	Automobile Sale or Rental	§ 790.12			
710.62	Animal Hospital	§ 790.6			
710.63	Ambulance Service	§ 790.2			
710.64	Mortuary	§ 790.62			
710.65	Trade Shop	§ 790.124	P		

1	710.66	Storage	§ 790.117			
2	710.67	Video Store	§ 790.135	<u>P</u> €		
3	710.68	Fringe Financial Service	§ 790.111			
4	710.69	Tobacco Paraphernalia	§ 790.123	C		
5		Establishments				
6	710.69A	Self-Service Specialty Food	§ 790.93	C#		
7	710.69B	Amusement Game Arcade	§ 790.04			
8		(Mechanical Amusement				
9		Devices)				
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11	<b>Institutions and Non-Retail Sales and Services</b>					
12	710.70	Administrative Service	§ 790.106			
13	710.80	Hospital or Medical Center	§ 790.44			
14	710.81	Other Institutions, Large	§ 790.50	P	C	
15	710.82	Other Institutions, Small	§ 790.51	P	P	P
16	710.83	Public Use	§ 790.80	C	C	C
17	710.84	Medical Cannabis Dispensary	§ 790.141	P #		
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19	<b>RESIDENTIAL STANDARDS AND USES</b>					
20	710.90	Residential Use	§ 790.88	P	P	P
21	710.91	Residential Density, Dwelling	§§ 207, 207.1,	Generally, 1 unit per		
22		Units	790.88(a)	800 sq. ft. lot area		
23				§ 207.4		
24	710.92	Residential Density, Group	§§ 207.1,	Generally, 1 bedroom per 275		
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1		Housing	790.88(b)	sq. ft. lot area		
2				§ 208		
3	710.93	Usable Open Space	§§ 135, 136	Generally, either 100 sq. ft. if		
4		[Per Residential Unit]		private, or 133 sq. ft. if common		
5				§ 135(d)		
6	710.94	Off-Street Parking, Residential	§§ 150, 153—	Generally, 1 space for each		
7			157,	dwelling unit		
8			159—160,	§§ 151, 161(a) (g)		
9			204.5			
10	710.95	Community Residential Parking	§ 790.10	C	C	C

**SPECIFIC PROVISIONS FOR NC-1 DISTRICTS**

13	Article 7	Other	Zoning Controls
14	Code	Code	
15	Section	Section	
16	§ 710.40		<b>Boundaries:</b> All NC-1 Districts
17	§ 710.41		<b>Controls:</b> P if located more than ¼ mile from any NC District or
18	§ 710.42		Restricted Use Subdistrict with more restrictive controls; otherwise,
19			same as more restrictive control
20			
21	§ 710.44		<b>Boundaries:</b> All NC-1 Districts
22	§ 710.69A		<b>Controls:</b> C if located more than ¼ mile from any NC District or
23			Restricted Use Subdistrict with more restrictive controls; otherwise,
24			same as more restrictive control
25	§ 710.42	§ 781.1	TARAVAL STREET RESTAURANT AND FAST-FOOD

1	§ 710.43		SUBDISTRICT
2	§ 710.44		Boundaries: Applicable only for the two Taraval Street NC-1 Districts between 40th and 41st Avenues and 45th and 47th Avenues as mapped on Sectional Map 5 SU
3	§710.69A		
7	§ 710.84		Only those medical cannabis dispensaries that can demonstrate to the Planning Department they were in operation as of April 1, 2005 and have remained in continuous operation or that were not in continuous operation since April 1, 2005, but can demonstrate to the Planning Department that the reason for their lack of continuous operation was not closure due to an actual violation of federal, state or local law, may apply for a medical cannabis dispensary permit in an NC-1 District.
8	§ 790.141		
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Section 3. The San Francisco Planning Code is hereby amended by amending Section 730, to read as follows:

**SEC. 730. INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT  
ZONING CONTROL TABLE**

			Inner Sunset
No.	Zoning Category	§ References	Controls
<b>BUILDING STANDARDS</b>			
730.1	Height and Bulk Limit	§§ 102.12, 105, 106, 250—252, 260, 270,	40-X



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730.11	Lot Size [Per Development]	§§ 790.56, 121.1	P up to 4,999 sq. ft.; C 5,000 sq. ft. & above § 121.1
730.12	Rear Yard	§§ 130, 134, 136	Required at grade level and above § 134(a) (e)
730.13	Street Frontage		Required § 145.1
730.14	Awning	§ 790.20	P § 136.1(a)
730.15	Canopy	§ 790.26	P § 136.1(b)
730.16	Marquee	§ 790.58	P § 136.1(c)
730.17	Street Trees		Required § 143
<b>COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES</b>			
730.2	Floor Area Ratio	§§ 102.9, 102.11, 123	1.8 to 1 § 124(a) (b)
730.21	Use Size [Nonresidential]	§ 790.130	P up to 2,499 sq. ft.; C 2,500 sq. ft. & above § 121.2

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730.22	Off-Street Parking, Commercial/Institutional	§§ 150, 153—157, 159—160, 204.5	Generally, none required if occupied floor area is less than 5,000 sq. ft. §§ 151, 161(g)
730.23	Off-Street Freight Loading	§§ 150, 153—155, 204.5	Generally, none required if gross floor area is less than 10,000 sq. ft. §§ 152, 161(b)
730.24	Outdoor Activity Area	§ 790.70	P if located in front; C if located elsewhere § 145.2(a)
730.25	Drive-Up Facility	§ 790.30	
730.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft.; C if not recessed § 145.2(b)
730.27	Hours of Operation	§ 790.48	P 6 a.m.—2 a.m. C 2 a.m.—6 a.m.
730.30	General Advertising Sign	§§ 262, 602, 604, 608, 609	
730.31	Business Sign	§§ 262, 602, 604, 608, 609	P § 607.1(f)2
730.32	Other Signs	§§ 262, 602, 604, 608, 609	P § 607.1(c) (d) (g)

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No.	Zoning Category	§ References	Inner Sunset		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
730.38	Residential Conversion	§ 790.84	P		
730.39	Residential Demolition	§ 790.86	P	C	C
<b>Retail Sales and Services</b>					
730.40	Other Retail Sales and Services [Not Listed Below]	§ 790.102	P	C	
730.41	Bar	§ 790.22	C		
730.42	Full-Service Restaurant	§ 790.92	C		
730.43	Large <i>Self-Service Fast Food</i> Restaurant	§ 790.90	<u>C</u>		
730.44	Small Self-Service Restaurant	§ 790.91	C		
730.45	Liquor Store	§ 790.55			
730.46	Movie Theater	§ 790.64	P		
730.47	Adult Entertainment	§ 790.36			
730.48	Other Entertainment	§ 790.38	C		
730.49	Financial Service	§ 790.110	P		
730.50	Limited Financial Service	§ 790.112	P		
730.51	Medical Service	§ 790.114	C	C	

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730.52	Personal Service	§ 790.116	P	C	
730.53	Business or Professional Service	§ 790.108	P	C	
730.54	Massage Establishment	§ 790.60, § 1900 Health Code	C		
730.55	Tourist Hotel	§ 790.46	C	C	
730.56	Automobile Parking	§§ 790.8, 156, 160	C	C	C
730.57	Automotive Gas Station	§ 790.14			
730.58	Automotive Service Station	§ 790.17			
730.59	Automotive Repair	§ 790.15	C		
730.60	Automotive Wash	§ 790.18			
730.61	Automobile Sale or Rental	§ 790.12			
730.62	Animal Hospital	§ 790.6	C		
730.63	Ambulance Service	§ 790.2			
730.64	Mortuary	§ 790.62			
730.65	Trade Shop	§ 790.124	P		
730.66	Storage	§ 790.117			
730.67	Video Store	§ 790.135	<u>P</u> €		
730.68	Fringe Financial Service	§ 790.111	P		
730.69	Tobacco Paraphernalia	§ 790.123	C		

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	Establishments				
730.69A	Self-Service Specialty Food	§ 790.93	C		
730.69B	Amusement Game Arcade (Mechanical Amusement Devices)	§ 790.04			
<b>Institutions and Non-Retail Sales and Services</b>					
730.7	Administrative Service	§ 790.106			
730.8	Hospital or Medical Center	§ 790.44			
730.81	Other Institutions, Large	§ 790.50	P	C	C
730.82	Other Institutions, Small	§ 790.51	P	P	P
730.83	Public Use	§ 790.80	C	C	
730.84	Medical Cannabis Dispensary	§ 790.141	P		
<b>RESIDENTIAL STANDARDS AND USES</b>					
730.9	Residential Use	§ 790.88	P	P	P
730.91	Residential Density, Dwelling Units	§§ 207, 207.1, 790.88(a)	Generally, 1 unit per 800 sq. ft. lot area § 207.4		
730.92	Residential Density, Group Housing	§§ 207.1, 790.88(b)	Generally, 1 bedroom per 275 sq. ft. lot area § 208		
730.93	Usable Open Space [Per Residential Unit]	§§ 135, 136	Generally, either 100 sq. ft. if private, or		

			133 sq. ft. if common § 135(d)		
730.94	Off-Street Parking, Residential	§§ 150, 153—157, 159—160, 204.5	Generally, 1 space for each dwelling unit §§ 151, 161(a) (g)		
730.95	Community Residential Parking	§ 790.10	C	C	C

**SPECIFIC PROVISIONS FOR THE INNER SUNSET NEIGHBORHOOD  
COMMERCIAL DISTRICT**

<b>Article 7 Code Section</b>	<b>Other Code Section</b>	<b>Zoning Controls</b>
§ 730.68	§ 249.35	Fringe financial services are P subject to the restrictions set forth in Section 249.35, including, but not limited to, the proximity restrictions set forth in Subsection 249.35(c)(3).

Section 4. The San Francisco Planning Code is hereby amended by amending Sections 733A.1 and 733A, to read as follows:

**SEC. 733A.1. NCT-1 – NEIGHBORHOOD COMMERCIAL TRANSIT CLUSTER DISTRICT.**

NCT-1 Districts are intended to serve as local neighborhood shopping districts, providing convenience retail goods and services for the immediately surrounding neighborhoods primarily during daytime hours. NCT-1 Districts are located near major transit services. They are small mixed-use clusters, generally surrounded by residential districts, with small-scale neighborhood-serving commercial uses on lower floors and housing above. Housing density is limited not by lot area, but by the regulations on the built envelope of

1 buildings, including height, bulk, setbacks, and lot coverage, and standards for residential  
2 uses, including open space and exposure, and urban design guidelines. There are  
3 prohibitions on access (i.e. driveways, garage entries) to off-street parking and loading on  
4 critical stretches of commercial and transit street frontages to preserve and enhance the  
5 pedestrian-oriented character and transit function. Residential parking is not required and  
6 generally limited. Commercial establishments are discouraged from building excessive  
7 accessory off-street parking in order to preserve the pedestrian-oriented character of the  
8 district and prevent attracting auto traffic.

9 NCT-1 Districts are generally characterized by their location in residential  
10 neighborhoods. The commercial intensity of these districts varies. Many of these districts have  
11 the lowest intensity of commercial development in the City, generally consisting of small  
12 clusters with three or more commercial establishments, commonly grouped around a corner;  
13 and in some cases short linear commercial strips with low-scale, interspersed mixed-use  
14 (residential-commercial) development. Building controls for the NCT-1 District promote low-  
15 intensity development which is compatible with the existing scale and character of these  
16 neighborhood areas. Commercial development is limited to one story. Rear yard requirements  
17 at all levels preserve existing backyard space.

18 NCT-1 commercial use provisions encourage the full range of neighborhood-serving  
19 convenience retail sales and services at the first story provided that the use size generally is  
20 limited to 3,000 square feet. However, commercial uses and features which could impact  
21 residential livability are prohibited, such as auto uses, financial services, general advertising  
22 signs, drive-up facilities, hotels, and late-night activity; eating and drinking establishments are  
23 restricted, depending upon the intensity of such uses in nearby commercial districts.

24 Existing residential units are protected by prohibitions of conversions above the ground  
25 story and limitations on demolitions.

1 **SEC. 733A. NEIGHBORHOOD COMMERCIAL TRANSIT CLUSTER DISTRICT NCT-1**

2 **ZONING CONTROL TABLE**

			NCT-1
No.	Zoning Category	§ References	Controls
<b>BUILDING STANDARDS</b>			
733A.10	Height and Bulk Limit	§§ 102.12, 105, 106, 250—252, 260, 270, 271	Varies See Zoning Map. <i><u>Height Sculpting on Alleys; § 261.1.</u></i> <i><u>Additional 5' Height Allowed for Ground Floor Active Uses in 40-X and 50-X height and bulk districts; § 263.20.</u></i>
733A.11	Lot Size [Per Development]	§§ 790.56, 121.1	P up to 4,999 sq. ft.; C 5,000 sq. ft. & above § 121.1
733A.12	Rear Yard	§§ 130, 134, 136	Required at grade level and above § 134(a)(e)
733A.13	Street Frontage		Required § 145.1
733.13a	Street Frontage, Above-Grade Parking Setback and Active Uses		Minimum 25 feet on ground floor, 15 feet on floors above § 145.1
733A.13b	Street Frontage, Required Ground Floor Commercial		Geneva Avenue, § 145.4
733A.13c	Street Frontage, Parking and Loading access		§ 155(r) NP: Geneva Avenue



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	restrictions		
733A.14	Awning	§ 790.20	P § 136.1(a)
733A.15	Canopy	§ 790.26	
733A.16	Marquee	§ 790.58	
733A.17	Street Trees		Required § 143
<b>COMMERCIAL AND INSTITUTIONAL STANDARDS AND USES</b>			
733A.20	Floor Area Ratio	§§ 102.9, 102.11, 123	1.8 to 1 § 124(a)(b)
733A.21	Use Size [Non-Residential]	§ 790.130	P up to 2,999 sq. ft.; C 3,000 sq. ft. & above § 121.2
733A.22	Off-Street Parking, Commercial/Institutional	§§ 150, 153— 157, 159— 160, 204.5	§§ 151.1, 166, 145.1 None required. Amount permitted varies by use; see Table 151.1. For retail uses, P up to 1 space per 1,500 feet of occupied floor area or the quantity specified in Table 151, whichever is less, and subject to the conditions of Section 151.1(f); NP above. For retail grocery stores larger than 20,000 square feet, P up to 1:500, C up to 1:250 for space in excess of 20,000 s.f. subject to conditions of 151.1(f); NP above.

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733A.23	Off-Street Freight Loading	§§ 150, 153— 155, 204.5	Generally, none required if gross floor area is less than 10,000 sq. ft. §§ 152, 161(b)
733A.24	Outdoor Activity Area	§ 790.70	P if located in front; C if located elsewhere § 145.2(a)
733A.25	Drive-Up Facility	§ 790.30	
733.26	Walk-Up Facility	§ 790.140	P if recessed 3 ft.; C if not recessed § 145.2(b)
733A.27	Hours of Operation	§ 790.48	P 6 a.m.—11 p.m.; C 11 p.m.—2 a.m.
733A.30	General Advertising Sign	§§ 262, 602— 604, 608, 609	
733A.31	Business Sign	§§ 262, 602— 604, 608, 609	P § 607.1(f)1
733A.32	Other Signs	§§ 262, 602— 604, 608, 609	P § 607.1(c)(d)(g)

No.	Zoning Category	§ References	NCT-1		
			Controls by Story		
		§ 790.118	1st	2nd	3rd+
733A.38	Residential Conversion	§ 790.84	P		

1	733A.39	Residential Demolition	§ 790.86	C	C	C
2						
3	733A.39a	Residential Division	§ 207. <del>86</del>	P	P	P
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5	<b>Non-Retail Sales and Services</b>					
6						
7	733A.40	Other Retail Sales and Services [Not Listed Below]	§ 790.102	P #		
8						
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11	733A.41	Bar	§ 790.22	P #		
12						
13	733A.42	Full-Service Restaurant	§ 790.92	P #		
14						
15	733A.43	Large <i>Self-Service</i> <i>Fast Food</i> Restaurant	§ 790.90			
16						
17	733A.44	Small Self- Service Restaurant	§ 790.91	<u>P</u> € #		
18						
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21	733A.45	Liquor Store	§ 790.55	P		
22						
23	733A.46	Movie Theater	§ 790.64			
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25	733A.47	Adult Entertainment	§ 790.36			
	733A.48	Other	§ 790.38	C		

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	Entertainment				
733A.49	Financial Service	§ 790.110			
733A.50	Limited Financial Service	§ 790.112	P		
733A.51	Medical Service	§ 790.114	P		
733A.52	Personal Service	§ 790.116	P		
733A.53	Business or Professional Service	§ 790.108	P		
733A.54	Massage Establishment	§ 790.60, § 1900 Health Code			
733A.55	Tourist Hotel	§ 790.46			
733A.56	Automobile Parking	§§ 790.8, 156, 160	C		
733A.57	Automotive Gas Station	§ 790.14			
733A.58	Automotive Service Station	§ 790.17			
733A.59	Automotive Repair	§ 790.15			
733A.60	Automotive	§ 790.18			

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	Wash				
733A.61	Automobile Sale or Rental	§ 790.12			
733A.62	Animal Hospital	§ 790.6			
733A.63	Ambulance Service	§ 790.2			
733A.64	Mortuary	§ 790.62			
733A.65	Trade Shop	§ 790.124	P		
733A.66	Storage	§ 790.117			
733A.67	Video Store	§ 790.135	<u>PE</u>		
<b>Institutions and Non-Retail Sales and Services</b>					
733A.70	Administrative Service	§ 790.106			
733A.80	Hospital or Medical Center	§ 790.44			
733A.81	Other Institutions, Large	§ 790.50	P	C	
733A.82	Other Institutions, Small	§ 790.51	P	P	P
733A.83	Public Use	§ 790.80	C	C	C

1	733A.84	Medical Cannabis Dispensary	§ 790.141	P#		
2	<b>RESIDENTIAL STANDARDS AND USES</b>					
3	733A.90	Residential Use	§ 790.88	P, except C for frontages listed in 145.4	P	P
4	733A.91	Residential Density, Dwelling Units	§§ 207, 207.1, 790.88(a)	No residential density limit by lot area. Density restricted by physical envelope controls of height, bulk, setbacks, open space, exposure and other applicable controls of this and other Codes, as well as by applicable design guidelines, applicable elements and area plans of the General Plan, and design review by the Planning Department.  § 207.4, 207.6		
5	<u>733A.91a</u>	<u>Dwelling Unit Mix</u>	<u>§ 207.6</u>	<u>For projects with five or more dwelling units, 40% of units shall have two or more bedrooms.</u>		
6	733A.92	Residential Density, Group Housing	§§ 207.1, 790.88(b)	No group housing density limit by lot area. Density restricted by physical envelope controls of height, bulk, setbacks, open space, exposure and other applicable controls of this and other Codes, as well as by applicable design guidelines, applicable elements and		
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			area plans of the General Plan, and design review by the Planning Department. § 208		
733A.93	Usable Open Space [Per Residential Unit]	§§ 135, 136	Generally, either 100 sq. ft. if private, or 133 sq. ft. if common § 135(d)		
733A.94	Off-Street Parking, Residential	§§ 150, 153— 157, 159— 160, 204.5	P up to one car for each two dwelling units; C up to 0.75 cars for each dwelling unit, subject to the criteria and procedures of Section 151.1(f); NP above 0.75 cars for each dwelling unit. § 151.1, 166, 167, 145.1		
733A.95	Community Residential Parking	§ 790.10	C	C	C

**SPECIFIC PROVISIONS FOR NCT-~~12~~ DISTRICTS**

<b>Article 7 Code Section</b>	<b>Other Code Section</b>	<b>Zoning Controls</b>
§ 733A.40 § 733A.41 § 733A.42		<b>Boundaries:</b> All NCT-1 Districts Controls: P if located more than ¼ mile from any NC District or Restricted Use Subdistrict with more restrictive controls; otherwise, same as more restrictive control

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	§ 733A.44	<b>Boundaries:</b> All NCT-1 Districts Controls: C if located more than ¼ mile from any NC District or Restricted Use Subdistrict with more restrictive controls; otherwise, same as more restrictive control
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Section 5. The San Francisco Planning Code is hereby amended by amending Section 790.90, to read as follows:

**SEC. 790.90. RESTAURANT, LARGE SELF-SERVICE (LARGE FAST FOOD).**

(a) ~~A self-service restaurant, as defined in Section 790.91 of this Code, which exceeds the non-residential use size limit, as defined in Section 121.2, of the district. retail eating or drinking use which provides ready-to-eat food to a high volume of customers at a high turnover rate for consumption on or off the premises, which may or may not provide seating. Such use exhibits the following characteristics:~~

~~(1) — A gross floor area of 1,000 square feet or more;~~

~~(2) — A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;~~

~~(3) — Food served in disposable wrappers or containers;~~

~~(4) — Food is ordered and served at customer service counter;~~

~~(5) — Food is paid for prior to consumption;~~

~~(6) — Public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages;~~

~~(7) — Food available upon a short waiting time.~~

~~It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, self-service specialty food use, as described in Section 790.93 of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no-site food~~



1 ~~preparation area, such as confectionery or produce stores. When a fast food restaurant operates within~~  
2 ~~and in conjunction with another retail use, such as a retail grocery store, the area of the fast food~~  
3 ~~restaurant use shall be measured to include the area devoted to food preparation and service, seating~~  
4 ~~and separate public food service counters, excluding fish, poultry and meat counters.~~

5 ~~(c) — It may provide off-site beer, wine, and/or liquor sales for consumption off the premises~~  
6 ~~(with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the premises (with ABC~~  
7 ~~licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48), or~~  
8 ~~does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined~~  
9 ~~in Section 790.22 of this Code.~~

10 ~~(d) — It shall be conducted in accordance with the following conditions:~~

11 ~~(1) — All debris boxes shall be kept in enclosed structures.~~

12 ~~(2) — The operator shall be responsible for cleaning the sidewalk within a one-block radius~~  
13 ~~daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with~~  
14 ~~Article 1, Section 34 of the San Francisco Police Code.~~

15 ~~(3) — Noise and odors shall be contained within the premises so as not to be a nuisance to~~  
16 ~~nearby residents or neighbors.~~

17 Section 6. The San Francisco Planning Code is hereby amended by amending Section  
18 790.91, to read as follows:

19 **SEC. 790.91. RESTAURANT, SMALL SELF-SERVICE.**

20 (a) A retail eating or eating and drinking use which provides ready-to-eat food for  
21 consumption on and off the premises and which may or may not provide seating. Such use  
22 exhibits the following characteristics:

23 (1) Does not exceed the non-residential use size limit, as defined in Section 121.2 of this  
24 Code, of the district. ~~Contains fewer than 50 seats and less than 1,000 square feet of gross floor area;~~

1 (2) A limited menu of ready-to-eat food prepared in advance of customer orders, or  
2 food which is able to be quickly prepared for consumption on or off the premises;

3 (3) Food served in disposable wrappers or containers;

4 (4) Food is ordered and served at customer service counter;

5 (5) Food is paid for prior to consumption;

6 (6) Public food service area, including queuing areas and service counters without  
7 fixed seats, which counters are designed specifically for the sale and distribution of food and  
8 beverages;

9 (7) Food available upon a short waiting time.

10 It does not include retail grocery stores with accessory take-out food activity, as  
11 described in Section 703.2(b)(1)(C) of this Code, self-service specialty food use, as described  
12 in Section 790.93 of this Code, or retail uses which sell prepackaged or bulk ready-to-eat  
13 foods with no-site food preparation area, such as confectionery or produce stores. When a  
14 self-service fast-food restaurant operates within and in conjunction with another retail use, such  
15 as a retail grocery store, the area of the self-service fast-food restaurant use shall be measured  
16 to include the area devoted to food preparation and service, seating and separate public food  
17 service counters, excluding fish, poultry and meat counters.

18 (b) It may provide off-site beer, wine and/or liquor sales for consumption off the  
19 premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the  
20 premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with  
21 ABC licenses 47 or 48) or does not admit minors (with ABC licenses 42 or 61), then it shall  
22 also be considered a bar, as defined in Section 790.22 of this Code.

23 (c) It shall be conducted in accordance with the following conditions:

24 (1) All debris boxes shall be kept in enclosed structures.

1 (2) The operator shall be responsible for cleaning the sidewalk within a one-block  
2 radius daily to maintain the sidewalk free of paper or other litter during its business hours, in  
3 accordance with Article 1, Section 34 of the San Francisco Police Code.

4 (3) Noise, ~~and~~ odors, and mechanical noise and vibration shall be contained within the  
5 premises so as not to be a nuisance to nearby residents or neighbors.

6 Section 7. The San Francisco Planning Code is hereby amended by amending Section  
7 790.102, to read as follows:

8 **SEC. 790.102. SALES AND SERVICES, OTHER RETAIL.**

9 A retail use which provides goods and/or services but is not listed as a separate zoning  
10 category in zoning category numbers .41 through .63 listed in Article 7 of this Code, including  
11 but not limited to, sale or provision of the following goods and services:

12 (a) General groceries. As used herein, general groceries means:

13 (1) An individual retail food establishment that:

14 (A) Offers a diverse variety of unrelated, non-complementary food and non-food  
15 commodities, such as beverages, dairy, dry goods, fresh produce and other perishable items,  
16 frozen foods, household products, and paper goods;

17 (B) May provide beer, wine, and/or liquor sales for consumption off the premises  
18 with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or  
19 type 21 (off-sale general) within the accessory use limits as set forth in Section  
20 703.2(b)(1)(C)(vi);

21 (C) Prepares minor amounts or no food on-site for immediate consumption; and

22 (D) Markets the majority of its merchandise at retail prices.

23 (b) Specialty groceries. As used herein, specialty groceries means:

24 (1) An individual retail food establishment that:

1 (A) Offers specialty food products, such as baked goods, pasta, cheese,  
2 confections, coffee, meat, seafood, produce, artisanal goods and other specialty food  
3 products, and may also offer additional food and non-food commodities related or  
4 complementary to the specialty food products;

5 (B) May provide beer, wine, and/or liquor sales for consumption off the premises  
6 with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or  
7 type 21 (off-sale general) within the accessory use limits as set forth in Section  
8 703.2(b)(1)(C)(vi);

9 (C) Prepares minor amounts or no food on-site for immediate consumption; and

10 (D) Markets the majority of its merchandise at retail prices.

11 (c) Pharmaceutical drugs and personal toiletries;

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

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

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

18 (g) Variety merchandise, pet supply stores and pet grooming services;

19 (h) Florists and plant stores;

20 (i) Apparel and accessories;

21 (j) Antiques, art galleries, art supplies and framing service;

22 (k) Home furnishings, furniture and appliances;

23 (l) Books, stationery, greeting cards, office supplies, copying service, music and  
24 sporting goods;

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

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

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

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

10 (B) A limited menu of beverages prepared on the premises and able to be quickly  
11 prepared for consumption on or off the premises,

12 (C) Beverages served in disposable or nondisposable containers for consumption  
13 on or off the premises,

14 (D) Beverages are ordered and served at a customer service counter,

15 (E) Beverages are paid for prior to consumption,

16 (F) Public service area, including queuing areas and service counters, which  
17 counters are designed specifically for the sale and distribution of beverages;

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

19 (H) Equipment to prepare beverages for consumption,

20 (I) Limited amount of nonprepackaged food goods may be served, such as pastries  
21 or similar goods,

22 (J) *No on-site food preparation, and no equipment to cook or reheat food or prepare meals*  
23 *other than that connected to beverage preparation, except where a conditional use is granted for an*  
24 *exception in the West Portal NCD pursuant to the "Specific Provisions for the West Portal District."*  
25

1           ~~(K)~~ Coffee beans, tea, syrups, herbs and other beverage-based products and  
2 equipment to make and/or reconstitute beverages or consume coffee, tea and/or other  
3 beverages may be sold.

4           It may include any use permitted for specialty grocery, as defined in Section  
5 790.102(b), but if so, such use shall not include accessory take-out food activity, as described  
6 in Section 703.2(b)(1)(C) of this Code, except to the extent permitted by this Subsection  
7 790.102(n). It is distinct and separate from a small self-service or large fast-food restaurant,  
8 as defined in Section 790.90 and 790.91 of this Code, or a full-service restaurant as defined in  
9 Section 790.92 of this Code.

10           (2) It shall be conducted in accordance with the following conditions:

11           (A) All debris boxes shall be kept in enclosed structures,

12           (B) The operator shall be responsible for cleaning the sidewalk in front of or abutting  
13 the building to maintain the sidewalk free of paper or other litter during its business hours, in  
14 accordance with Article 1, Section 34 of the San Francisco Police Code,

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

17           This Section excludes tourist motels, as distinguished from tourist hotels in Section  
18 790.46 of this Code, amusement game arcades as defined in Section 790.4 of this Code and  
19 household goods self-storage facilities, which are included in storage as defined in Section  
20 790.117 of this Code. It also excludes the sale of heating fuel and the sale or rental of  
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1 commercial equipment (excluding office equipment) and construction materials, other than  
2 paint, fixtures and hardware.

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

5 By: \_\_\_\_\_  
6 JUDITH A. BOYAJIAN  
7 Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Planning Code - Zoning - Self-Service Restaurants, Retail Coffee Stores, and Video Stores]

**Ordinance amending the San Francisco Planning Code by amending Sections 710, 730, 733A, 733A.1, 790.90, 790.91, and 790.102 of the Planning Code to (1) increase the maximum use size for Small Self-Service Restaurants in Neighborhood Commercial Districts to that of the non-residential use size limit for the district and eliminate the limit on the number of seats, (2) increase the minimum size for Large Self-Service Restaurants in Neighborhood Commercial Districts to that of the non-residential use size limit for the district, (3) principally permit Small Self-Service Restaurants and Video Stores in Neighborhood Commercial Cluster (NC-1) and Neighborhood Commercial Transit Cluster (NCT-1) Districts, (4) conditionally permit Large Self-Service Restaurants in the Inner Sunset Neighborhood Commercial District, (5) require that mechanical noise and vibration from Self-Service Restaurants be confined to the premises, and (6) remove the prohibition of on-site food preparation and cooking and reheating equipment in Retail Coffee Stores; adopting findings, including environmental findings, Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.**

Existing Law

The Zoning Control Table in Section 710 establishes zoning controls for Neighborhood Commercial Cluster Districts (NC-1). Section 733A.1 and the Zoning Control Table in Section 733A define and establish zoning controls for Neighborhood Commercial Transit Cluster Districts (NCT-1). The Zoning Control Table in Section 730 establishes zoning controls for the Inner Sunset Neighborhood Commercial District.

Section 790.90 defines Large Fast Food Restaurants in Neighborhood Commercial Districts and Section 790.91 defines Small Self-Service Restaurants in Neighborhood Commercial Districts. Section 790.102 defines a variety of retail sales and services, including Retail Coffee Stores, in Neighborhood Commercial Districts.

Amendments to Current Law

The Zoning Control Tables in Sections 710 and 733A are amended to permit Small Self-Service Restaurants and Video Stores as a principally rather than a conditionally permitted use in NC-1 and NCT-1 Districts. The Zoning Control Table in Section 730.1 is amended to permit Large Self-Service Restaurants as a conditionally permitted use in the Inner Sunset Neighborhood Commercial District, where they are currently not permitted, and to permit Video Stores as a principally rather than conditionally permitted use.



The definition of Small Self-Service Restaurant in Section 790.91 is amended to increase the maximum use size to that of the non-residential use size of the district in which the restaurant is located, and to eliminate the limit on the number of seats. It adds a requirement that mechanical noise and vibration be limited to the premises. The definition of Large Fast Food Restaurant in Section 790.90 is amended to rename Large Fast Food Restaurant to Large Self-Service Restaurant, and to increase the minimum use size to that of the non-residential use size of the district in which the restaurant is located. The definition of Sales and Services, Other Retail in Section 790.102 is amended to remove the prohibition on on-site food preparation, and equipment to cook or reheat food, in Retail Coffee Stores.

### Background Information

Neighborhood Commercial Districts were added to the Planning Code in 1987. The ordinance establishing them defined three restaurant uses: Full-Service Restaurant, Small Self-Service Restaurant, and Large Fast-Food Restaurant. Retail Coffee Store was defined as a use in 1993, and Self-Service Specialty Food was defined as a use in 2008. In 2000, Video Stores were defined as a distinct use and made a conditional use in all Neighborhood Commercial Districts.

The Planning Code's first Formula Retail controls were established in 2004. In 2006, voters approved Proposition G, which made Formula Retail Uses a conditional use in all Neighborhood Commercial Districts.

In 2009, the Planning Department completed the NC@20 report, which examined the nature and impacts of the Neighborhood Commercial zoning over the previous two decades, and made recommendations. Two of the principal recommendations of the NC@20 report were to bolster small businesses and overhaul regulations for eating and drinking uses. This ordinance advances both of those recommendations.

NC@20 notes that the distinctions between eating uses are both difficult to enforce and may no longer be relevant. For example, the addition of a microwave or toaster oven to a retail coffee store transforms the use into a small self-service restaurant, which may have different zoning controls. The self-service and fast-food restaurant categories were intended to control fast food chains, but the definition includes many locally-owned restaurants, including taquerias, creperies, and neighborhood coffee houses, which do not offer table service. The report concludes:

It should also be noted that the use size distinctions between small self service restaurants and large fast food restaurants were introduced originally – at least in large part - to deal with chain stores. The onset of Formula Retail controls, along with the earlier advent of micro-sized chain stores, precludes this distinction. Non-residential use size controls, which are independent of controls for food and drink uses, along with neighborhood notification processes and Conditional Use requirements adequately address this issue.

This ordinance does not completely erase the distinction between full-service and self-service restaurants. It does establish parity in permitted use size and permitting requirements for all restaurant uses in the majority of NC Districts, while permitting a handful of NC Districts and Fast-food Subdistricts to retain their specialized restaurant controls. This legislative change will remove barriers to the establishment of locally-owned self-service restaurants, and permit these restaurant businesses to grow and relocate with greater ease.

In Retail Coffee Stores, a “Limited amount of nonprepackaged food goods may be served, such as pastries or similar goods,” but food preparation, or any equipment to cook or reheat food like a toaster or microwave oven, is prohibited. This legislative change removes the prohibition on food preparation and cooking and reheating equipment. Retail Coffee Stores will remain distinct from Self-Service Restaurants in their limitations on size – 400 square feet or 15 seats – and on serving alcoholic beverages.

NC@20 acknowledges that restaurant uses can impact neighbors, and recommended that Good Neighbor Policies be established for restaurant uses. This ordinance addresses mechanical noise and vibration from restaurant machinery, like refrigerators, ice machines, and other equipment which, when poorly designed or located in rear yards, can disturb residents living above or behind restaurants at all hours. The ordinance requires that mechanical noise and vibration be confined to the premises. Noise from outdoor seating is regulated through existing controls on Outdoor Activity Areas.

In the decade since Video Store controls were enacted, the video store industry has been transformed by the Internet, and Formula Retail controls have been established and extended to all NC districts. As of January 2011, the country’s largest video store chain is in bankruptcy protection, and the second largest is in liquidation. This ordinance will permit locally-owned, neighborhood video stores to form, grow, and relocate without conditional use authorization in certain NC districts, while retaining conditional use requirements for Formula Retail video stores.

## **Exhibit C**

### **Proposed Definitions for Restaurants, Bars and Grocery Stores**

#### **Restaurant- Limited**

A retail eating and/or drinking use which serves food and/or drinks to customers for consumption on or off the premises, that may or may not have seating. It may operate as a Take-Out Food use as defined under Planning Code Section 790.122. It may not provide any on-site sales of beer, wine or liquor, but may provide off-site sale of beer or wine as an accessory use. It is distinct and separate from the Restaurant definition, as defined in Sections ##### of this Code.

It shall not be required to operate within an enclosed building pursuant to Section 703.2(b)(1) so long as it is also a Mobile Food Facility as defined in Section 102.31. Any associated outdoor seating and/or dining area is subject to regulation as an Outdoor Activity Area as set forth elsewhere in this Code.

Such businesses shall operate in accordance with the following conditions:

1. The business operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of paper or other litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
2. When located within an enclosed space, the premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.
3. While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
4. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed off pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

#### **Restaurant**

A retail eating or eating and drinking use which serves prepared, ready-to-eat cooked foods to customers for consumption on or off the premises and which has seating. It may have a Take-Out Food use as defined by Planning Code Section 790.122 as a minor and incidental use. It may provide on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section ##### of this Code. It is distinct and separate from the Restaurant-Limited definition, as defined in Sections ##### of this Code.

It shall not be required to operate within an enclosed building pursuant to Section 703.2(b)(1) so long as it is also a Mobile Food Facility as defined in Section 102.31. Any associated outdoor seating and/or dining area is subject to regulation as an Outdoor Activity Area as set forth elsewhere in this Code.

Such businesses shall operate with the specified conditions below:

1. The business operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public

Works Streets and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of paper or other litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.

2. When located within an enclosed space, the premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.
3. While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
4. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed off pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

## **BAR**

A retail use which provides on-site alcoholic beverage sales for drinking on the premises, including bars serving beer, wine and/or liquor to the customer where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC] licenses 42, 48, or 61) and drinking establishments serving liquor (with ABC licenses 47 or 49) in conjunction with other uses which admit minors, such as restaurants, movie theaters, and other entertainment.

Such businesses shall operate with the specified conditions below:

1. The business operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of paper or other litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
2. The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.
3. While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
4. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed off pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

## **Grocery Store, General and Specialty**

(a) General groceries. As used herein, general groceries means:

- (1) An individual retail food establishment that:

- (A) Offers a diverse variety of unrelated, non-complementary food and non-food commodities, such as beverages, dairy, dry goods, fresh produce and other perishable items, frozen foods, household products, and paper goods;
- (B) May provide beer, wine, and/or liquor sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) within the accessory use limits as set forth in Section 703.2(b)(1)(C)(vi);
- (C) Prepares minor amounts or no food on-site for immediate consumption; and
- (D) Markets the majority of its merchandise at retail prices.
- (E) May provide Restaurant-Limited use within the accessory use limits as set forth in Section 703.2(b)(1)(C)(iii);

(b) Specialty groceries. As used herein, specialty groceries means:

(1) An individual retail food establishment that:

- (A) Offers specialty food products, such as baked goods, pasta, cheese, confections, coffee, meat, seafood, produce, artisanal goods and other specialty food products, and may also offer additional food and non-food commodities related or complementary to the specialty food products;
- (B) May provide beer, wine, and/or liquor sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) within the accessory use limits as set forth in Section 703.2(b)(1)(C)(vi);
- (C) Prepares minor amounts or no food on-site for immediate consumption; and
- (D) Markets the majority of its merchandise at retail prices.
- (E) May provide Restaurant-Limited use within the accessory use limits as set forth in Section 703.2(b)(1)(C)(iii);

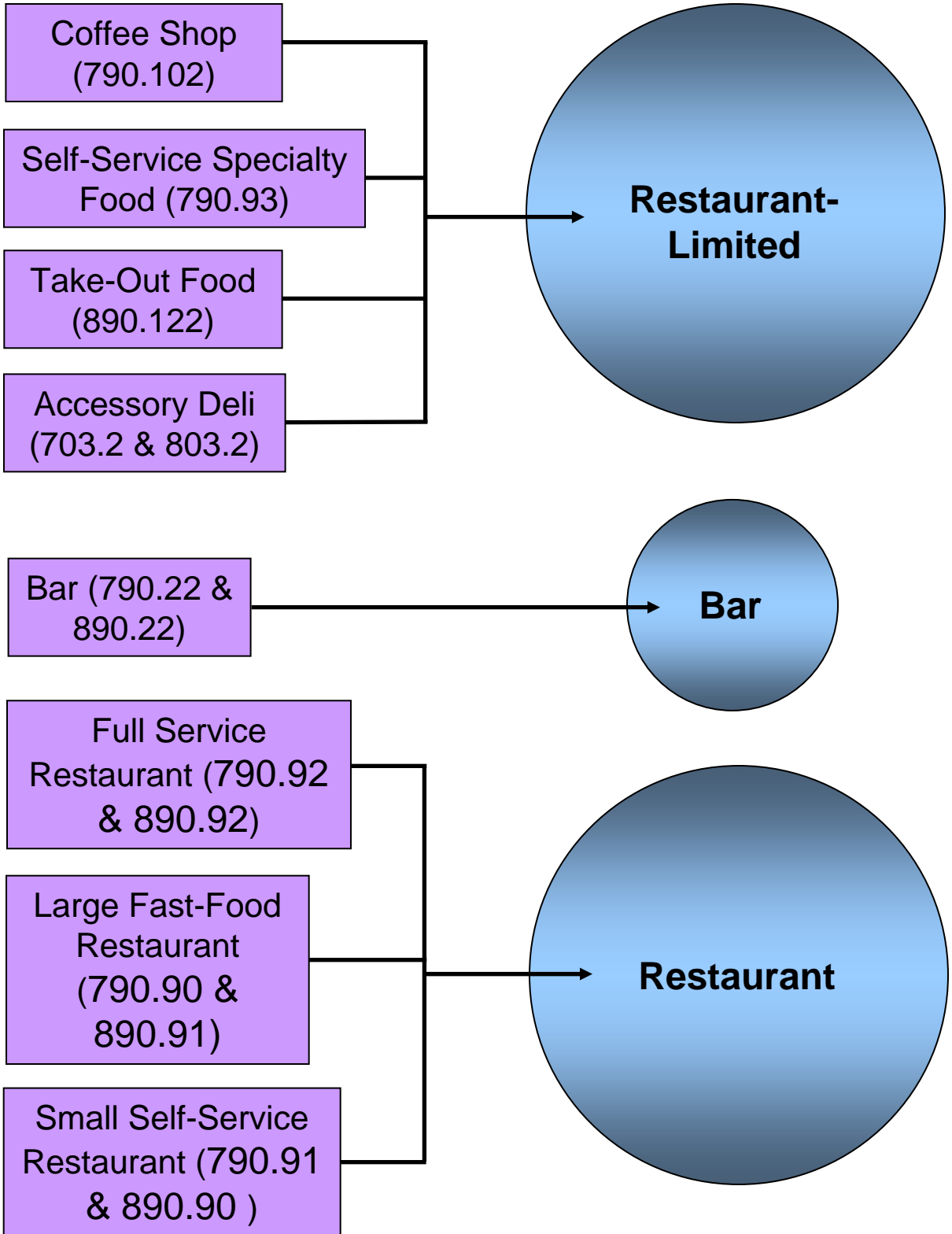
Such businesses shall operate with the specified conditions below:

1. The business operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of paper or other litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
2. The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.
3. While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
4. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed off pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

**Exhibit D**

**Existing Use Categories**

**Proposed Use Categories**



**Exhibit E**  
**Proposed Entitlement Processes**

	Non-Residential Use Size, Permitted As of Right (sq. ft.)	Existing Use Categories							Proposed Use Categories			
		Off-Site Alcohol Sale Only				On-Site Alcohol Sale			Option 1		Option 2	
		Coffee Shop	Self-Service Specialty Food	Take-Out	Accessory Deli	Small Self-Serve Restaurant	Large Fast-Food Restaurant	Full-Service Restaurant	Restaurant-Limited	Restaurant	Restaurant-Limited	Restaurant
NC-1*	2,999	P	C	n/a	P	C	-	P	C	C	P	P
NC-2*	3,999	P	P	n/a	P	P	C	P	P	C	P	P
NC-3*	5,999	P	P	n/a	P	P	C	P	P	C	P	P
NC-S*	5,999	P	P	n/a	P	P	C	P	P	C	P	P
Broadway	2,999	C	C	n/a	P	C	-	P	C	C	P	P
Castro*	1,999	P	P	n/a	P	C	C	C	P	C	P	C
Inner Clement*	2,499	P	-	n/a	P	-	-	C	C	C	P	C
Outer Clement	2,499	P	-	n/a	P	-	-	-	C	C	P	C
Upper Fillmore	2,499	P	C	n/a	P	C	C	C	C	C	P	C
Haight*	2,499	P	-	n/a	P	-	-	C	C	C	P	C
Hayes	2,999	P	P	n/a	P	P	C	P	P	C	P	P
Upper Market	2,999	P	C	n/a	P	C	-	C	C	C	P	C
North Beach*	1,999	C	C	n/a	P	C	-	C	C	C	P	C
Polk	1,999	P	C	n/a	P	C	-	C	C	C	P	C
Sacramento	2,499	P	C	n/a	P	C	-	C	C	C	P	C
Union Street*	2,499	P	C	n/a	P	C	-	C	C	C	P	C
Valencia	2,999	P	P	n/a	P	P	C	P	P	C	P	P
24 <sup>th</sup> & Mission	2,499	P	C	n/a	P	P	-	P	C	C	P	P
24 <sup>th</sup> & Noe	2,499	-	C	n/a	P	C	C	C	C	C	P	C
West Portal Ave.	2,499	P	-	n/a	P	-	-	C	C	C	P	C
Inner Sunset	2,499	P	C	n/a	P	C	-	C	C	C	P	C
NCT-3*	5,999	P	P	n/a	P	P	C	P	P	C	P	P
Pacific Avenue	1,999	P	-	n/a	P	-	-	C	C	C	P	C
Upper Market NCT	2,999	P	C	n/a	P	C	-	C	C	C	P	C
NCT-1*	2,999	P	n/a	n/a	P	C	-	P	P	C	P	P
NCT-2	3,999	P	n/a	n/a	P	P	C	P	P	C	P	P
SOMA NCT	3,999	P	n/a	n/a	P	P	C	P	P	C	P	P
Mission NCT	5,999	P	n/a	n/a	P	C	-	P	P	C	P	P
Chinatown Community Business District	5,000	P	n/a	C	P	C	-	P	C	C	P	P
Chinatown Visitor Retail District	2,500	P	n/a	P	P	C	-	P	P	C	P	P
Chinatown Residential NCD	2,500	P	n/a	C	P	C	C	P	C	C	P	P
Irving Fast Food (NC-2)	n/a	n/a	n/a	n/a	n/a	C	-	-	n/a	n/a	n/a	n/a
Taraval Fast Food (NC-1; NC-2)	n/a	n/a	n/a	n/a	n/a	C	-	C	n/a	n/a	n/a	n/a
Geary Fast Food (NC-3)	n/a	n/a	n/a	n/a	n/a	n/a	-	n/a	n/a	n/a	n/a	n/a
Mission Fast Food (NC-3)	n/a	n/a	n/a	n/a	n/a	C	-	n/a	n/a	n/a	n/a	n/a

P = Permitted  
C = Conditional Use Required  
"-" = Use Not Permitted  
n/a = does not appear in this Use District or is not applicable to this Use District.  
\* = Additional Restrictions on Restrictions in Planning Code

**Option 1** would preserve all existing CUs by merely transferring any existing CU to the new definition. If a use is not currently permitted that would convert to a CU. For example, not only would any Full Service Restaurant, Large Fast-Food Restaurant or Small Self-Serve Restaurant trigger a CU for the new Restaurant use but also any existing CU for a Coffee Shop, Self-Service Specialty Food, Take Out or Accessory Deli, would trigger a CU for the new Limited Restaurant Use.

**Option 2** allows Restaurant-Limited as of right in all NCDs, and would require CU authorization for Restaurants if Full-Service Restaurants are currently required to obtain a CU or are currently prohibited. Option 2 is preferred by the Department