

1 [Zoning -- Liquor Establishments]
2 AMENDING PART II, CHAPTER II, OF THE SAN FRANCISCO MUNICIPAL CODE
3 (PLANNING CODE) BY AMENDING SECTION 249.5 THEREOF, TO PROHIBIT
4 ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF OF
5 THE PREMISES, SUBJECT TO SPECIFIED EXCEPTIONS, AND ESTABLISHING GOOD
6 NEIGHBOR POLICIES FOR ALL ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES,
7 IN THE NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT, AND MAKING A
8 DETERMINATION OF CONSISTENCY WITH THE PRIORITY POLICIES OF PLANNING
9 CODE SECTION 101.1.

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11 Note: Additions are underlined; deletions are in ((double parentheses)).

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

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14 Section 1. Findings.

15 (1) The North of Market Residential Special Use District, established pursuant to
16 Planning Code Section 249.5 ("North of Market SUD"), containing approximately 28 blocks, is
17 bounded generally by Post Street on the north, Polk Street on the west, Golden Gate Avenue
18 on the south, and Taylor Street on the east.

19 (2) The North of Market SUD has an inordinately large number of establishments
20 dispensing alcoholic beverages for both on-site and off-site consumption.

21 (3) Based on recent California Department of Alcoholic Beverage Control data, the
22 North of Market SUD is an area in which there currently exists an undue concentration of
23 alcoholic beverage licenses, pursuant to California Business and Professions Code, Sections
24 23958.4(a)(2) and 23958.4(a)(3). There exist 74 off-sale retail licenses within the four census
25 tracts within the North of Market SUD, for a ratio of one off-sale license per 327 inhabitants.

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1 This far exceeds the ratio of off-sale licenses to the population in the City and County of San
2 Francisco as a whole.

3 In addition there exist 169 on-sale retail licenses within the four census tracts within the
4 North of Market SUD, for a ratio of one on-sale license per 143 inhabitants. This exceeds the
5 ratio of on-sale licenses to the population in the City and County of San Francisco as a whole.

6 (4) The existence of this inordinate number of liquor establishments contributes
7 directly to numerous peace, health, safety and general welfare problems in the North of
8 Market SUD, including loitering, littering, drug trafficking, prostitution, public drunkenness,
9 defacement and damaging of structures, pedestrian obstructions, as well as traffic circulation,
10 parking and noise problems on public streets and neighborhood lots.

11 (5) Based on recent San Francisco Police Department and State Department of
12 Alcoholic Beverage Control data, the North of Market SUD is an area in which there currently
13 exists an undue concentration of alcoholic beverage licenses, pursuant to the California
14 Business and Professions Code, Section 23958.4(a)(1). The average number of reported
15 crimes within each of the ten crime-reporting districts that make up the North of Market SUD
16 equals 1587, as compared to an average of 213 reported crimes per crime-reporting district
17 within the City and County of San Francisco.

18 (6) The criminal and anti-social activity associated with many of the establishments
19 selling alcoholic beverages in the North of Market SUD creates serious impacts on the public
20 health, safety and welfare, including fear for the safety of children, elderly residents and
21 visitors to the area, deterioration of the neighborhood, and concomitant devaluation of
22 property and destruction of community values and quality of life. Such adverse impacts also
23 discourage more desirable and needed commercial uses in the area.

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1 (7) The proliferation of establishments selling alcoholic beverages in this area has
2 had, and will continue to have, detrimental impacts on the area in the absence of legislation
3 limiting and controlling such uses.
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5 Section 2. Article 2 of the San Francisco Planning Code is hereby amended by
6 amending Section 249.5, to read as follows:
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8 SEC. 249.5. NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT. (a)
9 General. A special use district entitled the "North of Market Residential Special Use District,"
10 which includes RC-4 and P Use Districts, the boundaries of which are shown on Sectional
11 Map No. 1SU^b of the Zoning Map, is hereby established for the purposes set forth below.

12 (b) Purposes. In order to protect and enhance important housing resources in an
13 area near downtown, conserve and upgrade existing low and moderate income housing stock,
14 preserve buildings of architectural and historic importance and preserve the existing scale of
15 development, maintain sunlight in public spaces, encourage new infill housing at a compatible
16 density, limit the development of tourist hotels and other commercial uses that could
17 adversely impact the residential nature of the area, and limit the number of commercial
18 establishments which are not intended primarily for customers who are residents of the area,
19 the following controls are imposed in the North of Market Residential Special Use District.

20 (c) Controls. The following zoning controls are applicable in the North of Market
21 Residential Special Use District. Certain controls are set forth in other Sections of this Code
22 and are referenced herein.

23 (1) Conditional Use Criteria. In making determinations on applications for
24 conditional use authorizations required for uses located within the North of Market Residential

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1 Special Use District, the City Planning Commission shall consider the purposes as set forth in
2 Subsection (b) above, in addition to the criteria of Section 303(c) of this Code.

3 (2) Notwithstanding the provisions of Section 209.8 of this Code, commercial
4 establishments shall be limited to the ground floor and the first basement floor, except that
5 such establishments may be permitted on the second story as a conditional use if authorized
6 pursuant to Section 303 and Section 249.5(c)(1) of this Code.

7 (3) Garment shops that meet the qualifications set forth in Section 236(a) may be
8 permitted on the ground floor and first basement floor as a conditional use if authorized
9 pursuant to Section 303 and Section 249.5(c)(1) of this Code.

10 (4) A hotel, inn, hostel or motel is not permitted.

11 (5) In the portion of the area designated as Subarea No. 1 of the North of Market
12 Residential Special Use District, as shown on Section Map 1SU^b of the Zoning Map, the
13 density ratio shall be one dwelling unit for each 125 square feet of lot area; in Subarea No. 2,
14 as shown on Section Map 1SU^b of the Zoning Map, the density ratio shall be one dwelling unit
15 for each 200 feet of lot area. The double density provisions of Section 209.1(m) shall not
16 result in greater density than that permitted in an RC-4 District.

17 (6) Off-street parking requirements may be modified by the City Planning
18 Commission, as provided in Section 161(h) of this Code.

19 (7) A bulk district "T" shall apply pursuant to the provisions of Section 270, Table
20 270 of this Code.

21 (8) Special exceptions to the 80-foot base height limit in height and bulk districts 80-
22 120-T and 80- 130-T may be granted pursuant to the provisions of Section 263.7 of this Code.

23 (9) Building setbacks are required in this district pursuant to Section 132.2;
24 provisions for exceptions are also set forth in Section 132.2 of this Code.

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1 (10) Exceptions to the rear yard requirements for an RC-4 District may be granted
2 pursuant to Section 134(f) of this Code.

3 (11) Awnings, canopies and marquees, as defined in Sections 790.20, 790.26 and
4 790.58 of this Code, and further regulated by the Building Code and Sections 249.5(c)(12),
5 136.2 and 607.4 of this Code are permitted.

6 (12) Signs located in the RC-4 portion of this district shall be regulated as provided in
7 Section 607.4 of this Code.

8 (13) All provisions of the City Planning Code applicable in an RC-4 Use District shall
9 apply within that portion of the district zoned RC-4, except as specifically provided above. All
10 provisions of the City Planning Code applicable in a P Use District shall apply within that
11 portion of the district zoned P, except as specifically provided above.

12 (14) All demolitions of buildings containing residential units shall be permitted only if
13 authorized as a conditional use under Section 303 of this Code, unless the Superintendent of
14 the Bureau of Building Inspection or the Chief of the Bureau of Fire Prevention and Public
15 Safety determines that the building is unsafe or dangerous and that demolition is the only
16 feasible means to secure the public safety. When considering whether to grant a conditional
17 use permit for the demolition, in lieu of the criteria set forth in City Planning Code Section
18 303(c), consideration shall be given to the purposes of the North of Market Residential Special
19 Use District set forth in Section 249.5(b), above, to the adverse impact on the public health,
20 safety and general welfare due to the loss of existing housing stock in the district and to any
21 unreasonable hardship to the applicant if the permit is denied. Demolition of residential hotel
22 units shall also comply with the provisions of the Residential Hotel Ordinance.

23 (d) Liquor Establishments. In addition to all other applicable controls set forth in this
24 Code, Liquor Establishments in the North of Market Residential Special Use District shall be
25 subject to the controls set forth in this Section.

1 (1) No Off-Sale Liquor Establishments shall be permitted in the North of Market
2 Residential Special Use District.

3 (2) An Off-Sale Liquor Establishment lawfully existing in the North of Market
4 Residential Special Use District and selling alcoholic beverages as licensed by the State of
5 California prior to the effective date of this legislation may continue operation only under the
6 following conditions, as provided by California Business and Professions Code Section 23790:

7 (A) The premises shall retain the same type of retail liquor license within a license
8 classification; and

9 (B) The licensed premises shall be operated continuously without substantial
10 change in mode or character of operation.

11 (3) The prohibition on Off-Sale Liquor Establishments shall not be interpreted to
12 prohibit the following, provided that the type of California liquor license does not change, the
13 location of the establishment does not change, and the square footage used for the display
14 and sale of alcoholic beverages does not increase:

15 (A) A change in ownership of an Off-Sale Liquor Establishment or an owner-to-
16 owner transfer of a California liquor license; or

17 (B) Re-establishment, restoration or repair of an existing Off-Sale Liquor
18 Establishment on the same lot after total or partial destruction or damage due to fire, riot,
19 insurrection, toxic accident or act of God; or

20 (C) Temporary closure of an existing Off-Sale Liquor Establishment for not more
21 than ninety (90) days for repair, renovation or remodeling.

22 (4) The prohibition on Off-Sale Liquor Establishments shall not be interpreted to
23 prohibit the following:

24 (A) Temporary uses, as described in Planning Code Section 205.1; or

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1 (B) Establishment of an Off-Sale Liquor Establishment if application for such Off-
2 Sale Liquor Establishment is on file with the California Department of Alcoholic Beverage
3 Control prior to the effective date of this legislation; or

4 (C) Re-location of an existing Off-Sale Liquor Establishment in the North of Market
5 Residential Special Use District to another location within the North of Market Residential
6 Special Use District with conditional use authorization from the City Planning Commission,
7 provided that (i) the type of California liquor license does not change, (ii) the square footage
8 used for the display and sale of alcoholic beverages does not increase, and (iii) the original
9 premises shall not be occupied by an Off-Sale Liquor Establishment, unless by another Off-
10 Sale Liquor Establishment that is also relocating from within the North of Market Residential
11 Special Use District. Any such conditional use authorization shall include a requirement that
12 the establishment comply with the "Good Neighbor Policies" set forth in Subsection (d)(6)
13 below; or

14 (D) A change in liquor license from a Type 21 (Off-Sale General) to a Type 20 (Off-
15 Sale Beer and Wine), provided that the square footage used for the display and sale of
16 alcoholic beverages does not increase.

17 (5) The prohibition on Off-Sale Liquor Establishments shall be interpreted to prohibit
18 the transfer of any California Alcoholic Beverage Control Board off-sale liquor license from a
19 location outside of the North of Market Residential Special Use District to a location within the
20 North of Market Residential Special Use District, or the issuance of any original California
21 Alcoholic Beverage Control Board off-sale liquor license for a location within the North of
22 Market Residential Special Use District.

23 (6) The following "Good Neighbor Policies" shall apply to all Liquor Establishments
24 in the North of Market Residential Special Use District in order to maintain the safety and
25 cleanliness of the premises and vicinity:

1 (A) Employees of the establishment shall walk a 100-foot radius from the premises
2 some time between 30 minutes after closing time and 8:00 a.m. the following morning, and
3 shall pick up and dispose of any discarded beverage containers and other trash left by
4 patrons;

5 (B) The establishment shall provide outside lighting in a manner sufficient to
6 illuminate street and sidewalk areas and adjacent parking, as appropriate to maintain security,
7 without disturbing area residences;

8 (C) No alcoholic beverages shall be consumed on any outdoor property adjacent to
9 the establishment and which is under the control of the establishment, excepting those areas
10 of the property that are enclosed and not visible from the sidewalk, are intended for patron
11 services, are supervised by the establishment, and are not located adjacent to any sidewalk
12 areas;

13 (D) No more than 33 percent of the square footage of the windows and clear doors
14 of the establishment shall bear advertising or signage of any sort, and all advertising and
15 signage shall be placed and maintained in a manner that ensures that law enforcement
16 personnel have a clear and unobstructed view of the interior of the premises, including the
17 area in which the cash registers are maintained, from the exterior public sidewalk or entrance
18 to the premises. This requirement shall not apply to premises where there are no windows, or
19 where existing windows are located at a height that precludes a view of the interior of the
20 premises to a person standing outside the premises;

21 (E) No person under the age of 21 shall sell or package alcoholic beverages;

22 (F) Employees of the establishment shall regularly police the area under the control
23 of the establishment in an effort to prevent the loitering of persons about the premises; and

24 (G) The establishment shall promptly remove any graffiti from the exterior of the
25 premises.

1 (7) For purposes of this Section, the following definitions shall apply:

2 (A) "Liquor Establishment" shall mean any enterprise selling alcoholic beverages
3 pursuant to a California Alcoholic Beverage Control Board license.

4 (B) "Off-Sale Liquor Establishment" shall mean any enterprise selling alcoholic
5 beverages pursuant to a California Alcoholic Beverage Control Board License Type 20 (Off-
6 Sale Beer and Wine), Type 21 (Off-Sale General), or any other California Alcoholic Beverage
7 Control Board License which includes the privilege to sell alcoholic beverages for
8 consumption off of the premises. Typical Off-Sale Liquor Establishments may include, but are
9 not limited to, grocery stores, supermarkets and other retail sales and services;

10 (C) "Alcoholic Beverages" shall mean "alcoholic beverages," as defined by California
11 Business and Professions Code Sections 23004 and 23025;

12 (D) "Sell" or "Sale" shall mean and include any retail transaction whereby, for any
13 consideration, an alcoholic beverage is transferred from one person to another.

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15 Section 3. Priority Policy Findings.

16 The amendments made herein advance and are consistent with the priority policies of
17 Planning Code Section 101.1 in that they attempt to preserve and enhance existing
18 neighborhood-serving retail uses, conserve and enhance existing housing and neighborhood
19 character, preserve residential neighborhoods, conserve City commerce, and control uses
20 which have an adverse impact on City services and the safety, health and welfare of City
21 residents.

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APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By: 
Miriam L. Stombler
Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Ordinance

File Number: 982065

Date Passed:

Ordinance amending Planning Code Section 249.5 thereof, to prohibit establishments selling alcoholic beverages for consumption off of the premises, subject to specified exceptions, and establishing good neighbor policies for all establishments selling alcoholic beverages, in the North of Market Residential Special Use District, and making a determination of consistency with the priority policies of Planning Code Section 101.1.

March 15, 1999 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 6 - Ammiano, Brown, Leno, Newsom, Teng, Yee

Absent: 5 - Becerril, Bierman, Katz, Kaufman, Yaki

March 22, 1999 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom,

Teng, Yaki, Yee

File No. 982065

I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on March 22, 1999
by the Board of Supervisors of the City and
County of San Francisco.



Gloria L. Young
Clerk of the Board

APR - 2 1999
Date Approved



Mayor Willie L. Brown Jr.