



SAN FRANCISCO PLANNING DEPARTMENT

New Planning Code Change Summary:

Article 7 - Grocery & Liquor Stores Definition Change

Code Change: Amendments relating to Planning Code Sections 790.55, 249.5, 781.8, 781.9, 782, and 783

Case Number: Board File No. 07-0617

Initiated By: Supervisor Alioto-Pier, May 8, 2007

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Planning Code Sections 790.55, 249.5, 781.8, 781.9, 782, and 783 have been amended to remove grocery stores and other similar uses from prohibitions placed on the establishment of liquor stores in certain districts.

The Way Was:

Under Section 790.55 of the Code, in a neighborhood commercial district ("NCD"), a liquor store is defined as "a retail use which sells beer, wine, or distilled spirits to a customer in an open or classed container for consumption off the premises and which needs a State of California Alcoholic Beverage Control ("ABC") Board license type 20 (off-sale beer and wine) or type 21 (off-sale general)."¹ In many NCDs and individual neighborhood commercial districts, new liquor stores are prohibited.² A grocery store use is defined in the Code as a retail use, and a grocery store requires an ABC license type 20 or 21 if it sells alcoholic beverages as a part of its merchandise.³ The definition for a liquor store in the Code, as previously written, by default prohibits the opening of grocery stores which sell liquor in those NCDs where liquor stores are prohibited. In

¹ Planning Code Section 790.55. Liquor Store.

² Liquor Store as a Prohibited Use: NC-3 (712.1), Haight Street NCD (719.1), Valencia Street NCD (726.1), 24th-Mission NCD (728.1), Inner Sunset NCD (730.1), Mission Alcoholic Beverage SUD (781.8), Haight Street Alcohol Restricted Use Subdistrict (781.9), Third Street Alcohol Restricted Use District (782), Divisadero Street Alcohol Restricted Use District (783), North of Market Residential Special Use District (249.5), Lower Haight Street Alcohol Restricted Use District (784).

³ Department of Alcoholic Beverage Control, ABC License Types and Their Basic Privileges.

Type 20: Off Sale Beer & Wine – (Package Store). Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.

Type 21: Off Sale General – (Package Store). Authorizes the sale of beer, wine, and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.

addition, there are six neighborhood commercial Special Use Districts (“SUDs”) and Restricted Use Districts (“RUDs”) which also contain provisions that prohibit the opening of new grocery stores that have alcoholic beverages as part of its merchandise.⁴

The Way It Is Now:

The Code has been amended so that the definition of a liquor store excludes qualified grocery stores. Therefore, new grocery stores that sell alcoholic beverages and require an ABC license type 20 or 21 would be able to locate in those NCDs where they are permitted while liquor stores would remain prohibited. It would also amend those sections of the Code so that the six alcohol restricted use subdistricts that prohibit new grocery stores with alcoholic beverages as part of its merchandise would not be prohibited from opening.

Please note that this exemption only applies to a qualified grocery store as defined by Planning Code Section 790.102(a). All other stores that sell similar types of goods but do not meet the square footage threshold do not qualify for this liquor store definition exemption – the prohibitions of obtaining an ABC license type 20 or 21 still apply.⁵

Also – the new Code changes are not intended to override or take the place of other Planning Code requirements. For example, a qualified grocery store will likely require a Conditional Use Authorization for use size or formula retail.

⁴ North of Market Residential Special Use District (1985), Third Street Alcohol Restricted Use District (1995), Mission Alcoholic Beverage SUD (1996), Haight Street Alcohol Restricted Use Subdistrict (1999), Divisadero Street Alcohol Restricted Use District (2004), Lower Haight Street Alcohol Restricted Use District (2007).

⁵ Section 790.102(a): Sales and Services, Other Retail. (a) General groceries. As used herein, general groceries means: (1) An individual retail food establishment that: (A) Exceeds 5,000 gross square feet; (B) Offers a diverse variety of unrelated, non-complementary food and non-food commodities, such as non-alcoholic beverages, dairy, dry goods, fresh produce and other perishable items, frozen foods, household products, and paper goods; (C) Prepares minor amounts or no food on-site for immediate consumption; and (D) Markets the majority of its merchandise at retail prices.