

1 [Allowing relocation of existing liquor establishment in the Mission Alcoholic Beverage Special
2 Use Subdistrict to another location within the same Subdistrict.

3 **Ordinance amending Section 781.8 of the Planning Code to allow relocation of existing**
4 **Liquor Establishment in the Mission Alcoholic Beverage Special Use Subdistrict to**
5 **another location within the same Mission Alcoholic Beverage Special Use Subdistrict;**
6 **and making findings.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strikethrough italics Times New Roman*~~.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. Findings

12 (a) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
13 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in
14 Planning Commission Resolution No. _____, and incorporates such reasons
15 herein by reference. A copy of said Planning Commission Resolution is on file with the Clerk
16 of the Board of Supervisors in File No. _____.

17 (b) The Board of Supervisors finds that this ordinance is in conformity with the
18 General Plan, amended in the companion legislation, and the Priority Policies of Planning
19 Code Section 101.1 for the reasons set forth in Planning Commission Resolution No.
20 _____, and hereby incorporates those reasons by reference.

21 (c) The Planning Department has determined that the actions contemplated in this
22 ordinance are in compliance with the California Environmental Quality Act (California Public
23 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
24 Board of Supervisors in File No. _____ and is incorporated herein by
25 reference.

1 Section 2. The San Francisco Planning Code is hereby amended by amending Section
2 781.8, to read as follows:

3 SEC. 781.8. MISSION ALCOHOLIC BEVERAGE SPECIAL USE SUBDISTRICT.

4 There is an unusually large number of establishments dispensing alcoholic beverages,
5 including beer and wine, for both on-site and off-site consumption in this area. The existence
6 of this many alcoholic beverage establishments appears to contribute directly to numerous
7 peace, health, safety and general welfare problems in the area, including loitering, littering,
8 drug trafficking, prostitution, public drunkenness, defacement and damaging of structures,
9 pedestrian obstructions, as well as traffic circulation, parking and noise problems on public
10 streets and neighborhood lots. The existence of such problems creates serious impacts on
11 the health, safety and welfare of residents of nearby single- and multiple-family areas,
12 including fear for the safety of children, elderly residents and of visitors to the area. The
13 problems also contribute to the deterioration of the neighborhood and concomitant
14 devaluation of property and destruction of community values and quality of life. The number of
15 establishments selling alcoholic beverages and the associated problems discourage more
16 desirable and needed commercial uses in the area. In order to preserve the residential
17 character and the neighborhood-serving commercial uses of the area, there shall be a Mission
18 Alcoholic Beverage Special Use Subdistrict to prohibit new establishments, or expansion of
19 existing establishments, selling alcoholic beverages for the property in the area generally
20 bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez
21 Street, Potrero Avenue and Fourteenth Street as designated on Sectional Map Numbers 7SU
22 and 8SU.

23 The following restrictions shall apply within such district:
24
25

1 (a) **Prohibition of New Establishments Selling Alcoholic Beverages.** No new
2 establishment where alcoholic beverages are sold, served or given away for on-site or off-site
3 consumption, shall be established in this special use district as set forth below:

4 (1) No new bar, as defined in Planning Code Section 790.22, shall be permitted in this
5 special use district;

6 (2) No new off-sale liquor establishment shall be permitted in the special use district.
7 An "off-sale liquor establishment" shall mean any establishment which has obtained Alcoholic
8 Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general)
9 selling alcoholic beverages in an open or a closed container for consumption off the premises.
10 Typical off-sale liquor establishments may include but are not limited to the following: food
11 markets, supermarkets, drugstores, liquor stores, bars and convenience markets.

12 (b) **Prohibition of Expansion of Existing Establishments Selling Alcoholic**
13 **Beverages.** Any establishment selling alcoholic beverages lawfully existing prior to the
14 effective date of this resolution and licensed by the State of California for the retail sale of
15 alcoholic beverages for on-site and off-site consumption, so long as otherwise lawful, may
16 continue in existence, provided such establishment remains in use, as follows:

17 (1) In the event that any such establishment ceases to operate or discontinues
18 operation for 30 days or longer as set forth in State law, such use shall be deemed
19 abandoned;

20 (2) No establishment selling alcoholic beverages may substantially change the mode
21 or character of operation of the establishment, nor may it expand the square footage devoted
22 exclusively to the sale of alcoholic beverages, significantly increase the percentage of
23 alcoholic beverage sales as a portion of total sales, or change its type of retail liquor license
24 within a license classification.

25

1 (c) **Exception for Bona Fide Restaurant.** A bona fide restaurant shall be permitted
2 to serve alcoholic beverages in this special use district. A "bona fide restaurant" shall mean a
3 place which is regularly used and kept open for the service of meals to guests for
4 compensation and which has (1) suitable kitchen facilities for the cooking of an assortment of
5 foods which may be required for meals, (2) a primary use of sit-down service to patrons, (3)
6 adequate seating arrangements for sit-down patrons provided on the premises, (4) take-out
7 service that is only incidental to the primary sit-down use, (5) alcoholic beverages which are
8 sold or dispensed for consumption on the premises only when served at tables or sit-down
9 counters by employees of the restaurant, and (6) a minimum of 51 percent of the restaurant's
10 gross receipts shall be from the sale of meals. A "bona fide restaurant" does not include any
11 billiard or pool hall, bowling alley, or adult entertainment business as defined in Planning Code
12 Section 790.36.

13 (d) **Exception for Non-Profit Theaters.** A non-profit theater shall be permitted to
14 serve alcoholic beverages in this special use district. A "non-profit theater" shall mean a
15 building or part of a building intended to be used for the specific purposes of presenting any
16 act, play, revue, pantomime, scene, song, dance act, or song and dance act, conducted or
17 participated in by one or more persons, whether or not such person or persons are
18 compensated for such performance, and which is exempted from payment of income tax
19 under Section 23701d of the California Revenue and Taxation Code and Section 501(c)(3) of
20 the Internal Revenue Code of the United States. A "non-profit theater" does not include any
21 dance hall as defined in Section 1060 of the San Francisco Police Code, billiard parlor, pool
22 hall, bowling alley, or adult entertainment business as defined in Planning Code Section
23 790.36.

24
25

1 (e) Relocation of Existing Liquor Establishment. The Planning Commission may authorize
2 relocation of an existing Liquor Establishment in the Mission Alcoholic Beverage Special Use
3 Subdistrict to another location within the same Mission Alcoholic Beverage Special Use Subdistrict as
4 a conditional use, provided that the total number of liquor establishments in the Mission Alcoholic
5 Beverage Special Use Subdistrict does not increase as a result of such relocation and provided further
6 that the Liquor Establishment does not substantially change the mode or character of operation of the
7 Liquor Establishment, expand the square footage devoted exclusively to the sale of alcoholic beverages,
8 significantly increase the percentage of alcoholic beverage sales as a portion of total sales, or change
9 its type of retail liquor license within a license classification, at the new location.

10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: _____
14 Kate Herrmann Stacy
15 Deputy City Attorney
16
17
18
19
20
21
22
23
24
25