

1 [Ordinance creating the Fillmore Street Alcohol Restricted Use District, prohibiting new off-  
2 sale liquor establishments, regulating existing non-conforming liquor establishments, and  
3 amending Zoning Map Sheets 2SU to indicate the boundaries of the Fillmore Street Alcohol  
4 Restricted Use District.]

5 **Ordinance adding Section 249.29 to the Planning Code to create a Fillmore Street**  
6 **Alcohol Restricted Use District prohibiting liquor establishments and regulating**  
7 **existing non-conforming liquor establishments; amending Zoning Map Sheets 2SU of**  
8 **the City and County of San Francisco to indicate the boundaries of the Fillmore Street**  
9 **Alcohol Restricted Use District, and making findings of consistency with the priority**  
10 **policies of Planning Code Section 101.1 and the General Plan.**

11 Note: Additions are *single-underline italics Times New Roman*;  
12 deletions are ~~*strikethrough italics Times New Roman*~~.  
13 Board amendment additions are double underlined.  
14 Board amendment deletions are ~~strikethrough normal~~.

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

16 Section 1. Findings. The Board of Supervisors of the City and County of San Francisco  
17 hereby finds and determines that:

18 (a) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this  
19 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in  
20 Planning Commission Resolution No. \_\_\_\_\_ recommending approval of this Planning Code  
21 Amendment, and incorporates such reasons by this reference thereto. A copy of said  
22 resolution is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

23 (b) Pursuant to Planning Code Section 101.1, this Board of Supervisors finds that this  
24 ordinance is consistent with the Priority Policies of Section 101.1(b) of the Planning Code and  
25 with the General Plan and hereby adopts the findings of the Planning Commission, as set

1 forth in Planning Commission Resolution No. \_\_, and incorporates said findings by this  
2 reference thereto.

3 Section 2. The San Francisco Planning Code is hereby amended by adding Section  
4 249.29, to read as follows:

5 Section 249.29 **Fillmore Street Alcohol Restricted Use District Established.**

6 There are an unusually large number of establishments dispensing alcoholic beverages,  
7 including beer and wine, for off-site consumption along Fillmore Street between Golden Gate and Post  
8 Streets. The existence of this many alcoholic beverage establishments appears to contribute directly to  
9 peace, health, safety and general welfare problems in the area, including loitering, littering, public  
10 drunkenness, defacement and damaging of structures, pedestrian obstructions, as well as traffic  
11 circulation, parking and noise problems on public streets and neighborhood lots. The existence of such  
12 problems creates serious impacts on the health, safety and welfare of residents of nearby single- and  
13 multiple-family areas, including fear for the safety of children, elderly residents and of visitors to the  
14 area. The problems also contribute to the deterioration of the neighborhood and concomitant  
15 devaluation of property and destruction of community values and quality of life. The number of  
16 establishments selling alcoholic beverages and the associated problems discourage more desirable and  
17 needed commercial uses in the area.

18 (a) In order to preserve the residential character and the neighborhood-serving commercial  
19 uses of the area, the Fillmore Street Alcohol Restricted Use District (Fillmore Street Alcohol RUD) is  
20 hereby established along Fillmore Street between Golden Gate and Post Streets, Assessor's Blocks 702  
21 701, 707, 708, 726, 725, 730, 732, 750, 749, 755, and 756, as designated on Sectional Map number 2.  
22 The Fillmore Street Alcohol RUD is designated on Sectional Map Number 2SU.

23 (1) No new off-sale liquor establishments shall be permitted in the Fillmore Street  
24 Alcohol RUD.

1                   (2) The prohibition on off-sale liquor establishments shall not be interpreted to  
2 prohibit the following:

3                   (A) Temporary uses, as described in Planning Code Section 205.1 or 205.3; or

4                   (B) Establishment of an off-sale liquor Establishment if an application for such  
5 Liquor Establishment is on file with the California Department of Alcoholic Beverage Control prior to  
6 the effective date of legislation establishing the Fillmore Street Alcohol RUD.

7                   (3) Continuation of Existing Prohibited Off-Sale Liquor Establishments. In the  
8 Fillmore Street Alcohol RUD, any Prohibited Off-Sale Liquor Establishment may continue in  
9 accordance with Planning Code Section 180 through 186.2, subject to the following provisions:

10                   (A) A Prohibited Off-Sale Liquor Establishment lawfully existing and selling  
11 alcoholic beverages as licensed by the State of California prior to the effective date of this legislation,  
12 or subsequent legislation prohibiting that type of Off-Sale Liquor Establishment, so long as otherwise  
13 lawful, may continue to operate only under the following conditions, as provided by California  
14 Business and Professions Code Section 23790:

15                   (1) Except as provided by Subsection (B) below, the premises shall retain the same  
16 type of retail liquor license within a license classification; and

17                   (2) Except as provided by Subsection (B) below, the licensed premises shall be  
18 operated continuously, without substantial change in mode or character of operation.

19                   (B) A break in continuous operation shall not be interpreted to include the following,  
20 provided that the location of the establishment does not change, the square footage used for the sale of  
21 alcoholic beverages does not increase, and the type of California Department of Alcoholic Beverage  
22 Control liquor license (“ABC License”) does not change except as indicated:

23                   (1) A change in ownership of a Prohibited Off-Sale Liquor Establishment or an  
24 owner-to-owner transfer of an ABC License; or

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

4                   (3) Temporary closure of an existing Prohibited Off-Sale Liquor Establishment for  
5 not more than ninety (90) days for repair, renovation or remodeling;

6                   (4) Re-location of an existing Prohibited Off-Sale Liquor Establishment in the  
7 Fillmore Street Alcohol RUD to another location within the same Fillmore Street Alcohol RUD with  
8 conditional use authorization from the Planning Commission, provided that the original premises shall  
9 not be occupied by a Prohibited Off-Sale Liquor Establishment, unless by another Prohibited Off-Sale  
10 Liquor Establishment that is also relocating from within the Fillmore Street Alcohol RUD.

11                  (b) The following shall apply to all off-sale liquor establishments in the Fillmore Street  
12 Alcohol RUD in order to maintain the safety of the premises and vicinity:

13                   (1) Off-sale liquor establishments shall provide outside lighting in a manner  
14 sufficient to illuminate street and sidewalk areas and adjacent parking, as appropriate to maintain  
15 security, without disturbing area residences;

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

24                  (c) Definitions:  
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1                   (1) A “liquor establishment” shall mean any enterprise selling alcoholic beverages,  
2 as defined by California Business and Professions Code Section 23004 and 23025, pursuant to a  
3 California Alcoholic Beverage Control Board license.

4                   (2) An “off-sale liquor establishment” shall mean any liquor establishment which  
5 has obtained Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21  
6 (off-sale general) selling alcoholic beverages in an open or a closed container for consumption off the  
7 premises. Typical off-sale liquor establishments may include but are not limited to the following uses  
8 licensed to sell off-sale alcoholic beverages: food markets, supermarkets, drugstores, liquor stores, and  
9 convenience markets. It shall not include producers and distributor's licenses for offices or  
10 establishments not open to the general public.

11                   (3) A “prohibited off-sale liquor establishment” shall mean any establishment  
12 selling alcoholic beverages lawfully existing prior to the effective date of the establishment of the  
13 Fillmore Street Alcohol RUD and licensed by the State of California for the retail sale of alcoholic  
14 beverages for off-site consumption, so long as otherwise lawful.

15                   Section 3. Amendment of Sheet 2SU of the Zoning Map. In accordance with Planning  
16 Code sections 106 and 302, the following change is hereby adopted as an amendment to  
17 Zoning Map Sheet 2SU of the City and County of San Francisco, a copy of which is on file  
18 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_:

19                   Blocks 702, 701, 707, 708, 726, 725, 730, 732, 750, 749, 755, and 756 along Fillmore  
20 Street between Golden Gate and Post Streets, and as indicated on a map of the Fillmore  
21 Street Alcohol Restricted Use District, a copy of which is on file with the Clerk of the Board of  
22 Supervisors in File No. \_\_\_\_\_, shall be part of the Fillmore Street Alcohol  
23 Restricted Use District.

24                   Section 4. The Planning Department concluded environmental review of this ordinance  
25 pursuant to the California Environmental Quality Act Act (California Public Resources Code

1 sections 21000 et seq.). Said determination is on on file with the Clerk of the Board of  
2 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference.

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

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6 By: \_\_\_\_\_  
7 Sarah Ellen Owsowitz  
8 Deputy City Attorney

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