

FILE NO. 071531

ORDINANCE NO. 75-08

1 [Amending the Planning Code to Include Properties in the Proposed Excelsior Alcohol
2 Restricted Use District in the Fringe Financial Service Restricted Use District and Making
3 Related Zoning Map Amendments.]

4 **Ordinance amending San Francisco Planning Code Sections 249.35, 711, and 712 to**
5 **include properties in the proposed Excelsior Alcohol Restricted Use District in the**
6 **Fringe Financial Service Restricted Use District prohibiting new fringe financial**
7 **services, as defined, with certain exceptions, including properties in the Assessor's**
8 **Blocks fronting on both sides of Mission Street from Silver Avenue to the Daly City**
9 **border; amending Zoning Special Use District Maps Numbers SU11 and SU12 of the**
10 **Zoning Map of the City and County of San Francisco to define the boundaries of the**
11 **Fringe Financial Service Restricted Use District; and making findings, including**
12 **environmental findings and findings of consistency with the priority policies of**
13 **Planning Code Section 101.1 and the General Plan.**

14 Note: Additions are single-underline italics Times New Roman;
15 deletions are ~~strikethrough italics Times New Roman~~.
16 Board amendment additions are double underlined.
17 Board amendment deletions are ~~strikethrough-normal~~.

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

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

21 (a) General Plan and Planning Code Findings.

22 (1) On Feb. 7, 2008 at a duly noticed public hearing, the Planning Commission
23 in Resolution No. 17548 found that the proposed Planning Code and Zoning Map
24 amendments contained in this ordinance were consistent with the City's General Plan and
25 with Planning Code Section 101.1(b). In addition, the Planning Commission recommended

1 that the Board of Supervisors adopt the proposed Planning Code and Zoning Map
2 amendments. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in
3 File No. 071531 and is incorporated herein by reference. The Board finds that the
4 proposed Planning Code and Zoning Map amendments contained in this ordinance are
5 consistent with the City's General Plan and with Planning Code Section 101.1(b) for the
6 reasons set forth in said Resolution.

7 (2) Pursuant to Planning Code Section 302, the Board finds that the proposed
8 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
9 Planning Commission Resolution No. 17548, which reasons are incorporated
10 herein by reference as though fully set forth.

11 (b) Environmental Findings. The Planning Department has determined that the
12 actions contemplated in this Ordinance are in compliance with the California Environmental
13 Quality Act (California Public Resources Code section 21000 et seq.). Said determination is
14 on file with the Clerk of the Board of Supervisors in File No. 071531 and is
15 incorporated herein by reference.

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17 Section 2. The San Francisco Planning Code is hereby amended by amending
18 Section 249.35, to read as follows:

19 **SEC 249.35. FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT.**

20 (a) Findings. There are an unusually large number of establishments providing
21 fringe financial services, including check cashing and payday lending, in the neighborhoods
22 included in the Mission Alcoholic Beverage Special Use District, the North of Market
23 Residential Special Use District, the Divisadero Street Alcohol Restricted Use District, the
24 Third Street Alcohol Restricted Use District, and the Haight Street Alcohol Restricted Use
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1 Subdistrict and the proposed Excelsior Alcohol Restricted Use District. The unchecked
2 proliferation of these businesses has the potential to displace other financial service providers,
3 including charter banks, which offer a much broader range of financial services, as well as
4 other desired commercial development in the City, which provides a broad range of
5 neighborhood commercial goods and services.

6 (b) Establishment of the Fringe Financial Service Restricted Use District. In order to
7 preserve the residential character and the neighborhood-serving commercial uses of the
8 following defined areas, a noncontiguous Fringe Financial Service Restricted Use District
9 (Fringe Financial Service RUD) is hereby established for the following properties:

10 (1) Properties in the Mission Alcoholic Beverage Special Use District, as described
11 in Section 781.8 of this Code and as designated on Zoning Maps Numbers SU07 and SU08 of
12 the Zoning Map of the City and County of San Francisco;

13 (2) Properties in the North of Market Residential Special Use District, as described
14 in Section 249.5 of this Code and as designated on Zoning Maps Numbers SU01 and SU02;

15 (3) Properties in the Divisadero Street Alcohol Restricted Use District, as described
16 in Section 783 of this Code and as designated on Zoning Maps Numbers SU02 and SU07 of
17 the Zoning Map of the City and County of San Francisco;

18 (4) Properties in the Third Street Alcohol Restricted Use District, as described in
19 Section 782 of this Code and as designated on Zoning Map Number SU10 of the Zoning Map
20 of the City and County of San Francisco; and

21 (5) Properties in the Haight Street Alcohol Restricted Use Subdistrict, as described
22 in Section 781.9 of this Code and as designated on Zoning Maps Numbers SU06 and SU07 of
23 the Zoning Map of the City and County of San Francisco; and

1 (6) Properties in the proposed Excelsior Alcohol Restricted Use District, which includes
2 the following Assessor's Blocks and Lots fronting on both sides of Mission Street from Silver Avenue
3 to the Daly City-San Francisco border: Blocks 3147, 3148, 3206, 5869, 5892, 5893, 5952, 6013,
4 6014, 6083, 6084, 6272, 6346, 6347, 6796, 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804,
5 6955, 6956, 6959, and 6968 as set forth in Special Use District Maps SU11 and SU12 of the
6 Zoning Map of the City and County of San Francisco. Inclusion of these properties in the
7 Fringe Financial Service RUD shall survive any sunset provisions of the proposed Excelsior
8 Alcohol Restricted Use District.

9 (c) Restrictions.

10 (1) No new fringe financial services shall be permitted as a principal or accessory
11 use in the Fringe Financial Service RUD.

12 (2) The controls of this Section 249.35 shall also apply within a 1/4 mile of the
13 Fringe Financial Service RUD.

14 (3) Outside of the Fringe Financial Service RUD and its 1/4 mile buffer, fringe
15 financial services shall be subject to the zoning controls set forth elsewhere in this Code,
16 provided that, in addition, no new fringe financial service shall be permitted as a principal or
17 accessory use within 1/4 mile of an existing fringe financial service.

18 (d) Exemptions. The restrictions set forth in subsection (c) above shall not be
19 interpreted to prohibit the following:

20 (1) A nonprofit fringe financial service; or

21 (2) Any other financial service use that is not a fringe financial service. Accordingly,
22 any applicant for a financial service use shall provide the Planning Department with a true
23 copy of the license issued to it by the State of California, demonstrating that such financial
24 service operates under a license of a type distinct from that issued to a "check casher" as
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1 defined in California Civil Code section 1789.31, as amended from time to time; or to a
2 "licensee" as defined in California Financial Code section 23001(d), as amended from time to
3 time.

4 (e) Continuation of Existing Prohibited Fringe Financial Service Uses. Any fringe
5 financial service subject to the restrictions set forth in this Section 249.35 may continue in
6 accordance with Planning Code Section 180 through 186.2, subject to the following
7 provisions:

8 (1) A fringe financial service lawfully existing as licensed by the State of California
9 prior to the effective date of this legislation, or subsequent legislation prohibiting that type of
10 fringe financial service, so long as otherwise lawful, may continue to operate only under the
11 following conditions:

12 (A) Except as provided in Subsection 249.35(e)(2) below, the premises shall retain
13 the same type of fringe financial service license within a license classification; and

14 (B) Except as provided in Subsection 249.35(e)(2) below, the fringe financial service
15 shall be operated continuously, without substantial changes in mode or character of operation.

16 (2) A break in continuous operation shall not be interpreted to include the following,
17 provided that, except as indicated below, the location of the establishment does not change,
18 the square footage used does not increase, and the type of state license does not change:

19 (A) A change in ownership of a fringe financial service provider or a lawful transfer
20 of a state license;

21 (B) Temporary closure for restoration or repair of an existing fringe financial service
22 on the same lot after total or partial destruction or damage due to fire, riot, insurrection, toxic
23 accident, or act of God; or
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1 (C) Temporary closure of an existing fringe financial service provider for reasons
2 other than total or partial destruction or damage due to fire, riot, insurrection, toxic accident, or
3 act of God for not more than thirty (30) days for repair, renovation, or remodeling.

4 (f) Definitions: The following definitions shall apply to this Section 249.35.

5 (1) A "fringe financial service" shall mean a retail use that provides banking services
6 and products to the public and is owned or operated by a "check casher" as defined in
7 California Civil Code section 1789.31, as amended from time to time, or by a "licensee" as
8 defined in California Financial Code section 23001(d), as amended from time to time.

9 (2) A "nonprofit fringe financial service" shall mean a fringe financial service that is
10 exempted from payment of income tax under Section 23701(d) of the California Revenue and
11 Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States. Any
12 such nonprofit fringe financial service shall provide the Planning Department with a true
13 copy(ies) of its income tax documentation demonstrating its exemption from payment of
14 income tax under State and Federal Law.

15 (g) The Planning Department shall maintain information regarding the location of
16 existing fringe financial services located outside the Fringe Financial Service Restricted Use
17 District, which information shall be presumed accurate. An applicant for a new fringe financial
18 service use may submit information to the Department to demonstrate that an existing fringe
19 financial service use has closed or is otherwise not located within a 1/4 mile of the location of
20 the proposed new fringe financial service use.

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22 Section 3. The San Francisco Planning Code is hereby amended by amending Section
23 711, to read as follows:
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1 **SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL**

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3 **SPECIFIC PROVISIONS FOR NC-2 DISTRICTS**

Article 7 Code Section	Other Code Section	Zoning Controls
711.68	§249.35	<p>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)</p> <p>Boundaries: The FFSRUD and its ¼ mile buffer includes, but is not limited to, properties within: the Mission Alcoholic Beverage Special Use District; the Haight Street Alcohol Restricted Use District; the Third Street Alcohol Restricted Use District; the Divisadero Street Alcohol Restricted Use District; <i>and</i> the North of Market Residential Special Use District <i>and the following <u>Assessor's Blocks and Lots fronting on both sides of Mission Street from Silver Avenue to the Daly City borders:</u></i> Blocks 3147, 3148, 3206, 5869, 5892, 5893, 5952, 6013, 6014, 6083, 6084, 6272, 6346, 6347, 6796, 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804, 6955, 6956, 6959, and 6968 <u>as set forth in Special Use District Maps SU 11 and SU 12;</u> and includes Small-Scale Neighborhood Commercial Districts within its boundaries.</p> <p>Controls: Within the FFSRUD and its ¼ mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its ¼ mile buffer, fringe financial services are</p>

P subject to the restrictions set forth in subsection 249.35(c)(3).

Section 4. The San Francisco Planning Code is hereby amended by amending Section 712, to read as follows:

SEC. 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3

SPECIFIC PROVISIONS FOR NC-3 DISTRICTS

Article 7 Code Section	Other Code Section	Zoning Controls
712.68	§249.35	FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD) Boundaries: The FFSRUD and its ¼ mile buffer includes, but is not limited to, properties within: the Mission Alcoholic Beverage Special Use District; the Haight Street Alcohol Restricted Use District; the Third Street Alcohol Restricted Use District; the Divisadero Street Alcohol Restricted Use District; <i>and</i> the North of Market Residential Special Use District <i>and the following Assessor's Blocks and Lots fronting on both sides of Mission Street from Silver Avenue to the Daly City borders:</i> Blocks 3147, 3148, 3206, 5869, 5892, 5893, 5952, 6013, 6014, 6083, 6084, 6272, 6346, 6347, 6796, 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804, 6955, 6956, 6959, and 6968 <u>as set forth in Special Use District Maps SU11 and SU12;</u> and includes

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		<p>Moderate-Scale Neighborhood Commercial Districts within its boundaries.</p> <p>Controls: Within the FFSRUD and its ¼ mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its ¼ mile buffer, fringe financial services are P subject to the restrictions set forth in subsection 249.35(c)(3).</p>
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Section 5. In accordance with Planning Code Sections 106 and 203, the following change is hereby adopted as an amendment to Zoning Maps Numbers SU11 and SU12 of the Zoning Map of the City and County of San Francisco:

~~The following properties shall be part of the Fringe Financial Service Restricted Use District: Amending Zoning Maps SU11 and SU12 of the Zoning Map, properties in the following Assessor's Blocks fronting on both sides of Mission Street from Silver Avenue to the Daly City borders: Blocks 3147, 3148, 3206, 5869, 5892, 5893, 5952, 6013, 6014, 6083, 6084, 6272, 6346, 6347, 6796, 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804, 6955, 6956, 6959, and 6968.~~

<u>Description of Property</u>	<u>Special Use District To Be Approved</u>
<p><u>Block 3147, Lots 001-002, 002A, 003, 030; Block 3148, Lots 001, 003-006; Block 3206, Lots 003-005, 031; Block 3207, Lot 001; Block 5952, Lot 002; Block 6013, Lots 014, 016-019, 021-022, 022A, 022B, 023, 023A, 024-028, 044-046; Block 6014, Lots 024-036, 038-046; Block 6083, Lots 006, 020-024, 027-030, 032, 032A, 033, 033A, 034, 036; Block 6084, Lots 019-021, 023, 023A, 023B, 024, 024A, 024B, 024C, 025-026, 028, 030, 033; Block 6272, Lots 014, 014A, 015, 015A, 015B, 016, 018-023, 025, 030-033, 039-045; Block 6346, 004F, 005B, 005C, 005D, 005E, 006, 006B, 006C, 006D, 006E, 007A, 007B, 008, 012-015; Block 6347, Lots 015-017, 017A, 017B, 018-021; Block 6410, Lots 010,</u></p>	<p><u>Fringe Financial Service Restricted Use District</u></p>


1 012-015, 024-045; Block 6411, Lots 016, 020-022, 037;
2 Block 6461, Lots 011-015, 035-041; Block 6462, Lots 001,
3 019A, 019B, 020-021, 025-038; Block 6463, Lot 083; Block
4 6468, Lots 001A, 002, 019, 019A, 020, Block 6468A, Lot
5 001, 028-034; Block 6469, Lots 005-006, 007A, 011, 013-
6 016, 016A, 018-019, 028-032, 036, 038-047; Block 6470,
7 Lots 001A, 001B, 001C, 001D, 003-004; Block 6471, Lots
8 001, 001A, 001B, 001C, 001D; Block 6472, Lots 001-002;
9 Block 6472, Lots 021, 021A, 021B, 021C, 021D, 022, 027,
10 030-063; Block 6473, Lots 001, 030, 034, 037-050; Block
11 6474, Lots 032-034; Block 6796, Lots 001, 001A, 002, 005-
12 011, Lot 051; Block 6797, Lot 003, 046-047; Block 6798,
13 Lots 001, Lots 004-007, 041; Block 6799, Lots 003-006, 042;
14 Block 6800, Lots 001, 044-045; Block 6955, Lots 004, 007,
15 010-017, 043-044; Block 6956, Lots 001-005, 024, 026, 028,
16 036-078; Block 6959, Lots 019, 025-026, 028-029, 031-033;
17 Block 6968, Lots 001-012, 014-017, 062-065; Block 6969,
18 Lots 001, 003A, 003B, 003C, 003D, 012, 016; Block 7030,
19 Lots 004, 004A, 004B, 006, 006A, 006B, 007, 007A, 033;
20 Block 7031, Lots 001B, 002, 002A, 002B, 002C, 002D, 003,
21 003A, 003B, 003C, 003D, 003E, 003F, 029; Block 7043,
22 Lots 001, 001A, 001B, 001C, 001D, 001E, 001F, 001G, 002,
23 002A, 002B, 002C, 002D, 002E, 002F, 002G; Block 7044A,
24 Lots 001, 001A, 001B, 004, 006, 006B; Block 7109A, Lots
25 001-003; Block 7066, Lots 030, 033-035; Block 7066, Lots
001G, 001H, 001-003, 007, 009-010; Block 7098, Lots 001E,
002-004, 004A, 008-009, 012; Block 7099, Lots 003-005,
008-014; Block 7109, Lots 001-004, 006-007, Block 7109A,
Lots 004-007; Block 7143, Lots 003-009, 033-034, 036-064;
Block 7144, Lot 001.

Section 6. Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance that can be given effect without the invalid or unconstitutional provision or application. To this end, the provisions of this ordinance shall be deemed severable.

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

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By: 

Marlena G. Byrne
Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
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Tails

Ordinance

File Number: 071531

Date Passed:

Ordinance amending San Francisco Planning Code Sections 249.35, 711, and 712 to include properties in the proposed Excelsior Alcohol Restricted Use District in the Fringe Financial Service Restricted Use District prohibiting new fringe financial services, as defined, with certain exceptions, including properties in the Assessor's Blocks fronting on both sides of Mission Street from Silver Avenue to the Daly City border; amending Special Use District Maps Numbers SU11 and SU12 of the Zoning Map of the City and County of San Francisco to define the boundaries of the Fringe Financial Service Restricted Use District; and making findings, including environmental findings and findings of consistency with the priority policies of Planning Code Section 101.1 and the General Plan.

April 22, 2008 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell,
Mirkarimi, Peskin, Sandoval
Excused: 1 - McGoldrick

April 29, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, Mirkarimi, Peskin,
Sandoval
Excused: 2 - Alioto-Pier, McGoldrick

File No. 071531

I hereby certify that the foregoing Ordinance
was FINALLY PASSED on April 29, 2008 by
the Board of Supervisors of the City and
County of San Francisco.

5-9-08

Date Approved

Madeleine Licavoli

for Angela Calillo
Clerk of the Board

[Signature]
Mayor Gavin Newsom