

As prepared in committee
November 5, 2007

FILE NO. 071531

ORDINANCE NO.

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

4 **Ordinance adding San Francisco Planning Code Section 249.35 to the San Francisco**
5 **Planning Code to include 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 San Francisco Planning Code Section 711 to add the Fringe**
10 **Financial Service Use to the Small-Scale Neighborhood Commercial District (NC-2)**
11 **Zoning Control Table and Section 712 to add Fringe Financial Service Use to the**
12 **Moderate-Scale Neighborhood Commercial District (NC-3) Zoning Control Table;**
13 **amending Zoning Maps Numbers SU11, and SU12 of Zoning Map of the City and**
14 **County of San Francisco to define the boundaries of the Fringe Financial Service**
15 **Restricted Use District; and making findings, including environmental findings and**
16 **findings of consistency with the priority policies of Planning Code Section 101.1 and**
17 **the General Plan.**

18 Note: Additions are *single-underline italics Times New Roman*;
19 deletions are *~~strikethrough italics Times New Roman~~*.
20 Board amendment additions are double underlined.
21 Board amendment deletions are ~~strikethrough normal~~.

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

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

25 (a) General Plan and Planning Code Findings.

1 (1) On _____ at a duly noticed public hearing, the Planning Commission
2 in Resolution No. _____ found that the proposed Planning Code and Zoning Map
3 amendments contained in this ordinance were consistent with the City's General Plan and
4 with Planning Code Section 101.1(b). In addition, the Planning Commission recommended
5 that the Board of Supervisors adopt the proposed Planning Code and Zoning Map
6 amendments. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in
7 File No. _____ and is incorporated herein by reference. The Board finds that the
8 proposed Planning Code and Zoning Map amendments contained in this ordinance are
9 consistent with the City's General Plan and with Planning Code Section 101.1(b) for the
10 reasons set forth in said Resolution.

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

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

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21 Section 2. The San Francisco Planning Code is hereby amended by adding new
22 Section 249.35, to read as follows:

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

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

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

14 (1) Properties in the Mission Alcoholic Beverage Special Use District, as described in
15 Section 781.8 of this Code and as designated on ~~Sectional Zoning Maps Numbers 7SU SU07 and~~
16 8SU SU08 of the Zoning Map of the City and County of San Francisco;

17 (2) Properties in the North of Market Residential Special Use District, as described in
18 Section 249.5 of this Code and as designated on ~~Sectional Zoning Maps Numbers 4SU SU01 and~~
19 2SU SU02;

20 (3) Properties in the Divisadero Street Alcohol Restricted Use District, as described in
21 Section 783 of this Code and as designated on ~~Sectional Zoning Maps Numbers 2 SU02 and 7 SU07~~
22 of the Zoning Map of the City and County of San Francisco;

1 (4) Properties in the Third Street Alcohol Restricted Use District, as described in Section
2 782 of this Code and as designated on ~~Sectional Zoning~~ Map Number ~~40SU~~ SU10 of the Zoning
3 Map of the City and County of San Francisco; and

4 (5) Properties in the Haight Street Alcohol Restricted Use Subdistrict, as described in
5 Section 781.9 of this Code and as designated on ~~Sectional Zoning~~ Maps Numbers ~~6~~ SU06 and ~~7~~
6 SU07 of the Zoning Map of the City and County of San Francisco;

7 (6) Properties in the proposed Excelsior Alcohol Restricted Use District, which
8 include the following Assessor's Blocks fronting on both sides of Mission Street from Silver
9 Avenue to the Daly City-San Francisco border: Blocks 3147, 3148, 3206, 5869, 5892, 5893,
10 5952, 6013, 6014, 6083, 6084, 6272, 6346, 6347, 6796, 6797, 6798, 6799, 6800, 6801, 6802,
11 6803, 6804, 6955, 6956, 6959, and 6968.

12 (c) Restrictions.

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

15 (2) The controls of this Section 249.35 shall also apply within a ¼ mile of the Fringe
16 Financial Service RUD.

17 (3) Outside of the Fringe Financial Service RUD and its ¼ mile buffer, fringe financial
18 services shall be subject to the zoning controls set forth elsewhere in this Code, provided that, in
19 addition, no new fringe financial service shall be permitted as a principal or accessory use within ¼
20 mile of an existing fringe financial service.

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

23 (1) A nonprofit fringe financial service; or

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

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

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

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

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

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

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

22 (B) Temporary closure for restoration or repair of an existing fringe financial service on the
23 same lot after total or partial destruction or damage due to fire, riot, insurrection, toxic accident, or act
24 of God; or

1 (C) Temporary closure of an existing fringe financial service provider for reasons other
2 than total or partial destruction or damage due to fire, riot, insurrection, toxic accident, or act of God
3 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 and
6 products to the public and is owned or operated by a “check casher” as defined in California Civil
7 Code section 1789.31, as amended from time to time, or by a “licensee” as defined in California
8 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 Taxation
11 Code and Section 501(c)(3) of the Internal Revenue Code of the United States. Any such nonprofit
12 fringe financial service shall provide the Planning Department with a true copy(ies) of its income tax
13 documentation demonstrating its exemption from payment of income tax under state and federal law.

14 (g) The Planning Department shall maintain information regarding the location of
15 existing fringe financial services located outside the Fringe Financial Service Restricted Use
16 District, which information shall be presumed accurate. An applicant for a new fringe financial
17 service use may submit information to the Department to demonstrate that an existing fringe
18 financial service use has closed or is otherwise not located within a ¼ mile of the location of
19 the proposed new fringe financial service use.

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21 Section 3. The San Francisco Planning Code is hereby amended by amending Section
22 711, to read as follows:

23 **SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2 ZONING**
24 **CONTROL TABLE.**

			NC-2		
			Controls by Story		
No.	Zoning Category	§ References	1 st	2 nd	3 rd +
Retail Sales and Services					
<u>711.68</u>	<u>Fringe Financial Service</u>	<u>§ 790.111</u>	<u>P#</u>		

SPECIFIC PROVISIONS FOR NC-2 DISTRICTS

Article 7 Code Section	Other Code Section	Zoning Controls
§711.49 §711.50 <u>§711.68</u>	§ 781.7	CHESTNUT STREET FINANCIAL SERVICE SUBDISTRICT Boundaries: Applicable only for the Chestnut Street NC-2 District from Broderick to Fillmore Street as mapped on Section Map 2SU. Controls: Financial services, and limited financial services, <u>and fringe financial services</u> are NP.
<u>711.68</u>	<u>§249.35</u>	<u>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)</u> <u>Boundaries:</u> <u>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; and the North of Market Residential Special Use District and the following Assessor's Blocks fronting on both sides of Mission Street from Silver Avenue to the Daly</u>

1		<u>City borders: Blocks 3147, 3148, 3206, 5869, 5892, 5893,</u>
2		<u>5952, 6013, 6014, 6083, 6084, 6272, 6346, 6347, 6796, 6797,</u>
3		<u>6798, 6799, 6800, 6801, 6802, 6803, 6804, 6955, 6956, 6959,</u>
4		<u>and 6968; and includes Small-Scale Neighborhood Commercial</u>
5		<u>Districts within its boundaries.</u>
6		<u>Controls: Within the FFSRUD and its ¼ mile buffer, fringe financial</u>
7		<u>services are NP pursuant to Section 249.35. Outside the FFSRUD</u>
8		<u>and its ¼ mile buffer, fringe financial services are P subject to the</u>
9		<u>restrictions set forth in subsection 249.35(c)(3).</u>

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11 Section 4. The San Francisco Planning Code is hereby amended by amending Section
12 712, to read as follows:

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14 **SEC. 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3**
15 **ZONING CONTROL TABLE.**

			NC-3		
			Controls by Story		
No.	Zoning Category	§ References	1 st	2 nd	3 rd +
Retail Sales and Services					
<u>712.68</u>	<u>Fringe Financial Service</u>	<u>§ 790.111</u>	<u>P#</u>		

21
22 **SPECIFIC PROVISIONS FOR NC-3 DISTRICTS**

23 Article 7	Other Code	Zoning Controls
24 Code Section	Section	

<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18</p>	<p><u>712.68</u></p>	<p><u>§249.35</u></p>	<p><u>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)</u></p> <p><u>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; and the North of Market Residential Special Use District and 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; and includes Moderate-Scale Neighborhood Commercial Districts within its boundaries.</u></p> <p><u>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).</u></p>
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20 Section 5. In accordance with Planning Code sections 106 and 203, the following

21 change is hereby adopted as an amendment to Zoning Maps Numbers SU11 and SU12 of the

22 Zoning Map of the City and County of San Francisco:

23 The following properties shall be part of the Fringe Financial Service Restricted Use

24 District: Amending Zoning Maps SU11 and SU12 of the Zoning Map, properties in the

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1 following Assessor's Blocks fronting on both sides of Mission Street from Silver Avenue to the
2 Daly City borders: Blocks 3147, 3148, 3206, 5869, 5892, 5893, 5952, 6013, 6014, 6083,
3 6084, 6272, 6346, 6347, 6796, 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804, 6955, 6956,
4 6959, and 6968

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6 Section 6. Severability.

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

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

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15 By: _____
Marlena G. Byrne
16 Deputy City Attorney

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