

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

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

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

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

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

20 (a) General Plan and Planning Code Findings.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (6) Properties in the proposed Excelsior Alcohol Restricted Use District, which include the  
23 following Assessor's Blocks fronting on both sides of Mission Street from Silver Avenue to the Daly  
24 City-San Francisco border: Blocks 3147, 3148, 3206, 5869, 5892, 5893, 5952, 6013, 6014, 6083,

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1 6084, 6272, 6346, 6347, 6796, 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804, 6955, 6956, 6959, and  
2 6968.

3 (c) Restrictions.

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

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

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

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

14 (1) A nonprofit fringe financial service; or

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

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

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

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

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

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

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

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

19 (C) Temporary closure of an existing fringe financial service provider for reasons  
20 other than total or partial destruction or damage due to fire, riot, insurrection, toxic accident, or  
21 act of God for not more than thirty (30) days for repair, renovation, or remodeling.

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

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

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

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

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16 Section 3. The San Francisco Planning Code is hereby amended by amending Section  
17 711, to read as follows:

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19 **SEC. 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL**

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

22 Article 7	Other Code	Zoning Controls
23 Code Section	Section	
24 711.68	§249.35	FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT

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		<p>(FFSRUD)</p> <p><b>Boundaries:</b> 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 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;</i> and includes Small-Scale Neighborhood Commercial Districts within its boundaries.</p> <p><b>Controls:</b> 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 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**

1	Article 7	Other Code	Zoning Controls
2	Code Section	Section	
3	712.68	§249.35	FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT
4			(FFSRUD)
5			<b>Boundaries:</b> The FFSRUD and its ¼ mile buffer includes, but
6			is not limited to, properties within: the Mission Alcoholic
7			Beverage Special Use District; the Haight Street Alcohol
8			Restricted Use District; the Third Street Alcohol Restricted Use
9			District; the Divisadero Street Alcohol Restricted Use District;
10			<i>and</i> the North of Market Residential Special Use District <i>and the</i>
11			<i>following Assessor's Blocks fronting on both sides of Mission Street</i>
12			<i>from Silver Avenue to the Daly City borders: Blocks 3147, 3148,</i>
13			<i>3206, 5869, 5892, 5893, 5952, 6013, 6014, 6083, 6084, 6272, 6346,</i>
14			<i>6347, 6796, 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804, 6955,</i>
15			<i>6956, 6959, and 6968;</i> and includes Moderate-Scale
16			Neighborhood Commercial Districts within its boundaries.
17			<b>Controls:</b> Within the FFSRUD and its ¼ mile buffer, fringe
18			financial services are NP pursuant to Section 249.35. Outside
19			the FFSRUD and its ¼ mile buffer, fringe financial services are
20			P subject to the restrictions set forth in subsection 249.35(c)(3).

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22 Section 5. In accordance with Planning Code Sections 106 and 203, the following

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

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

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1           The following properties shall be part of the Fringe Financial Service Restricted Use  
2 District: Amending Zoning Maps SU11 and SU12 of the Zoning Map, properties in the  
3 following Assessor's Blocks fronting on both sides of Mission Street from Silver Avenue to the  
4 Daly City borders: Blocks 3147, 3148, 3206, 5869, 5892, 5893, 5952, 6013, 6014, 6083,  
5 6084, 6272, 6346, 6347, 6796, 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804, 6955, 6956,  
6 6959, and 6968.

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8           Section 6. Severability.

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

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

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By: \_\_\_\_\_  
Marlena G. Byrne  
Deputy City Attorney

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