

1 [Planning Code - Deleting the Sunset Provision of the Excelsior Alcohol Restricted Use
2 District]

3 **Ordinance amending the Planning Code, Section 785, to delete the sunset provision of**
4 **the Excelsior Alcohol Restricted Use District; and making findings, including**
5 **environmental findings, and findings of consistency with the General Plan and the**
6 **Priority Policies of Planning Code, Section 101.1.**

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8 NOTE: Additions are *single-underline italics Times New Roman*;
9 deletions are ~~*strike-through italics Times New Roman*~~.
10 Board amendment additions are double-underlined;
11 Board amendment deletions are ~~strike-through normal~~.

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

13 Section 1. Findings.

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

19 (b) The Board of Supervisors finds that this Ordinance is, on balance, consistent
20 with the General Plan and the Priority Policies of Planning Code Section 101.1(b) for the
21 reasons set forth in Planning Commission Resolution No. _____, and incorporates
22 those reasons herein by reference.

23 (c) The Planning Department has determined that the actions contemplated in this
24 ordinance comply with the California Environmental Quality Act (California Public Resources
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1 Code Section 21000 et seq.). Said determination is 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 Section 2. The San Francisco Planning Code is hereby amended by amending Section
5 748, to read as follows:

6 **SEC. 785. EXCELSIOR ALCOHOL RESTRICTED USE DISTRICT.**

7 **(a) Findings.** There are an unusually large number of establishments dispensing
8 alcoholic beverages, including beer and wine, for off-site consumption in the area located
9 generally on Mission Street from Silver Avenue to the Daly City border. The existence of this
10 many off-sale alcoholic beverage establishments appears to contribute directly to numerous
11 peace, health, safety, and general welfare problems in the area, including loitering, littering,
12 public drunkenness, defacement and damaging of structures, pedestrian obstructions, as well
13 as traffic circulation, parking and noise problems on public streets and neighborhood lots. The
14 existence of these problems creates serious impacts on the health, safety, and welfare of
15 residents of nearby single- and multiple-family areas, including fear for the safety of children,
16 elderly residents, and visitors to the area. The problems also contribute to the deterioration of
17 the neighborhood and concomitant devaluation of property and destruction of community
18 values and quality of life. The number of establishments selling alcoholic beverages for off-site
19 consumption and the associated problems discourage more desirable and needed
20 commercial uses in the area.

21 **(b) Establishment of the Excelsior Alcohol Restricted Use District.** In order to
22 preserve the residential character and the neighborhood-serving commercial uses of the area,
23 the Excelsior Alcohol Restricted Use District (Excelsior Alcohol RUD) is hereby established for
24 the blocks and lots fronting both sides of Mission Street from Silver Avenue to the Daly City
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1 border, as set forth on Sectional Maps SU 11 and SU 12 of the Zoning Maps of the City and
2 County of San Francisco.

3 **(c) Definitions.** The following definitions shall apply to this Section 785:

4 (1) "ABC License" shall mean a liquor license issued by the California
5 Department of Alcoholic Beverage Control.

6 (2) "Liquor establishment" shall mean any enterprise selling alcoholic
7 beverages, as defined in California Business and Professions Code Sections 23004 and
8 23025, pursuant to an ABC License.

9 (3) "Prohibited liquor establishment" shall mean any establishment selling
10 alcoholic beverages lawfully existing prior to the effective date of this ordinance and licensed
11 by the State of California for the sale of alcoholic beverages for off-site consumption ("off-
12 sale"), so long as otherwise lawful. It shall include an establishment that is defined in Section
13 790.55 of this Code.

14 **(d) Controls.**

15 (1) No new liquor establishments selling alcoholic beverages for off-site
16 consumption shall be permitted in the Excelsior Alcohol RUD.

17 (2) The prohibition of off-sale liquor establishments shall not be interpreted to
18 prohibit the following:

19 (A) Temporary uses, as described in Planning Code Section 205.1 or
20 205.3; or

21 (B) Establishment of an off-sale liquor establishment if an application
22 for such liquor establishment is on file with the California Department of Alcoholic Beverage
23 Control prior to the effective date of this ordinance establishing the Excelsior Alcohol RUD; or
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1 (3) Continuation of Existing Prohibited Liquor Establishments. In the Excelsior
2 Alcohol RUD, any prohibited liquor establishment may continue in accordance with Planning
3 Code Section through 186.2. subject to the following provisions:

4 (A) A prohibited liquor establishment lawfully existing and selling
5 alcoholic beverages as licensed by the State of California prior to the effective date of this
6 legislation, or subsequent legislation prohibiting that type of liquor establishment, so long as
7 otherwise lawful may continue to operate only under the following conditions, as provided by
8 California Business and Professions Code Section 23790:

9 (i) Except as provided in Subsection (B) below, the premises
10 shall retain the same type of retail liquor license within a license classification; and

11 (ii) Except as provided in Subsection (B) below, the liquor
12 establishment shall be operated continuously, without substantial changes in mode or
13 character of operation.

14 (B) A break in continuous service shall not be interpreted to include the
15 following, provided that, except as indicated below, the location of the establishment does not
16 change, the square footage used for the sale of alcoholic beverages does not increase, and
17 the type of ABC License does not change:

18 (i) a change in ownership of a prohibited liquor establishment or
19 an owner-to-owner transfer of an ABC License:

20 (ii) a temporary closure for restoration or repair of an existing
21 prohibited liquor establishment on the same lot after total or partial destruction or damage due
22 to fire, riot, insurrection, toxic accident, or act of God;

23 (iii) temporary closure of an existing prohibited liquor
24 establishment for reasons other than total or partial destruction or damage due to fire, riot,
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1 insurrection, toxic accident, or act of God for not more than thirty days for repair, renovation,
2 or remodeling; or

3 (iv) relocation of an existing prohibited liquor establishment in
4 the Excelsior Alcohol RUD to another location within the same Excelsior Alcohol RUD with
5 conditional use authorization from the Planning Commission, provided that the original
6 premises shall not be occupied by a prohibited liquor establishment unless by another
7 prohibited liquor establishment that is also relocating from within the Excelsior Alcohol RUD.

8 ~~(e) — Sunset Provision. This Section 785 shall be repealed five years after its initial effective~~
9 ~~date unless the Board of Supervisors, on or before that date, extends or re-enacts it.~~

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11 Section 3. Effective Date. This ordinance shall become effective 30 days from the
12 date of passage.

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14 Section 4. This section is uncodified. In enacting this Ordinance, the Board intends to
15 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
16 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
17 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
18 Board amendment deletions in accordance with the "Note" that appears under the official title
19 of the legislation.

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

23 By: _____
24 ANDREA RUIZ-ESQUIDE
25 Deputy City Attorney