

1 [Planning Code - Mission Alcoholic Beverage Special Use District and Valencia Street
2 Neighborhood Commercial Transit District]

3 **Ordinance amending the Planning Code, Mission Alcoholic Beverage Special Use**
4 **District controls, to allow the transfer of liquor licenses and relocation of uses under**
5 **specified circumstances, to restrict the sale of alcohol for off-site consumption, and to**
6 **exempt from the controls grocery stores and certain institutional, arts, and other uses;**
7 **establishing operating conditions for certain establishments with a liquor license;**
8 **amending the Valencia Street Neighborhood Commercial Transit District controls to**
9 **restrict the conversion of existing ground floor retail uses to restaurants; and making**
10 **environmental findings, Planning Code, Section 302, findings, and findings of**
11 **consistency with the General Plan and the priority policies of Planning Code, Section**
12 **101.1.**

13 NOTE: Additions are *single-underline italics Times New Roman*;
14 deletions are ~~*strike-through italics Times New Roman*~~.
15 Board amendment additions are double-underlined;
16 Board amendment deletions are ~~strikethrough normal~~.
17 Ellipses indicate text that is omitted but unchanged.

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

19 Section 1. Findings.

20 (a) The Planning Department has determined that the actions contemplated in this
21 ordinance comply with the California Environmental Quality Act (California Public Resources
22 Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of
23 Supervisors in File No. 130459 and is incorporated herein by reference.

24 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
25 amendments will serve the public necessity, convenience and welfare for the reasons set forth
in Planning Commission Resolution No. _____ and the Board hereby incorporates such

1 reasons herein by reference. A copy of Planning Commission Resolution No. _____ is on file
2 with the Clerk of the Board of Supervisors in File No. _____.

3 (c) This Board finds that these Planning Code amendments are consistent with the
4 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set
5 forth in Planning Commission Resolution No. _____, and the Board hereby incorporates
6 those reasons herein by reference.

7 Section 2. The Planning Code is hereby amended by amending Sections 249.60 and
8 726, to read as follows:

9 **SEC. 249.60. MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT.**

10 The Mission Alcoholic Beverage Special Use District (SUD) applies to the area generally
11 bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez Street,
12 Potrero Avenue and Fourteenth Street, as designated on Sectional Maps 7SU and 8SU of the Zoning
13 Map of the City and County of San Francisco. There is ~~an unusually a~~ large number of
14 establishments dispensing alcoholic beverages, including beer and wine, for both on-site and
15 off-site consumption in this area. Bars and Restaurants are concentrated on the commercial
16 corridors of Valencia Street, Mission Street, and 24th Street. Liquor Stores selling off-site liquor are
17 distributed throughout this area. ~~The existence of this many~~ This concentration of alcoholic beverage
18 establishments ~~appears to~~ has contributed directly to numerous peace, health, safety and
19 general welfare problems in the area. ~~including loitering, littering, drug trafficking, prostitution,~~
20 ~~public drunkenness, defacement and damaging of structures, pedestrian obstructions, as well as traffic~~
21 ~~circulation, parking and noise problems on public streets and neighborhood lots. The existence of such~~
22 ~~problems creates serious impacts on the health, safety and welfare of residents of nearby single and~~
23 ~~multiple family areas, including fear for the safety of children, elderly residents and of visitors to the~~
24 ~~area. The problems also contribute to the deterioration of the neighborhood, and concomitant~~
25 ~~devaluation of property and destruction of community values and quality of life. The number of~~

1 ~~establishments selling alcoholic beverages and the associated problems discourage more desirable and~~
2 ~~needed commercial uses in the area.~~

3 The SUD, which has been in effect since 1987, was established to prohibit new establishments,
4 or expansion of existing establishments, selling alcoholic beverages within the area and prohibited the
5 transfer of liquor licenses. This has resulted in a freezing of entitlements that have less rigorous
6 required operating conditions than are required today. While a net increase in Liquor Stores will
7 continue to be prohibited, the transfer of a liquor license is permissible if the operating conditions
8 currently in effect in the City and County of San Francisco are imposed on the transferee. The area
9 would also benefit from new Grocery Stores of any size that may incidentally sell alcoholic beverages.
10 ~~In order to preserve the residential character and the neighborhood-serving commercial uses of the~~
11 ~~area, there shall be a Mission Alcoholic Beverage Special Use Subdistrict to prohibit new~~
12 ~~establishments, or expansion of existing establishments, selling alcoholic beverages for the property in~~
13 ~~the area generally bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar~~
14 ~~Chavez Street, Potrero Avenue and Fourteenth Street as designated on Sectional Map Numbers 7SU~~
15 ~~and 8SU.~~

16 The following restrictions shall apply within such district:

17 (a) **Prohibition of New Liquor Stores Establishments Selling Alcoholic Beverages.** ~~No new~~
18 ~~alcoholic beverage establishment where alcoholic beverages are sold, served or given away for on-site~~
19 ~~or off-site consumption, shall be established in this special use district as set forth below:~~

20 (1) ~~No new bar, as defined in Planning Code Section 790.22, shall be permitted in this~~
21 ~~special use district;~~

22 (2) ~~No new off-sale liquor establishment Liquor Store, as defined in Section 790.55 of~~
23 ~~this Code, shall be permitted in the SUD, special use district except that an existing Liquor Store~~
24 ~~may relocate pursuant to subsection (d) below. An "off-sale liquor establishment" shall mean any~~
25 ~~establishment that is defined in Section 790.55 of this Code.~~

1 *(b) Allowed Alcohol-related Uses. Certain uses which are not likely to generate negative*
2 *impacts on the surrounding area shall be allowed within the SUD as set forth below:*

3 *(1) The following uses shall be eligible for liquor licenses transferred from within the*
4 *SUD as well as licenses transferred from outside the SUD:*

5 *(A) Bona Fide Eating Places. A Restaurant Use, as defined in Section 790.91 of*
6 *this Code, operating as a Bona Fide Eating Place, as defined in Section 790.142, shall be permitted to*
7 *serve alcoholic beverages in this SUD.*

8 *(B) Non-Profit Theaters. A non-profit theater shall be permitted to serve*
9 *alcoholic beverages in this SUD. A “non-profit theater” shall mean a building or part of a building*
10 *intended to be used for the specific purposes of presenting any act, play, revue, pantomime, scene,*
11 *song, dance act, or song and dance act, conducted or participated in by one or more persons, whether*
12 *or not such person or persons are compensated for such performance, and which is exempted from*
13 *payment of income tax under Section 23701d of the California Revenue and Taxation Code and Section*
14 *501(c)(3) of the Internal Revenue Code of the United States. A “non-profit theater” shall not include*
15 *any dance hall, as defined in Section 1022 of the San Francisco Police Code, a billiard parlor, pool*
16 *hall, bowling alley, or adult entertainment business as defined in Section 790.36 of this Code.*

17 *(C) Bowling Alleys. A bowling alley shall be permitted to serve alcoholic*
18 *beverages along with any Restaurant use which is functionally and/or physically integrated with such*
19 *bowling alley.*

20 *(D) Single Screen Movie Theaters. A single screen movie theater shall be*
21 *permitted to serve alcoholic beverages, provided that (i) such use is defined as a movie theater in*
22 *Section 790.64 of this Code and contains only a single screen and auditorium, (ii) only beer and wine*
23 *are offered for consumption, and (iii) such beer and wine are: (aa) only consumed on the premises and*
24 *primarily in the main theater auditorium, (bb) only sold and consumed by ticketholders and only*
25

1 immediately before and during performances, and (cc) only offered in conjunction with the screening of
2 films and not as an independent element of the establishment that is unrelated to the viewing of films.

3 (2) The following uses shall be eligible for liquor licenses transferred from within the
4 district:

5 (A) Notwithstanding the provisions of Section 790.55, **General Groceries** as
6 defined in Section 790.102(a) of this Code or **Specialty Groceries**, as defined in Section 790.102(b,)
7 regardless of size, so long as not more than 15 percent of its publically accessible square footage is
8 devoted to the display and/or sale of alcoholic beverages. Such use shall require a Conditional Use
9 authorization and shall be limited to a Type 20 Liquor License, except that such use shall not sell a
10 single beer or malt beverage in a container size of 24 oz. or smaller, or sell any malt beverage with an
11 alcohol content greater than 5.7% by volume; or any wine in a container size less than 375 ml or with
12 an alcohol content of greater than 15% by volume, except for “dinner wines” that have been aged two
13 years or more and maintained in a corked bottle.

14 (B) Any retail use as defined Section 790.104 authorized by Conditional Use
15 where the principal use is a cooking or drink-making teaching facility.

16 (3) **All Bar Uses.** A new or relocated Bar shall be considered pursuant to the underlying
17 zoning, except that such authorization shall be as a Conditional Use. A new Bar shall use a liquor
18 license transferred from another Bar from within the SUD. A relocated Bar shall be from within the
19 SUD.

20 (b) (c) ~~Prohibition of Expansion of Existing **Liquor** Establishments Selling Alcoholic~~
21 ~~Beverages.~~ Any liquor establishment ~~selling alcoholic beverages~~ lawfully existing prior to the
22 effective date of this ~~resolution~~ Ordinance No. _____ and licensed by the State of California for
23 the retail sale of alcoholic beverages ~~for on-site and off-site consumption~~, so long as otherwise
24 lawful, may continue in existence, provided such establishment remains in use, as set forth
25 ~~below. follows:-~~For purposes of this subsection (d)” liquor establishment” shall mean any

1 establishment licensed by the State of California to sell alcoholic beverages except for those uses listed
2 in subsection (c)(1-2) above.

3 (1) Temporary closure of an existing liquor establishment for not more than 120 days
4 for repair, renovation or remodeling is allowed so long as such repair, renovation, or remodeling
5 brings the existing use into closer conformity with the controls of this SUD, with the underlying zoning,
6 or with urban design principles found elsewhere in this Code for active ground floor commercial
7 spaces.

8 (2) Relocation of an existing liquor establishment in this SUD to another location within
9 this SUD may be allowed with Conditional Use authorization from the Planning Commission.

10 (3) An existing liquor establishment may expand its use with Conditional Use
11 authorization from the Planning Commission. In reviewing the application for such expansion, the
12 Commission shall consider the establishment's prior operating conditions.

13 (d) **Good Neighbor Policies.** The operating conditions established in Section 703.5 of this Code
14 shall apply to all liquor establishments in this SUD in order to maintain the safety and cleanliness of
15 the premises and vicinity. In addition, all new, relocated, or expanded liquor establishments shall
16 comply with the requirements set forth below. Liquor establishment shall have the meaning set forth in
17 subsection (d) above.

18 (1) The liquor establishment shall provide outside lighting in a manner sufficient to
19 illuminate street and sidewalk areas and any adjacent parking, as appropriate to maintain security,
20 without disturbing area residences.

21 (2) No more than 33 percent of the square footage of the windows and clear doors of
22 the liquor establishment shall bear advertising or signage of any sort, and all advertising and signage
23 shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear
24 and unobstructed view of the interior of the premises from the exterior public sidewalk or entrance to
25 the premises. This requirement shall not apply to premises where there are no windows, or where

1 existing windows are located at a height that precludes a view of the interior of the premises to a
2 person standing outside the premises. Street facing facades shall maintain at least 50 percent clear and
3 visually-permeable glazing.

4 For any use authorized pursuant to a Conditional Use authorization after the effective date of
5 Ordinance No. _____ repeated violations of the Good Neighbor Policies set forth in this Section, of
6 the operating conditions set forth in Section 703.5 of this Code, or of any conditions associated with a
7 Condition of Approval shall require a hearing at the Planning Commission to consider revocation of
8 the Conditional Use authorization.

9 ~~(1) In the event that any such establishment ceases to operate or discontinues operation for 30~~
10 ~~days of longer as set forth in State law, such use shall be deemed abandoned;~~

11 ~~(2) No establishment selling alcoholic beverages may substantially change the mode or~~
12 ~~character of operation of the establishment, nor may it expand the square footage devoted exclusively~~
13 ~~to the sale of alcoholic beverages, significantly increase the percentage of alcoholic beverage sales as~~
14 ~~a portion of total sales, or change its type of retail liquor license within a license classification.~~

15 ~~(c) **Exceptions.**~~

16 ~~(1) **Bona Fide Eating Place.** A Restaurant Use, as defined in Section 790.91, operating as a~~
17 ~~Bona Fide Eating Place, as defined in Section 790.142, shall be permitted to serve alcoholic beverages~~
18 ~~in this special use district.~~

19 ~~(2) **Non-Profit Theaters.** A non-profit theater shall be permitted to serve alcoholic beverages in~~
20 ~~this special use district. A "non-profit theater" shall mean a building or part of a building intended to~~
21 ~~be used for the specific purposes of presenting any act, play, revue, pantomime, scene, song, dance act,~~
22 ~~or song and dance act, conducted or participated in by one or more persons, whether or not such~~
23 ~~person or persons are compensated for such performance, and which is exempted from payment of~~
24 ~~income tax under Section 23701d of the California Revenue and Taxation Code and Section 501(e)(3)~~
25 ~~of the Internal Revenue Code of the United States. A "non-profit theater" does not include any dance~~

1 ~~hall as defined in Section 1022 of the San Francisco Police Code, billiard parlor, pool hall, bowling~~
 2 ~~alley, or adult entertainment business as defined in Planning Code Section 790.36.~~

3 ~~(3) **Bowling Alleys.** A bowling alley shall be permitted to serve alcoholic beverages along with~~
 4 ~~any Restaurant use which is functionally and/or physically integrated with such bowling alley.~~

5 ~~(4) **Single Screen Movie Theatres.** A single screen movie theatre shall be permitted to serve~~
 6 ~~alcoholic beverages, provided that (1) such use is defined as a movie theater in Planning Code Section~~
 7 ~~790.64 and contains only a single screen and auditorium, (2) only beer and wine are offered for~~
 8 ~~consumption, and (3) such beer and wine are: (i) only consumed on the premises and primarily in the~~
 9 ~~main theater auditorium, (ii) only sold to and consumed by ticketholders and only immediately before~~
 10 ~~and during performances, and (iii) only offered in conjunction with the screening of films and not as an~~
 11 ~~independent element of the establishment that is unrelated to the viewing of films.~~

12 ~~(d) (e) **Fringe Financial Services.** In addition to all other applicable controls set forth in~~
 13 ~~this Code, properties in the Mission Alcoholic Beverage Special Use Subdistrict are within the~~
 14 ~~Fringe Financial Service Restricted Use District established by Section 249.35 and are subject~~
 15 ~~to the controls and exemptions set forth in Section 249.35.~~

16 **SEC. 726.1 VALENCIA STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**
 17 **ZONING CONTROL TABLE**

...	No.	Zoning Category	§ References	Valencia Street Transit		
				Controls by Story		
			§ 790.118	1st	2nd	3rd+
	726.37	Residential Conversion	§§ 207.7, 790.84,	C		
	726.38	Residential Demolition	§§ 207.7, 790.86	C	C	C

1	726.39	Residential Division	§ 207.8	P	P	P
2	Retail Sales and Services					
3	726.40	Other Retail Sales and Services <i>[Not Listed Below]</i>	§ 790.102	P	C	
4						
5						
6						
7	726.41	Bar	§ 790.22	C		
8	726.43	Limited-Restaurant	§ 790.90	P		
9						
10	726.44	Restaurant	§790.91	P#		
11	...					
12						

**SPECIFIC PROVISIONS FOR THE VALENCIA STREET ~~TRANSIT~~
NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**

15	Article 7	Other Code	Zoning Controls
16	Code Section	Section	
17	§ 726.54	§ 790.60, § 1900 Health Code	<p>18 MASSAGE ESTABLISHMENT</p> <p>19 Controls: Massage shall generally be subject</p> <p>20 to Conditional Use authorization. Certain</p> <p>21 exceptions to the Conditional Use</p> <p>22 requirement for massage are described in</p> <p>23 Section 790.60(c). When considering an</p> <p>24 application for a conditional use permit</p> <p>25 pursuant to this subsection, the Planning</p>

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		<p>Commission shall consider, in addition to the criteria listed in Section 303(c), the additional criteria described in Section 303(o).</p>
<p>§ 726.68</p>	<p>§ 249.35</p>	<p>FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)</p> <p>Boundaries: The FFSRUD and its ¼ mile buffer includes, but is not limited to, the Valencia Street Neighborhood Commercial <i>Transit</i> District.</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>
		<p><u>GROUND FLOOR CONVERSION OF RETAIL TO RESTAURANTS RESTRICTED</u></p> <p><u>Boundaries:</u> <i>Valencia Street from 15th Street to 24th Street.</i></p> <p><u>Controls:</u> <i>Conversion of existing ground floor retail uses or of ground floor spaces occupied as retail uses at any point within a period of three years prior to submission of a building permit application to Restaurant (Section 790.91)</i></p>

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		<i>requires a Conditional Use authorization.</i>
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Section 3. Effective Date. This ordinance shall become effective 30 days from the date of passage.

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

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

By: _____
JUDITH A. BOYAJIAN
Deputy City Attorney

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