

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.**

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14 NOTE: Additions to Codes are in single-underline italics Times New Roman font.
15 Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.
16 Board amendment additions are in double-underlined Arial font.
17 Board amendment deletions are in ~~strikethrough Arial font~~.

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

1 in Planning Commission Resolution No. 18926 and the Board hereby incorporates such
2 reasons herein by reference. A copy of Planning Commission Resolution No. 18926 is on file
3 with the Clerk of the Board of Supervisors in File No. 130459.

4 (c) This Board finds that these Planning Code amendments are consistent with the
5 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set
6 forth in Planning Commission Resolution No. 18926, and the Board hereby incorporates those
7 reasons herein by reference.

8 Section 2. The Planning Code is hereby amended by amending Sections 249.60, and
9 726, and 790.55 to read as follows:

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

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

1 ~~deterioration of the neighborhood, and concomitant devaluation of property and destruction of~~
2 ~~community values and quality of life. The number of establishments selling alcoholic beverages and the~~
3 ~~associated problems discourage more desirable and needed commercial uses in the area.~~

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

17 The following restrictions shall apply within such district:

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

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

23 (2) ~~No new off-sale liquor establishment Liquor Store, as defined in Section 790.55 of~~
24 ~~this Code, shall be permitted in the SUD, special use district except that an existing Liquor Store~~

1 may relocate pursuant to subsection (d) below. An "off-sale liquor establishment" shall mean any
2 establishment that is defined in Section 790.55 of this Code.

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

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

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

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

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

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

1 primarily in the main theater auditorium, (bb) only sold and consumed by ticketholders and only
2 immediately before and during performances, and (cc) only offered in conjunction with the screening of
3 films and not as an independent element of the establishment that is unrelated to the viewing of films.

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

6 (A) Notwithstanding the provisions of Section 790.55, **General Groceries** as
7 defined in Section 790.102(a) of this Code or **Specialty Groceries**, as defined in Section 790.102(b)
8 that are 5,000 square feet or smaller regardless of size, so long as not more than 15 percent of
9 its publically accessible square footage is devoted to the display and/or sale of alcoholic
10 beverages the percentage of gross square footage devoted to alcohol sales is consistent with
11 the limits set forth in Section 703.2(b)(1)(C)(vi). Such use shall require a Conditional Use
12 authorization and shall be limited to a Type 20 Liquor License for Specialty Groceries and General
13 Groceries, except that such use shall not sell a single beer or malt beverage in a container size of 24
14 oz. or smaller, or sell any malt beverage with an alcohol content greater than 5.7% by volume; or any
15 wine in a container size less than 375 ml or with an alcohol content of greater than 15% by volume,
16 except for "dinner wines" that have been aged two years or more and maintained in a corked bottle.

17 (B) General Groceries as defined in Section 790.102(a) of this Code or
18 Specialty Groceries, as defined in Section 790.102(b) that are greater than 5,000 square feet.
19 Such use shall require a Conditional Use authorization and shall be subject to the limitations
20 set forth in Section 790.55 of this Code.

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

23 (3) **All Bar Uses.** A new or relocated Bar, as defined in Section 790.22, shall be
24 considered pursuant to the underlying zoning, except that such authorization shall be as a Conditional
25

1 Use. A new Bar shall use a liquor license transferred from another Bar from within the SUD. A
2 relocated Bar shall be from within the SUD.

3 ~~(b) (c)~~ **Prohibition of Expansion of Existing Liquor Establishments Selling Alcoholic**
4 **Beverages.** For purposes of this subsection, “liquor establishment” shall mean any
5 establishment licensed by the State of California to sell alcoholic beverages except for those
6 uses listed in subsection (b)(1)-(2) above. Any liquor establishment ~~selling alcoholic beverages~~
7 lawfully existing prior to the effective date of this ~~resolution~~ Ordinance No. _____ and licensed by
8 the State of California for the retail sale of alcoholic beverages ~~for on-site and off-site~~
9 consumption, so long as otherwise lawful, is considered a nonconforming use pursuant to
10 Section 180, and is subject to the restrictions of Sections 181 and 183 with the following
11 exceptions: may continue in existence, provided such establishment remains in use, as set
12 forth below. follows: For purposes of this subsection (c)” liquor establishment” shall mean any
13 establishment licensed by the State of California to sell alcoholic beverages except for those
14 uses listed in subsection (c) (1-2) above.

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

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

23 (3) Expansion. An existing liquor establishment may expand its use with Conditional
24 Use authorization from the Planning Commission. In reviewing the application for such expansion, the
25 Commission shall consider the establishment’s prior operating conditions.

1 (d) Good Neighbor Policies. The operating conditions established in Section 703.5 of this Code
2 shall apply to all liquor establishments in this SUD in order to maintain the safety and cleanliness of
3 the premises and vicinity. In addition, all new, relocated, or expanded liquor establishments, and any
4 liquor establishment with a license referred for review to the Planning Department by the State
5 of California Department of Alcohol Beverage Control, shall comply with the requirements set
6 forth below. Liquor establishment shall have the meaning set forth in subsection (c) above.

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

10 (2) No more than 33 percent of the square footage of the windows and clear doors of
11 the liquor establishment shall bear advertising or signage of any sort, and all advertising and signage
12 shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear
13 and unobstructed view of the interior of the premises from the exterior public sidewalk or entrance to
14 the premises. This requirement shall not apply to premises where there are no windows, or where
15 existing windows are located at a height that precludes a view of the interior of the premises to a
16 person standing outside the premises. Street facing facades shall maintain at least 50 percent clear and
17 visually-permeable glazing.

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

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

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

5 ~~(c) **Exceptions.**~~

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

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

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

20 ~~(4) **Single Screen Movie Theatres.** A single screen movie theatre shall be permitted to serve~~
21 ~~alcoholic beverages, provided that (1) such use is defined as a movie theater in Planning Code Section~~
22 ~~790.64 and contains only a single screen and auditorium, (2) only beer and wine are offered for~~
23 ~~consumption, and (3) such beer and wine are: (i) only consumed on the premises and primarily in the~~
24 ~~main theater auditorium, (ii) only sold to and consumed by ticketholders and only immediately before~~

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

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

7 **SEC. 726.1 VALENCIA STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**
 8 **ZONING CONTROL TABLE**

...	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
726.39	Residential Division	§ 207.8	P	P	P
Retail Sales and Services					
726.40	Other Retail Sales and Services <i>[Not Listed Below]</i>	§ 790.102	P	C	
726.41	Bar	§ 790.22	C		
726.43	Limited-Restaurant	§ 790.90	P		

726.44	Restaurant	§790.91	P#		
...					

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

Article 7 Code Section	Other Code Section	Zoning Controls
§ 726.54	§ 790.60, § 1900 Health Code	<p>MESSAGE ESTABLISHMENT</p> <p>Controls: Massage shall generally be subject to Conditional Use authorization. Certain exceptions to the Conditional Use requirement for massage are described in Section 790.60(c). When considering an application for a conditional use permit pursuant to this subsection, the Planning Commission shall consider, in addition to the criteria listed in Section 303(c), the additional criteria described in Section 303(o).</p>
§ 726.68	§ 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, the Valencia Street Neighborhood Commercial <u>Transit</u> 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><i>GROUND FLOOR CONVERSION OF RETAIL TO RESTAURANTS RESTRICTED</i></u></p> <p><u><i>Boundaries: Valencia Street from 15th Street to 24th Street.</i></u></p> <p><u><i>Controls: 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) requires a Conditional Use authorization.</i></u></p>

SEC. 790.55. LIQUOR STORE.

A retail use which sells beer, wine, or distilled spirits to a customer in an open or closed container for consumption off the premises and which needs a State of California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general).

This classification shall not include retail uses that:

- (a) are (1) classified as a general grocery store use as set forth in Section 790.102(a), or a specialty grocery store use as set forth in Section 790.102(b), or a self-service specialty

1 ~~food use as set forth in Section 790.93, and (2) have a gross floor area devoted to alcoholic~~
2 ~~beverages that is within the accessory use limits set forth in Section 703.2(b)(1)(C)(vi); or~~
3 (b) have (1) a use size as defined in Section 790.130 of this Code of greater than
4 10,000 gross square feet and (2) a gross floor area devoted to alcoholic beverages that is
5 within accessory use limits as set forth in Section 204.2 or 703.2(b)(1)(C) e) of this Code,
6 depending on the zoning district in which the use is located.

7 (c) For purposes of Planning Code Sections 249.5, 249.60 781.8, 781.9, 782, 783, and
8 784, the retail uses explicitly exempted from this definition as set forth above shall only apply
9 to general grocery and specialty grocery stores that exceed 5,000s/f in size, that do not:

10 (1) sell any malt beverage with an alcohol content greater than 5.7% by volume;
11 any wine with an alcohol content of greater than 15% by volume, except for "dinner wines"
12 that have been aged two years or more and maintained in a corked bottle; or any distilled
13 spirits in container sizes smaller than 600 ml;

14 (2) devote more than 15% of the gross square footage of the establishment to
15 the display and sale of alcoholic beverages; and

16 (3) sell single servings of beer in container sizes 24 oz. or smaller.

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

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

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

3 By: _____
4 ELAINE C. WARREN
5 Deputy City Attorney

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