

1 [Zoning – Ordinance Creating the Excelsior Alcohol Restricted Use District and the North
2 Beach Alcohol Restricted Use District.]

3 **Ordinance amending the San Francisco Planning Code by adding Section 785 to create**
4 **an Excelsior Alcohol Restricted Use District prohibiting new off-sale liquor**
5 **establishments and providing for a five-year sunset provision; adding Section 786 to**
6 **create a North Beach Alcohol Restricted Use District prohibiting new off-sale liquor**
7 **establishments and providing for a five-year sunset provision; amending Sectional**
8 **Maps SU 11 and SU 12 of the Zoning Map of the City and County of San Francisco to**
9 **establish the boundaries of the Excelsior Alcohol Restricted Use District, which**
10 **generally consist of the blocks fronting both sides of Mission Street from Silver**
11 **Avenue to the Daly City border; amending Section Map SU 01 to establish the**
12 **boundaries of the North Beach Alcohol Restricted Use District, which consists of the**
13 **properties within the North Beach Neighborhood Commercial District; adopting**
14 **findings, including environmental findings and findings of consistency with the priority**
15 **policies of Planning Code Section 101.1 and the General Plan.**

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

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

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

24 (a) The Planning Department has determined that the actions contemplated in this
25 ordinance are in compliance with the California Environmental Quality Act (California Public
Resources Code section 21000 et seq.). Said determination is on file with the Clerk of the

1 Board of Supervisors in File No. _____ and is incorporated herein by
2 reference.

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

13 Section 2. The San Francisco Planning Code is hereby amended by adding Section
14 785, to read as follows:

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

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

5 (b) Establishment of the Excelsior Alcohol Restricted Use District. In order to preserve the
6 residential character and the neighborhood-serving commercial uses of the area, the Excelsior Alcohol
7 Restricted Use District (Excelsior Alcohol RUD) is hereby established for the entirety of the following
8 Assessor's Blocks fronting on both sides of Mission Street from Silver Avenue to the Daly City borders:
9 Blocks 3147, 3148, 3206, 5869, 5892, 5893, 5952, 6013, 6014, 6083, 6084, 6272, 6346, 6347, 6796,
10 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804, 6955, 6956, 6959, and 6968.

11 The Excelsior Alcohol RUD is designated on Sectional Map Numbers SU 11 and SU 12 of the
12 Zoning Map of the City and County of San Francisco.

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

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

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

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

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

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

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

6 (B) Establishment of an off-sale liquor establishment if an application for such liquor
7 establishment is on file with the California Department of Alcoholic Beverage Control prior to the
8 effective date of this ordinance establishing the Excelsior Alcohol RUD; or

9 (3) Continuation of Existing Prohibited Liquor Establishments. In the Excelsior Alcohol
10 RUD, any prohibited liquor establishment may continue in accordance with Planning Code Section 180
11 through 186.2, subject to the following provisions:

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

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

19 (ii) Except as provided in subsection (B) below, the liquor establishment shall be operated
20 continuously, without substantial changes in mode or character of operation.

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

1 *(i) a change in ownership of a prohibited liquor establishment or an owner-to-owner*
2 *transfer of an ABC License;*

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

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

9 *(iv) relocation of an existing prohibited liquor establishment in the Excelsior Alcohol RUD*
10 *to another location within the same Excelsior Alcohol RUD with conditional use authorization from the*
11 *Planning Commission, provided that the original premises shall not be occupied by a prohibited liquor*
12 *establishment unless by another prohibited liquor establishment that is also relocating from within the*
13 *Excelsior Alcohol RUD.*

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

16 Section 3. The San Francisco Planning Code is hereby amended by adding Section
17 786, to read as follows:

18 **SEC. 786. NORTH BEACH ALCOHOL RESTRICTED USE DISTRICT.**

19 *(a) Findings. There are an unusually large number of establishments dispensing alcoholic*
20 *beverages, including beer and wine, for off-site consumption in the North Beach Neighborhood*
21 *Commercial District established by Section 722.1 of this Code. The existence of this many off-sale*
22 *alcoholic beverage establishments appears to contribute directly to numerous peace, health, safety, and*
23 *general welfare problems in the area, including loitering, littering, public drunkenness, defacement and*
24 *damaging of structures, pedestrian obstructions, as well as traffic circulation, parking and noise*
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1 problems on public streets and neighborhood lots. The existence of these problems creates serious
2 impacts on the health, safety, and welfare of residents of nearby single- and multiple-family areas,
3 including fear for the safety of children, elderly residents, and visitors to the area. The problems also
4 contribute to the deterioration of the neighborhood and concomitant devaluation of property and
5 destruction of community values and quality of life. The number of establishments selling alcoholic
6 beverages for off-site consumption and the associated problems discourage more desirable and needed
7 commercial uses in the area.

8 (b) Establishment of the North Beach Alcohol Restricted Use District. In order to preserve
9 the residential character and the neighborhood-serving commercial uses of the area, the North Beach
10 Alcohol Restricted Use District (North Beach Alcohol RUD) is hereby established for the properties
11 within the North Beach Neighborhood Commercial District established by Section 722.1 of this Code.
12 The North Beach Alcohol RUD is designated on Sectional Map Number SU 01 of the Zoning Map of
13 the City and County of San Francisco.

14 (c) Definitions. The following definitions shall apply to this Section 786:

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

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

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

24 (d) Controls.

1 (1) No new liquor establishments selling alcoholic beverages for off-site consumption shall
2 be permitted in the North Beach Alcohol RUD.

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

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

6 (B) Establishment of an off-sale liquor establishment if an application for such liquor
7 establishment is on file with the California Department of Alcoholic Beverage Control prior to the
8 effective date of this ordinance establishing the Excelsior Alcohol RUD; or

9 (C) Off-sales by a general grocery as defined in Section 790.102(a) of this Code.
10 RUD, any prohibited liquor establishment may continue in accordance with Planning Code
11 Section 180 through 186.2, subject to the following provisions:

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

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

19 (ii) Except as provided in subsection (B) below, the liquor establishment shall be operated
20 continuously, without substantial changes in mode or character of operation.

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

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

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

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

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

(e) Sunset Provision. This Section 786 shall be repealed five years after its initial effective date unless the Board of Supervisors, on or before that date, extends or re-enacts it.

Section 4. In accordance with Planning Code Section 106 and 302, the following change is hereby adopted as an amendment to Sectional Maps SU 11 and SU 12 of the Zoning Map of the City and County of San Francisco:

| <u>Description of Property</u> | <u>Special Use District To Be Approved</u> |
|---|--|
| <u>The entirety of Blocks 3147, 3148, 3206, 3207 5952, 6013, 6014, 6083, 6084, 6272, 6346, 6347, 6369, 6410, 6411, 6461, 6462, 6468, 6468A, 6469, 6471, 6472, 6473, 6474, 6796, 6797, 6798, 6799, 6800, 6955, 6956, 6959, 6968, 7030, 7031, 7043, 7044A, 7066, 7098, 7099, 7109, 7109A, 7143, and 7144.</u> | <u>Excelsior Alcohol Restricted Use District</u> |

Section 5. In accordance with Planning Code Section 106 and 302, the following change is hereby adopted as an amendment to Sectional Map SU 01 of the Zoning Map of the City and County of San Francisco:

| <u>Description of Property</u> | <u>Special Use District To Be Approved</u> |
|---|--|
| <u>North Beach Neighborhood Commercial District</u> | <u>North Beach Alcohol Restricted Use District</u> |

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

By: JUDITH A. BOYAJIAN
Deputy City Attorney