

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

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

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

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

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

(a) The Planning Department has determined that the actions contemplated in this 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.*

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17 Section 3. The San Francisco Planning Code is hereby amended by adding Section
18 786, to read as follows:

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

20 *(a) Findings. There are an unusually large number of establishments dispensing alcoholic*
21 *beverages, including beer and wine, for both on-site and off-site consumption in the North Beach*
22 *Neighborhood Commercial District established by Section 722.1 of this Code. A concentration of*
23 *alcoholic beverage establishments in a neighborhood disrupts the desired mix of land uses that*
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1 contribute to a livable neighborhood and discourages more desirable and needed commercial uses in
2 the area. A concentration of establishments selling alcoholic beverages in an area may therefore
3 contribute to the deterioration of the neighborhood and to the concomitant devaluation of property and
4 destruction of community values and quality of life. These effects contribute to peace, health, safety and
5 general welfare problems in these areas, including loitering, littering, public drunkenness, driving
6 while intoxicated, defacement and damaging of structures, pedestrian obstructions, as well as traffic
7 circulation, parking and noise problems on public streets and neighborhood lots, and other nuisance
8 activities. The existence of such problems creates serious impacts on the health, safety and welfare of
9 residents of nearby single- and multiple-family areas. These impacts include fear for the safety of
10 children, elderly residents and visitors to the area.

12 (b) Establishment of the North Beach Alcohol Restricted Use District. In order to preserve
13 the residential character and the neighborhood-serving commercial uses of the area, the North Beach
14 Alcohol Restricted Use District (North Beach Alcohol RUD) is hereby established with boundaries
15 coterminous with the North Beach Neighborhood Commercial District established by Section 722.1 of
16 this Code. The North Beach Alcohol RUD is designated on Sectional Map Number SU 01 of the Zoning
17 Map of the City and County of San Francisco.

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

20 (1) An "ABC license" shall mean a liquor license issued by the California Department of
21 Alcoholic Beverage Control.

22 (2) A "liquor establishment" shall mean any enterprise selling alcoholic beverages, as
23 defined by California Business and Professions Code Section 23004 and 23025, pursuant to an ABC
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1 License.

2 (3) An "on-sale liquor establishment" shall mean any liquor establishment which has
3 obtained an ABC License type 40 (on-sale beer), type 41 (on-sale beer and wine eating place), type 42
4 (on-sale beer and wine public premises), type 47 (on-sale general eating place), type 48 (on-sale
5 general-public premises) or type 57 (special on-sale general) selling alcoholic beverages for
6 consumption on the premises. Typical on-sale establishments may include but are not limited to bars
7 and restaurants serving alcoholic beverages. It shall not include types 51, 52, 59, 60, 61, 67, 70 or 75.

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9 (4) An "off-sale liquor establishment" shall mean any liquor establishment which has
10 obtained an ABC License type 20 (off-sale beer and wine) or type 21 (off-sale general) selling alcoholic
11 beverages in an open or a closed container for consumption off the premises. Typical off-sale liquor
12 establishments may include but are not limited to the following uses licensed to sell off-sale alcoholic
13 beverages: food markets, supermarkets, drugstores, liquor stores, bars and convenience markets. It
14 shall not include producers and distributor's licenses for offices or establishments not open to the
15 general public.

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17 (5) A "prohibited liquor establishment" shall mean any establishment selling alcoholic
18 beverages lawfully existing prior to the effective date of the establishment of the North Beach Alcohol
19 RUD and licensed by the State of California for the retail sale of alcoholic beverages for on or off-site
20 consumption, so long as otherwise lawful.

21 (d) Controls.

22 (1) No new on-sale or off-sale liquor establishment shall be permitted in the North Beach
23 Alcohol RUD.

1 (2) These controls also shall apply within 1/4-mile of the North Beach Alcohol RUD to
2 nonconforming uses in R districts pursuant to Planning Code Section 186, pursuant to the special
3 provisions for Individual Area Neighborhood Commercial Districts.

4 (3) The prohibition on Liquor Establishments shall not be interpreted to prohibit the
5 following:

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

7 (B) Establishment of a Liquor Establishment if an application for such Liquor Establishment
8 is on file with the California Department of Alcoholic Beverage Control prior to the effective date of
9 legislation establishing the North Beach Alcohol RUD.

10 (4) Continuation of existing Prohibited Liquor Establishments. In the North Beach Alcohol
11 RUD, any Prohibited Liquor Establishment may continue in accordance with Planning Code Sections
12 180 through 186.2, subject to the following provisions. For purposes of this Section, the North Beach
13 Alcohol RUD shall be considered to include, pursuant to Section 186 of this Code, the area within 1/4-
14 mile of the North Beach Alcohol RUD as mapped.

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

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

1 (ii) Except as provided by Subsection (B) below, the licensed premises shall be operated
2 continuously, without substantial change in mode or character of operation. For the purposes of this
3 Section, a change in mode or character of operation to any use listed within a use category as defined
4 in this Code shall constitute a substantial change in mode or character of operation even though the
5 change in use may not require a new conditional use authorization from the City Planning Commission
6 and notwithstanding Planning Code Sections 180 through 186.2.

7 (B) A break in continuous operation shall not be interpreted to include the following,
8 provided that the location of the establishment does not change, the square footage of the establishment
9 does not increase, and the type of ABC License does not change except as indicated:

10 (i) A change in ownership of a Prohibited Liquor Establishment or an owner-to-owner
11 transfer of an ABC License; or

12 (ii) Re-establishment, restoration or repair of an existing Prohibited Liquor Establishment
13 on the same lot within the same square footage after total or partial destruction or damage due to fire,
14 riot, insurrection, toxic accident or act of God; or

15 (iii) Temporary closure of an existing Prohibited Liquor Establishment for not more than
16 thirty (30) days for repair, renovation or remodeling, provided such repair does not change the nature
17 of the licensed premises and does not increase the square footage of the business; or

18 (iv) A change from a Type 21 (off-sale general) to a Type 20 (off-sale beer and wine) license.

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