

FILE NO. 071464

ORDINANCE NO.

[Zoning – Ordinance Creating the Excelsior 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; 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 and lots fronting both sides of Mission Street from Silver Avenue to the Daly City border; 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 Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference.

(b) At a duly noticed public hearing held on \_\_\_\_\_, the Planning Commission found in Resolution No. \_\_\_\_\_ that the proposed Planning Code and Zoning Map amendments contained in this ordinance are consistent with the City's General

1 Plan and with Planning Code Section 101.1(b) and recommended that the Board of  
2 Supervisors adopt this ordinance. A copy of this Planning Commission Resolution is on file  
3 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated  
4 herein by reference. The Board finds that the proposed Planning Code and Zoning Map  
5 amendments contained in this ordinance are consistent with the City's General Plan and with  
6 Planning Code Section 101.1(b) for the reasons set forth in the Planning Commission  
7 Resolution cited above.

8 Section 2. The San Francisco Planning Code is hereby amended by adding Section  
9 785, to read as follows:

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

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

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

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

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

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

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

16          (d) Controls.

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

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

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

22          (B) Establishment of an off-sale liquor establishment if an application for such liquor  
23          establishment is on file with the California Department of Alcoholic Beverage Control prior to the  
24          effective date of this ordinance establishing the Excelsior Alcohol RUD; or  
25

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

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

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

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

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

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

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

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

(iv) relocation of an existing prohibited liquor establishment in the Excelsior Alcohol RUD to another location within the same Excelsior 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 Excelsior Alcohol RUD.

(e) Sunset Provision. This Section 785 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 3. 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>
Block 3147, Lots 001, 002, 002A, 003, 030; Block 3148, Lots 001, 003, 004, 005, 006; Block 3206, Lots 003, 004, 005, 031; Block 3207, Lot 001; Block 5952, Lot 002; Block 6013, Lots 014, 016, 017, 018, 019, 021, 022, 022A, 022B, 023, 023A, 024, 025, 026, 027, 028, 044, 045, 046; Block 6014, Lots 024, 025, 026, 027, 028, 029, 030, 031, 032, 033, 034, 035, 036, 038, 039, 040, 041, 042, 043, 044, 045, 046; Block 6083, Lots 006, 020, 021, 022, 023, 024, 027, 028, 029, 030, 032, 032A, 033, 033A, 034, 036; Block 6084, Lots 019, 020, 021, 023, 023A, 023B, 024, 024A, 024B, 024C, 025, 026, 028, 030, 033; Block 6272, Lots 014, 014A, 015, 015A, 015B, 016, 018, 019, 020, 021, 022, 023, 025, 030, 031, 032, 033, 039, 040, 041, 042, 043, 044, 045; Block 6346, 004F, 005B, 005C, 005D, 005E, 006, 006B, 006C, 006D, 006E, 007A, 007B, 008, 012, 013, 014, 015; Block 6347, Lots 015, 016, 017, 017A, 017B, 018, 019, 020, 021; Block 6410, Lots 010, 012, 013, 014, 015, 024, 025, 026, 027, 028, 029, 030, 031, 032, 033, 034, 035, 036, 037, 038, 039, 040, 041, 042, 043, 044, 045; Block 6411, Lots 016, 020, 021, 022, 037; Block 6461, Lots 011, 012, 013, 014, 015, 035, 036, 037, 038, 039, 040, 041; Block 6462, Lots 001, 019A, 019B, 020, 021, 025, 026, 027, 028, 029, 030, 031, 032, 033, 034, 035, 036, 037, 038; Block 6463, Lot 083; Block 6468, Lots 001A, 002, 019, 019A, 020, Block 6468A, Lot 001, 028, 029, 030, 031, 032, 033, 034; Block 6469, Lots 005, 006, 007A, 011, 013, 014, 015, 016, 016A, 018, 019, 028, 029, 030, 031, 032, 036, 038, 039, 040, 041, 042, 043, 044, 045, 046, 047; Block 6470, Lots 001A, 001B, 001C, 001D, 003, 004; Block 6471,	<u>Excelsior Alcohol Restricted Use District</u>

1 Lots 001, 001A, 001B, 001C, 001D; Block 6472, Lots 001, 002; Block 6472,  
2 Lots 021, 021A, 021B, 021C, 021D, 022, 027, 030, 031, 032, 033, 034, 035,  
3 036, 037, 038, 039, 040, 041, 042, 043, 044, 045, 046, 047, 048, 049, 050,  
4 051, 052, 053, 054, 055, 056, 057, 058, 059, 060, 061, 062, 063; Block 6473,  
5 Lots 001, 030, 034, 037, 038, 039, 040, 041, 042, 043, 044, 045, 046, 047,  
6 048, 049, 050; Block 6474, Lots 032, 033, 034; Block 6796, Lots 001, 001A,  
7 002, 005, 006, 007, 008, 009, 010, 011, Lot 051; Block 6797, Lot 003, 046,  
8 047; Block 6798, Lots 001, Lots 004, 005, 006, 007, 041; Block 6799, Lots 003,  
9 004, 005, 006, 042; Block 6800, Lots 001, 044, 045; Block 6955, Lots 004,  
10 007, 010, 011, 012, 013, 014, 015, 016, 017, 043, 044; Block 6956, Lots 001,  
11 002, 003, 004, 005, 024, 026, 028, 036, 037, 038, 039, 040, 041, 042, 043,  
12 044, 045, 046, 047, 048, 049, 050, 051, 052, 053, 054, 055, 056, 057, 058,  
13 059, 060, 061, 062, 063, 064, 065, 066, 067, 068, 069, 070, 071, 072, 073,  
14 074, 075, 076, 077, 078; Block 6959, Lots 019, 025, 026, 028, 029, 031, 032,  
15 033; Block 6968, Lots 001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011,  
16 012, 014, 015, 016, 017, 062, 063, 064, 065; Block 6969, Lots 001, 003A, 003B,  
17 003C, 003D, 012, 016; Block 7030, Lots 004, 004A, 004B, 006, 006A, 006B,  
18 007, 007A, 033; Block 7031, Lots 001B, 002, 002A, 002B, 002C, 002D, 003,  
19 003A, 003B, 003C, 003D, 003E, 003F, 029; Block 7043, Lots 001, 001A, 001B,  
20 001C, 001D, 001E, 001F, 001G, 002, 002A, 002B, 002C, 002D, 002E, 002F,  
21 002G; Block 7044A, Lots 001, 001A, 001B, 004, 006, 006B; Block 7109A,  
22 Lots 001, 002, 003; Block 7066, Lots 030, 033, 034, 035; Block 7066, Lots 001G,  
23 001H, 001, 002, 003, 007, 009, 010; Block 7098, Lots 001E, 002, 003, 004,  
24 004A, 008, 009, 012; Block 7099, Lots 003, 004, 005, 008, 009, 010, 011, 012,  
25 013, 014; Block 7109, Lots 001, 002, 003, 004, 006, 007, Block 7109A, Lots 004,  
005, 006, 007; Block 7143, Lots 003, 004, 005, 006, 007, 008, 009, 033, 034,  
036, 037, 038, 039, 040, 041, 042, 043, 044, 045, 046, 047, 048, 049, 050, 051,  
052, 053, 054, 055, 056, 057, 058, 059, 060, 061, 062, 063, 064; Block 7144, Lot 001.

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

17 By: \_\_\_\_\_  
18 JUDITH A. BOYAJIAN  
19 Deputy City Attorney  
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