

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 on- and off-sale**  
7 **liquor establishments; amending Sectional Maps SU 11 and SU 12 of the Zoning Map of**  
8 **the City and County of San Francisco to establish the boundaries of the Excelsior**  
9 **Alcohol Restricted Use District, which generally consist of the blocks fronting both**  
10 **sides of Mission Street from Silver Avenue to the Daly City border; amending Section**  
11 **Map SU 01 to establish the boundaries of the North Beach Alcohol Restricted Use**  
12 **District, which are co-terminous with the North Beach Neighborhood Commercial**  
13 **District; adopting findings, including environmental findings and findings of**  
14 **consistency with the priority policies of Planning Code Section 101.1 and the General**  
15 **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.

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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  
24

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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1 Description of Property

Special Use District  
To Be Approved

2 The entirety of Blocks 3147, 3148, 3206, 3207  
3 5952, 6013, 6014, 6083, 6084, 6272, 6346, 6347,  
4 6369, 6410, 6411, 6461, 6462, 6468, 6468A, 6469,  
5 6471, 6472, 6473, 6474, 6796, 6797, 6798, 6799,  
6 6800, 6955, 6956, 6959, 6968, 7030, 7031, 7043,  
7044A, 7066, 7098, 7099, 7109, 7109A, 7143, and  
7144.

Excelsior Alcohol  
Restricted Use District

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

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11 Description of Property

Special Use District  
To Be Approved

12 North Beach Neighborhood Commercial District

North Beach Alcohol  
Restricted Use District

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

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

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