Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two four prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit for The Humidor’s new location at One Embarcadero Center: the prohibitions on issuing the permit for a location within 500 feet of another permitted establishment, issuing the permit in a supervisorial district with 45 or more such permits, issuing the permit for a location not previously occupied by a permitted establishment, and on issuing the permit to a tobacco shop.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in single-underline italics Times New Roman font. Deletions to Codes are in strikethrough italics Times New Roman font. Board amendment additions are in double-underlined Arial font. Board amendment deletions are in strikethrough Arial font. Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. General Background and Findings.

(a) The Humidor was founded in Santa Rosa in the mid-1980s as a family business by Baram Bakhshi, Javid Bakhshi, Jamshid Bakhshi, and Habid Bakhshi. The Humidor moved to San Francisco in 1990 and has occupied several different locations in San Francisco. It has been in operation in San Francisco (with no breaks in operation of more than two years) for a 26-year span. In 2003, The Humidor moved to One Embarcadero Center, into a space that had previously been operated as a Tobacco Shop. In 2006, The Humidor moved into a new location at 275 Battery Street. It has been at that location from 2006 to 2016. During the
entirety of its operations in San Francisco, The Humidor has been a Tobacco Shop operating
with a tobacco sales permit.

(b) The Humidor has been nominated for inclusion on the Legacy Business Registry
as a longstanding, community serving business and a valuable cultural asset of the City.

(c) In late 2015, the building at 275 Battery Street was sold to new owners who
have refused to renew The Humidor’s lease. The Humidor, after negotiations with a new
landlord, is entering into a lease for a space at One Embarcadero Center, which is not the
space it occupied there from 2003 to 2006.

(d) Section 19H.4(f)(4) of the Health Code states that no new tobacco sales permit
shall be issued if the new location will be within 500 feet of the nearest point of the property
line of an existing Establishment. At its new location at One Embarcadero Center, The
Humidor will be within 500 feet of three existing Establishments.

(de) Section 19H.5 of the Health Code caps the number of establishments with
tobacco sales permits in every supervisorial district at 45. Further, Section 19H.4(f)(5) of the
Health Code states that no new tobacco sales permit shall be issued in any supervisorial
district that has 45 or more establishments with tobacco sales permits. The supervisorial
district in which The Humidor intends to be located, at One Embarcadero Center, is the same
supervisorial district where The Humidor has been located, at 275 Battery Street, and the
district has 45 or more establishments with tobacco sales permits.

(ef) Section 19H.4(f)(7) of the Health Code states that no new permits shall be
issued for the operation of a Tobacco Shop. The Humidor is a Tobacco Shop.

(g) Section 19H.4(f)(8) of the Health Code states that no new tobacco sales permit
shall be issued for a location not previously occupied by a permitted Establishment. There is
no record that the new location for The Humidor at One Embarcadero Center was previously

Supervisor Peskin
BOARD OF SUPERVISORS
occupied by a permitted Establishment, although, as stated in subsection (a), The Humidor did
previously occupy a different location at One Embarcadero Center.

(fh) Based on the facts as stated in this Section 1, reasonable grounds support
granting The Humidor an exception to Sections 19H.4(f)(4), 19H.4(f)(5), and 19H.4(f)(7), and
19H.4(f)(8) of the Health Code, and Section 19H.5 to the extent that that section reiterates the
ban on issuance of more than 45 tobacco sales permits in a supervisorial district. The
Humidor is a longstanding holder of a tobacco sales permit. Its new location, at One
Embarcadero Street, is less than 300 feet away from its previous location at 275 Battery
Street, and is in the same supervisorial district. Issuing a tobacco sales permit to The
Humidor at its new location will not change the number of such permits in that supervisorial
district that existed when The Humidor had its tobacco sales permit at its previous location on
Battery Street. Further, the space occupied by The Humidor at 275 Battery St. is
approximately 970 square feet, while the space that The Humidor plans to occupy at One
Embarcadero Center is approximately 730 square feet. Accordingly, The Humidor will be
devoting fewer square feet to tobacco product sales at One Embarcadero Center than at its
previous location at 275 Battery Street.

Section 2. Exemption of The Humidor From Certain Requirements of Health Code
Sections 19H.4 and 19H.5.

For the reasons stated in Section 1 of this ordinance, The Humidor, under its current
ownership, is hereby exempted from the requirements of Sections 19H.4(f)(4), 19H.4(f)(5),
and 19H.4(f)(7), and 19H.4(f)(8) of the Health Code, and Section 19H.5 to the extent that that
section reiterates the ban on issuance of more than 45 tobacco sales permits in a
supervisorial district. In providing for this exemption, it is intended that the aforementioned
provisions not serve as a barrier to The Humidor’s obtaining a tobacco sales permit at its new

location at One Embarcadero Center. This ordinance is intended to apply solely to that location.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

By:
ALEETA M. VAN RUNKLE
Deputy City Attorney
Ordinance exempting The Humidor, formerly located at 275 Battery Street, from four prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit for The Humidor's new location at One Embarcadero Center: the prohibitions on issuing the permit for a location within 500 feet of another permitted establishment, issuing the permit in a Supervisorial District with 45 or more such permits, issuing the permit for a location not previously occupied by a permitted establishment, and issuing the permit to a tobacco shop.

April 11, 2016 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

April 12, 2016 Board of Supervisors - PASSED, ON FIRST READING
Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

April 19, 2016 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE
Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

April 19, 2016 Board of Supervisors - RE-REFERRED AS AMENDED
Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

April 25, 2016 Land Use and Transportation Committee - RECOMMENDED AS COMMITTEE REPORT

April 26, 2016 Board of Supervisors - PASSED, ON FIRST READING
Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang, Wiener and Yee

May 03, 2016 Board of Supervisors - FINALLY PASSED
Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Peskin, Tang, Wiener and Yee
Absent: 1 - Mar
I hereby certify that the foregoing Ordinance was FINALLY PASSED on 5/3/2016 by the Board of Supervisors of the City and County of San Francisco.

R. Nemmi
Angela Caivillo
Clerk of the Board

Date Approved

Mayor

5/11/16