

1 [Health Code - Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit
2 Ordinance]

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

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

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

19 Section 1. General Background and Findings.

20 (a) The Humidor was founded in Santa Rosa in the mid-1980s as a family business
21 by Baram Bakhshi, Javid Bakhshi, Jamshid Bakhshi, and Habid Bakhshi. The Humidor moved
22 to San Francisco in 1990 and has occupied several different locations in San Francisco. It
23 has been in operation in San Francisco (with no breaks in operation of more than two years)
24 for a 26-year span. In 2003, The Humidor moved to One Embarcadero Center, into a space
25 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

1 entirety of its operations in San Francisco, The Humidor has been a Tobacco Shop operating
2 with a tobacco sales permit.

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

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

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

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

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

22 (g) Section 19H.4(f)(8) of the Health Code states that no new tobacco sales permit
23 shall be issued for a location not previously occupied by a permitted Establishment. There is
24 no record that the new location for The Humidor at One Embarcadero Center was previously
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1 occupied by a permitted Establishment, although, as stated in subsection (a), The Humidor did
2 previously occupy a different location at One Embarcadero Center.

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

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


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

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

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

10 By:


11 ALEETA M. VAN RUNKLE
12 Deputy City Attorney

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City and County of San Francisco

Tails Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 160253

Date Passed: May 03, 2016

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

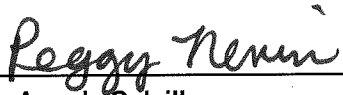
May 03, 2016 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Peskin, Tang, Wiener and Yee

Absent: 1 - Mar

File No. 160253

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.



for Angela Calvillo
Clerk of the Board



Mayor



Date Approved