

1 [Planning Code - Relocation of Bar Uses]

2

3 **Ordinance amending the Planning Code to principally permit the relocation of Bar Uses**
 4 **with Alcohol Beverage Control licenses as of May 19, 2003, within the Third Street**
 5 **Alcohol Restricted Use District and the Bayview Neighborhood Commercial District;**
 6 **affirming the Planning Department’s determination under the California Environmental**
 7 **Quality Act; making findings of consistency with the General Plan, and the eight**
 8 **priority policies of Planning Code, Section 101.1; and making findings of public**
 9 **necessity, convenience, and welfare pursuant to Planning Code, Section 302.**

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

14

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

16

17 Section 1. Environmental and Land Use Findings.

18 (a) The Planning Department has determined that the actions contemplated in this
 19 ordinance comply with the California Environmental Quality Act (California Public Resources
 20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
 21 Supervisors in File No. 260180 and is incorporated herein by reference. The Board of
 22 Supervisors affirms this determination.

23 (b) On _____, the Planning Commission, in Resolution No. _____,
 24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
 25 with the City’s General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board of Supervisors adopts these findings as its own. A copy of said Resolution is on file with
2 the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by
3 reference.

4 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
5 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in
6 Planning Commission Resolution No. _____, and incorporates such reasons by this
7 reference thereto.

8
9 Section 2. Articles 2 and 7 of the Planning Code are hereby amended by revising
10 Sections 249.62 and 737, to read as follows:

11
12 **SEC. 249.62. THIRD STREET ALCOHOL RESTRICTED USE DISTRICT.**

13 * * * *

14 (a) In order to preserve the residential character and the neighborhood-serving
15 commercial uses of the area, the Third Street Alcohol Restricted Use District (“Third Street
16 Alcohol RUD”) is hereby established for the property in the area generally bounded by Islais
17 Creek to the north, Quint Street, Phelps Street, Tampa Street, Bridgeview Drive, Newhall
18 Street, Venus Street, and Egbert Avenue to the west, US Highway 101 to the south, and
19 Mendell Street, La Salle Avenue, Keith Street, Palou Street, Jennings Street, and Ingalls
20 Street to the east, as designated on Sectional Map Numbers 8 and 10. *The following controls*
21 *shall apply within the Third Street Alcohol RUD.*

22 (1) No new Oen-sale or Oeff-sale Liquor Establishment shall be permitted in the
23 Third Street Alcohol RUD.

24 (2) The prohibition on Liquor Establishments in subsection (a)(1) shall not be
25 interpreted to prohibit the following:

1 (A) Temporary uses, as described in Planning Code Sections 205.1 or
2 205.3;

3 (B) Establishment of a Liquor Establishment if application for such
4 Liquor Establishment ~~is~~ was on file with the California Department of Alcoholic Beverage
5 Control (“ABC”) prior to the effective date of Ordinance No. 67-03 establishing the Third Street
6 Alcohol RUD (May 19, 2003);

7 (C) Sales of wine and brandy pursuant to an ABC License Type 2;

8 (D) Sales and manufacturing of beer pursuant to an ABC License Type
9 23.; or

10 (E) Establishment of an Oen-sale Liquor Establishment with an ABC
11 License Type 42 within the Bayview Neighborhood Commercial District, pursuant to a
12 Ceonditional Use authorization as provided in Section 303.

13 (3) **Continuation of Existing Prohibited Liquor Establishments.** In the Third
14 Street Alcohol RUD, any Prohibited Liquor Establishment may continue in accordance with
15 Planning Code Section 180 through 186.2, subject to the following provisions.

16 (A) A Prohibited Liquor Establishment lawfully existing and selling
17 alcoholic beverages as licensed by the State of California prior to the effective date of ~~this~~
18 ~~legislation~~ Ordinance No. 67-03 establishing the Third Street Alcohol RUD (May 19, 2003), or
19 subsequent legislation prohibiting that type of Liquor Establishment, so long as otherwise
20 lawful, may continue to operate only under the following conditions, as provided by California
21 Business and Professions Code Section 23790:

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

24 (ii) Except as provided by Subsection (B) below, the licensed
25 premises shall be operated continuously, without substantial change in mode or character of

1 operation.

2 (B) A break in continuous operation shall not be interpreted to include
3 the following, provided that the location of the establishment does not change, the square
4 footage used for the sale of alcoholic beverages does not increase, and the type of ~~California~~
5 ~~Department of Alcoholic Beverage Control Liquor~~ ABC License (~~“ABC” License~~) does not change
6 except as indicated:

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

9 (ii) Re-establishment, restoration, or repair of an existing
10 Prohibited Liquor Establishment on the same lot after total or partial destruction or damage
11 due to fire, riot, insurrection, toxic accident, or act of God;

12 (iii) Temporary closure of an existing Prohibited Liquor
13 Establishment for not more than ~~ninety (90)~~ days for repair, renovation, or remodeling;

14 (iv) ~~Re-location~~ Relocation of an existing Prohibited Liquor
15 Establishment in the Third Street Alcohol RUD to another location within the ~~same~~ Third Street
16 Alcohol RUD; provided that a relocating Prohibited Liquor Establishment other than a Bar Use shall
17 obtain a with eConditional uUse authorization from the City Planning Commission, and a relocating
18 Prohibited Liquor Establishment that is a Bar Use shall be principally permitted; and provided further
19 that the original premises shall not be occupied by a Prohibited Liquor Establishment, unless
20 by another Prohibited Liquor Establishment that is also relocating from within the Third Street
21 Alcohol RUD; or

22 (v) A change from a Type 21 (off-sale) to a Type 20 (off-sale beer
23 and wine) license or a change from any ~~Alcohol Beverage Control Board~~ ABC License type to a
24 Type 41 (on-sale beer and wine - eating place).

25 (b) The following shall apply to all Liquor Eestablishments in the Third Street Alcohol

1 RUD in order to maintain the safety of the premises and vicinity:

2 (1) Liquor Eestablishments shall provide outside lighting in a manner sufficient
3 to illuminate street and sidewalk areas and adjacent parking, as appropriate to maintain
4 security, without disturbing area residences; and

5 (2) No more than 33% ~~percent~~ of the square footage of the windows and clear
6 doors of Liquor Eestablishments shall bear advertising or signage of any sort, and all
7 advertising and signage shall be placed and maintained in a manner that ensures that law
8 enforcement personnel have a clear and unobstructed view of the interior of the premises,
9 including the area in which the cash registers are maintained, from the exterior public
10 sidewalk or entrance to the premises. This requirement shall not apply to premises where
11 there are no windows, or where existing windows are located at a height that precludes a view
12 of the interior of the premises to a person standing outside the premises.

13 (c) Definitions.

14 "Liquor Eestablishment" shall mean any enterprise selling alcoholic beverages, as
15 defined by California Business and Professions Code Section 23004 and 23025, pursuant to a
16 California Alcoholic Beverage Control Board license.

17 "Off-sale Liquor Eestablishment" shall mean any Liquor Store use as defined in
18 Section 102 of this Code.

19 "On-sale Liquor Eestablishment" shall mean any Liquor Eestablishment which has
20 obtained ~~Alcoholic Beverage Control Board~~ ABC License type 40 (on-sale beer), type 42 (on-
21 sale beer and wine public premises), type 48 (on-sale general-public premises), or type 57
22 (special on-sale general) selling alcoholic beverages for consumption on the premises.
23 Typical on-sale establishments may include but are not limited to bars serving alcoholic
24 beverages. It shall not include ABC License types 41, 47, 51, 52, 59, 60, 61, 67, 70 or 75.

25 "Prohibited Liquor Eestablishment" shall mean any establishment selling alcoholic

1 beverages lawfully existing prior to the effective date of the establishment of the Third Street
 2 Alcohol RUD (May 19, 2003) and licensed by the State of California for the retail sale of
 3 alcoholic beverages for on- or off-site consumption, so long as otherwise lawful.

4 * * * *

5
 6 **SEC. 737. BAYVIEW NEIGHBORHOOD COMMERCIAL DISTRICT.**

7 * * * *

8 **Table 737. BAYVIEW NEIGHBORHOOD COMMERCIAL DISTRICT ZONING**
 9 **CONTROL TABLE**

10 * * * *

| Zoning Category | § References | Controls | | |
|---|--------------------------------|--------------------------|-------|------|
| NON-RESIDENTIAL STANDARDS AND USES | | | | |
| * * * * | | | | |
| NON-RESIDENTIAL USES | | Controls by Story | | |
| | | 1st | 2nd | 3rd+ |
| * * * * | | | | |
| Sales and Service Use Category | | | | |
| Retail Sales and Service Uses* | §§ 102, 202.2(a), 202.3, 202.5 | P | P | P |
| * * * * | | | | |
| Bar | §§ 102, 202.2(a), 249.62 | NP(7) | NP(7) | NP |
| * * * * | | | | |
| Liquor Store | §§ 102; <u>249.62</u> | NP(Z) | NP(Z) | NP |
| * * * * | | | | |

24 * * * *

1 (7) THIRD STREET ALCOHOL RESTRICTED USE DISTRICT (Section 249.62). C for
2 Bars with ABC License Type 42. Relocations under Section 249.62(a)(3)(B)(iv): C; except P for
3 Bars regardless of ABC License Type.
4

5 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
6 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
7 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
8 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
9 additions, and Board amendment deletions in accordance with the “Note” that appears under
10 the official title of the ordinance.
11

12 Section 4. Effective Date. This ordinance shall become effective at 12:00 a.m. on the
13 31st day after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor
14 returns the ordinance unsigned or does not sign the ordinance within 10 days of receiving it,
15 or the Board of Supervisors overrides the Mayor’s veto of the ordinance.
16

17 APPROVED AS TO FORM:
18 DAVID CHIU, City Attorney

19 By: /s/ Heather Goodman
20 HEATHER GOODMAN
21 Deputy City Attorney

4924-9050-5873, v. 1