

1 [Haight Street Alcohol Restricted Use Subdistrict – Permissible bar use in movie theaters.]

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3 **Ordinance amending Planning Code Section 781.9 to allow a bar use in a movie theater**
4 **under specified circumstances in the Haight Street Alcohol Restricted Use Subdistrict;**
5 **and making environmental findings and findings of consistency with the priority**
6 **policies of Planning Code Section 101.1 and the General Plan.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are *strikethrough italics Times New Roman*.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. Findings. The Board of Supervisors of the City and County of San Francisco
12 hereby finds and determines that:

13 (a) On February 2, ~~2005~~ 2006, at a duly notice public hearing, the Planning
14 Commission in ~~Motion~~ Resolution No. 17181, found that the proposed Planning Code
15 amendment was consistent with the City's General Plan and with Planning Code Section
16 101.1(b). A copy of said ~~Motion~~ Resolution is on file with the Clerk of the Board of
17 Supervisors in File No. 051841 and is incorporated herein by reference. The Board finds that
18 proposed Planning Code amendment is consistent with the City's General Plan and with
19 Planning Code Section 101.1(b) for the reasons set forth in said ~~Motion~~ Resolution.

20 (b) Pursuant to Planning Code Section 302, the Board finds that the proposed
21 Planning Code amendment will serve the public necessity, convenience and welfare for the
22 reasons set forth in Planning Commission Resolution No. 17181, which reasons are
23 incorporated herein by reference.

24 (c) The Planning Department has determined that the actions contemplated in this
25 Ordinance are in compliance with the California Environmental Quality Act (California Public

1 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
2 Board of Supervisors in File No. 051841 and is incorporated herein by reference.

3 Section 2. The San Francisco Planning Code is hereby amended by amending Section
4 781.9 to read as follows:

5 SEC. 781.9. HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT.

6 There is an unusually large number of establishments dispensing alcoholic
7 beverages, including beer and wine, for both on-site and off-site consumption in the Haight-
8 Ashbury neighborhood. A concentration of alcoholic beverage establishments in a
9 neighborhood disrupts the desired mix of land uses that contribute to a livable neighborhood
10 and discourages more desirable and needed commercial uses in the area. A concentration of
11 establishments selling alcoholic beverages in an area may therefore contribute to the
12 deterioration of the neighborhood and to the concomitant devaluation of property and
13 destruction of community values and quality of life. These effects contribute to peace, health,
14 safety and general welfare problems in these areas, including loitering, littering, public
15 drunkenness, driving while intoxicated, defacement and damaging of structures, pedestrian
16 obstructions, as well as traffic circulation, parking and noise problems on public streets and
17 neighborhood lots, and other nuisance activities. The existence of such problems creates
18 serious impacts on the health, safety and welfare of residents of nearby single- and multiple-
19 family areas. These impacts include fear for the safety of children, elderly residents and
20 visitors to the area.

21 (a) Haight Street Alcohol Restricted Use Subdistrict Established. In order to
22 preserve the residential character and the neighborhood-serving commercial uses of the
23 Haight-Ashbury neighborhood, the Haight Street Alcohol Restricted Use Subdistrict (Haight
24 Street Alcohol RUSD) is hereby established with boundaries coterminous with the Haight
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1 Street Neighborhood Commercial District as designated on Sectional Map numbers 6 and 7.
2 The Haight Street Alcohol RUSD is designated on Section Map Numbers 6SU and 7SU.

3 (1) No new on-sale or off-sale liquor establishment shall be permitted in the
4 Haight Street RUSD.

5 (2) These controls also shall apply within ¼-mile of the Haight Street Alcohol
6 RUSD to nonconforming uses in R districts pursuant to Planning Code Section 186, and in
7 NC-1 Districts, pursuant to the Special Provisions for NC-1 Districts which follows the Control
8 Table constituting Sections 710.10 through 710.95.

9 (3) The prohibition on Liquor Establishments shall not be interpreted to
10 prohibit the following:

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

13 (B) Establishment of a Liquor Establishment if application for such Liquor
14 Establishment is on file with the California Department of Alcoholic Beverage Control prior to
15 the effective date of legislation establishing the Haight Street Alcohol RUSD.

16 (C) Establishment of a Liquor Establishment if: (1) such use is an eligible movie
17 theater, (2) only beer and wine are offered for consumption, and (3) such beer and wine are: (i) only
18 consumed on the premises and primarily in the main theater auditorium, (ii) only sold to and consumed
19 by ticketholders and only immediately before and during performances, and (iii) only offered in
20 conjunction with the screening of films and not as an independent element of the establishment that is
21 unrelated to the viewing of films. For purposes of this section, an “eligible movie theater” shall be a
22 movie theater as defined in Code Section 790.64 that contains only a single screen and auditorium, has
23 seating for 150 or fewer persons, and is not a formula retail use as defined in Code Section 703.3(b).

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1 (4) Continuation of existing Prohibited Liquor Establishments. In the Haight
2 Street Alcohol RUSD, any Prohibited Liquor Establishment may continue in accordance with
3 Planning Code Section 180 through 186.2, subject to the following provisions. For purposes
4 of this section, the Haight Street Alcohol RUSD shall be considered to include, pursuant to
5 Section 186 of this Code and to the Special Provisions for NC-1 Districts, the area within ¼-
6 mile of the Haight Street Alcohol RUSD as mapped.

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

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

14 (2) Except as provided by Subsection (B) below, the licensed premises shall
15 be operated continuously, without substantial change in mode or character of operation.

16 (B) A break in continuous operation shall not be interpreted to include the
17 following, provided that the location of the establishment does not change, the square footage
18 used for the sale of alcoholic beverages does not increase, and the type of California
19 Department of Alcoholic Beverage Control liquor license ("ABC License") does not change
20 except as indicated:

21 (1) A change in ownership of a Prohibited Liquor Establishment or an owner-
22 to-owner transfer of an ABC License; or

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

4 (3) Temporary closure of an existing Prohibited Liquor Establishment for not
5 more than ninety (90) days for repair, renovation or remodeling;

6 (4) Re-location of an existing Prohibited Liquor Establishment in the Haight
7 Street Alcohol RUSD to another location within the same Haight Street Alcohol RUSD with
8 conditional use authorization from the City Planning Commission, provided that the original
9 premises shall not be occupied by a Prohibited Liquor Establishment, unless by another
10 Prohibited Liquor Establishment that is also relocating from within the Haight Street Alcohol
11 RUSD.

12 (5) A change from a Type 21 (off-sale general) to a Type 20 (off-sale beer
13 and wine) license.

14 (b) Definitions:

15 (1) A “liquor establishment” shall mean any enterprise selling alcoholic
16 beverages, as defined by California Business and Professions Code Section 23004 and
17 23025, pursuant to a California Alcoholic Beverage Control Board license.

18 (2) An “on-sale liquor establishment” shall mean any liquor establishment
19 which has obtained Alcoholic Beverage Control Board License type 40 (on-sale beer), type 41
20 (on-sale beer and wine eating place), type 42 (on-sale beer and wine public premises), type
21 47 (on-sale general eating place), 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 and restaurants serving
24 alcoholic beverages. It shall not include types 51, 52,59, 60, 61 67, 70 or 75.

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1 (3) An “off-sale liquor establishment” shall mean any liquor establishment
2 which has obtained Alcoholic Beverage Control Board License type 20 (off-sale beer and
3 wine) or type 21 (off-sale general) selling alcoholic beverages in an open or a closed
4 container for consumption off the premises. Typical off-sale liquor establishments may
5 include but are not limited to the following uses licensed to sell off-sale alcoholic beverages:
6 food markets, supermarkets, drugstores, liquor stores, bars and convenience markets. It shall
7 not include producers and distributor's licenses for offices or establishments not open to the
8 general public.

9 (4) A “prohibited liquor establishment” shall mean any establishment selling
10 alcoholic beverages lawfully existing prior to the effective date of the establishment of the
11 Haight Street Alcohol RUSD and licensed by the State of California for the retail sale of
12 alcoholic beverages for on or off-site consumption, so long as otherwise lawful.

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

16 By: _____

17 John D. Malamut
 Deputy City Attorney

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