

**Amendment of the Whole
January 31, 2007.**

FILE NO. 060537

ORDINANCE NO.

1 [Zoning—Ordinance creating the Lower Haight Street Alcohol Restricted Use District.]

2
3 **Ordinance adding Section 784 to the Planning Code to create a Lower Haight Street**
4 **Alcohol Restricted Use District prohibiting off-sale liquor establishments and providing**
5 **for a three year sunset provision; amending Zoning Map Number 7SU of the City and**
6 **County of San Francisco to indicate the boundaries of the Lower Haight Street Alcohol**
7 **Restricted Use District, and making findings, including environmental findings and**
8 **findings of consistency with the priority policies of Planning Code Section 101.1 and**
9 **the General Plan.**

10 Note: Additions are *single-underline italics Times New Roman*;
11 deletions are *strikethrough italics Times New Roman*.
12 Board amendment additions are double underlined.
13 Board amendment deletions are ~~strikethrough normal~~.

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

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

16 (a) On _____ at a duly noticed public hearing, the Planning Commission in
17 Resolution No. _____ found that the proposed Planning Code and Zoning Map
18 amendments contained in this ordinance were consistent with the City's General Plan and
19 with Planning Code Section 101.1(b). In addition, the Planning Commission recommended
20 that the Board of Supervisors adopt the proposed Planning Code and Zoning Map
21 amendments. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in
22 File No. _____ and is incorporated herein by reference. The Board finds that the
23 proposed Planning Code and Zoning Map amendments contained in this ordinance are
24 consistent with the City's General Plan and with Planning Code Section 101.1(b) for the
25 reasons set forth in said Resolution.

1 (b) Pursuant to Planning Code Section 302, the Board finds that the proposed
2 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
3 Planning Commission Resolution No. _____, which reasons are incorporated
4 herein by reference as though fully set forth.

5 (c) The Planning Department has determined that the actions contemplated in this
6 Ordinance are in compliance with the California Environmental Quality Act (California Public
7 Resources Code section 21000 et seq.). Said determination is on file with the Clerk of the
8 Board of Supervisors in File No. _____ and is incorporated herein by reference.

9 Section 2. The San Francisco Planning Code is hereby amended by adding Section
10 784, to read as follows:

11 Sec. 784 Lower Haight Street Alcohol Restricted Use District.

12 (a) Findings. There are an unusually large number of establishments dispensing alcoholic
13 beverages, including beer and wine, for off-site consumption in the Neighborhood Commercial Cluster
14 Districts located generally along Haight Street at Scott Street and generally along Haight Street at
15 Pierce Street and in the Small-Scale Neighborhood Commercial District located generally along
16 Haight Street at and between Steiner and Webster Streets. The existence of this many off-sale
17 alcoholic beverage establishments appears to contribute directly to numerous peace, health, safety, and
18 general welfare problems in the area, including loitering, littering, public drunkenness, defacement and
19 damaging of structures, pedestrian obstructions, as well as traffic circulation, parking and noise
20 problems on public streets and neighborhood lots. The existence of such problems creates serious
21 impacts on the health, safety, and welfare of residents of nearby single- and multiple-family areas,
22 including fear for the safety of children, elderly residents and visitors to the area. The problems also
23 contribute to the deterioration of the neighborhood and concomitant devaluation of property and
24 destruction of community values and quality of life. The number of establishments selling alcoholic

1 beverages for off-site consumption and the associated problems discourage more desirable and
2 needed commercial uses in the area.

3 (b) Establishment of the Lower Haight Street Alcohol Restricted Use District. In order to
4 preserve the residential character and the neighborhood-serving commercial uses of the area, the
5 Lower Haight Street Alcohol Restricted Use District (Lower Haight Street Alcohol RUD) is hereby
6 established for the following:

7 (1) Properties in the Neighborhood Commercial Cluster District located generally along
8 Haight Street at Scott Street;

9 (2) Properties in the Neighborhood Commercial Cluster District located generally along
10 Haight Street at Pierce Street; and

11 (3) Properties in the Small-Scale Neighborhood Commercial District located generally
12 along Haight Street at and between Steiner and Webster Streets;

13 The above Neighborhood Commercial Cluster Districts and Small-Scale Neighborhood
14 Commercial District are as designated on Sectional Map Number 7 of the Zoning Map of the City and
15 County of San Francisco. Block and lot numbers for the properties included in these districts are
16 on file with the Clerk of the Board of Supervisors in File No. _____ and are
17 incorporated herein by reference. The Lower Haight Street Alcohol RUD is designated on Sectional
18 Map Number 7SU of the Zoning Map of the City and County of San Francisco.

19 (1) No new liquor establishments selling alcoholic beverages for off-site consumption
20 shall be permitted in the Lower Haight Street Alcohol RUD.

21 (2) The prohibition on off-sale liquor establishments shall not be interpreted to prohibit the
22 following:

23 (A) Temporary uses, as described in Planning Code Section 205.1 or 205.3; or
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1 (B) Establishment of an off-sale liquor establishment if an application for such liquor
2 establishment is on file with the California Department of Alcoholic Beverage Control prior to the
3 effective date of this ordinance establishing the Lower Haight Street Alcohol RUD.

4 (3) Continuation of Existing Prohibited Liquor Establishments. In the Lower Haight Street
5 Alcohol RUD, any prohibited liquor establishment may continue in accordance with Planning Code
6 section 180 through 186.2, subject to the following provisions:

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

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

14 (ii) Except as provided in subsection (B) below, the liquor establishment shall be operated
15 continuously, without substantial changes in mode or character of operation.

16 (B) A break in continuous operation shall not be interpreted to include the following,
17 provided that, except as indicated below, the location of the establishment does not change, the square
18 footage 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 (i) A change in ownership of a prohibited liquor establishment or an owner-to-owner
21 transfer of an ABC License;

22 (ii) Temporary closure for restoration or repair of an existing prohibited liquor
23 establishment on the same lot after total or partial destruction or damage due to fire, riot, insurrection,
24 toxic accident, or act of God;

1 (iii) Temporary closure of an existing prohibited liquor establishment for reasons other than
2 total or partial destruction or damage due to fire, riot, insurrection, toxic accident, or act of God for
3 not more than thirty (30) days for repair, renovation, or remodeling; or

4 (iv) Relocation of an existing prohibited liquor establishment in the Lower Haight Street
5 Alcohol RUD to another location within the same Lower Haight Street Alcohol RUD with conditional
6 use authorization from the Planning Commission, provided that the original premises shall not be
7 occupied by a prohibited liquor establishment, unless by another prohibited liquor establishment that is
8 also relocating from within the Lower Haight Street Alcohol RUD.

9 (c) Definitions: The following definitions shall apply to this Section 784.

10 (1) A “liquor establishment” shall mean any enterprise selling alcoholic beverages, as
11 defined in California Business and Professions Code Sections 23004 and 23025, pursuant to an ABC
12 License.

13 (2) A “prohibited liquor establishment” shall mean any establishment selling alcoholic
14 beverages lawfully existing prior to the effective date of this ordinance and licensed by the State of
15 California for the sale of alcoholic beverages for ~~on-site or~~ off-site consumption (“off-sale”), so long
16 as otherwise lawful.

17 (d) Sunset Provision. This Section 784 shall be repealed three years after its initial effective
18 date unless the Board of Supervisors, on or before that date, extends or re-enacts it.

19 Section 3. In accordance with Planning Code sections 106 and ~~203302~~302, the following
20 change is hereby adopted as an amendment to Zoning Map Number 7SU of the City and
21 County of San Francisco:

22 The Neighborhood Commercial Cluster District generally along Haight Street at Scott
23 Street, the Neighborhood Commercial Cluster District generally along Haight Street at Pierce
24 Street, and the Small-Scale Neighborhood Commercial District generally along Haight Street
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1 at and between Steiner and Webster Streets, and as indicated on Sectional Zoning Map
2 Number 7, shall be part of the Lower Haight Street Alcohol Restricted Use District.

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

6 By: _____
7 Marlena G. Byrne
8 Deputy City Attorney
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