

1 [Planning Code - Relocation and Re-establishment of Liquor Establishments]

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 (RUD) and the Bayview Neighborhood Commercial**
6 **District (NCD); allow establishments with Alcohol Beverage Control licenses as of**
7 **May 19, 2003, to re-establish the use under the existing license within the RUD and**
8 **NCD; affirming the Planning Department’s determination under the California**
9 **Environmental Quality Act; making findings of consistency with the General Plan, and**
10 **the eight priority policies of Planning Code, Section 101.1; and making findings of**
11 **public necessity, convenience, and welfare pursuant to Planning Code, Section 302.**

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

16

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

18

19 Section 1. Environmental and Land Use Findings.

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

25

1 (b) On _____, the Planning Commission, in Resolution No. _____,
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
4 Board of Supervisors adopts these findings as its own. A copy of said Resolution is on file with
5 the Clerk of the Board of Supervisors in File No. _____, and is incorporated herein by
6 reference.

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

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

13 **SEC. 249.62. THIRD STREET ALCOHOL RESTRICTED USE DISTRICT.**

14 * * * *

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

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

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

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

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

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

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

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

15 (3) **Continuation of Pre-existing Prohibited Liquor Establishments.** In the
16 Third Street Alcohol RUD, any Prohibited Pre-existing Liquor Establishment may continue in
17 accordance with Planning Code Section 180 through 186.2, subject to the following
18 provisions.

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

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

3 (ii) Except as provided by Subsection (B) below, the licensed
4 premises shall be operated continuously, without substantial change in mode or character of
5 operation.

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

11 (i) A change in ownership of a ~~Prohibited~~ Pre-existing Liquor
12 Establishment or an owner-to-owner transfer of an ABC License;

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

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

18 (iv) Re-establishment of a Pre-existing Liquor Establishment under its
19 existing ABC License issued prior to May 19, 2003, after a full or partial closure of not more than 10
20 years;

21 (iv) Re-location of an Relocation of a Pre-existing Prohibited Liquor
22 Establishment in the Third Street Alcohol RUD to another location within the ~~same~~ Third Street
23 Alcohol RUD; provided that a relocating Pre-existing Liquor Establishment other than a Bar Use
24 shall obtain a with Ceonditional #Use authorization from the City Planning Commission, and a
25 relocating Pre-existing Liquor Establishment that is a Bar Use shall be principally permitted; and

1 provided further that the original premises shall not be occupied by a Pre-existing-Prohibited
2 Liquor Establishment, unless by another Pre-existing Prohibited Liquor Establishment that is
3 also relocating from within the Third Street Alcohol RUD; or

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

7 (b) The following shall apply to all Liquor Eestablishments in the Third Street Alcohol
8 RUD in order to maintain the safety of the premises and vicinity:

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

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

20 (c) Definitions.

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

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

1	* * * *				
2	Bar	§§ 102, 202.2(a), 249.62	NP(7)	NP(7)	NP
3	* * * *				
4	Liquor Store	§§ 102; <u>249.62</u>	NP(<u>Z</u>)	NP(<u>Z</u>)	NP
5	* * * *				

6 * * * *

7 (7) THIRD STREET ALCOHOL RESTRICTED USE DISTRICT (Section 249.62). C for
8 Bars with ABC License Type 42. Re-establishments under Section 249.62(a)(3)(B)(iv): P.
9 Relocations under Section 249.62(a)(3)(B)(v): C; except P for Bars regardless of ABC License Type.

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

16 Section 4. Effective Date. This ordinance shall become effective at on the 31st day
17 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns
18 the ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the
19 Board of Supervisors overrides the Mayor’s veto of the ordinance.

21 APPROVED AS TO FORM:
22 DAVID CHIU, City Attorney

23 By: /s/ HEATHER GOODMAN
24 HEATHER GOODMAN
25 Deputy City Attorney

4929-2268-0231, v. 3