

1 [Ordinance creating the Third Street Alcohol Restricted Use District, prohibiting new liquor
2 establishments, regulating existing non-conforming liquor establishments, amending Section
3 249.14 of the Planning Code, and amending Zoning Map Sheets 8SU and 10SU to indicate
4 the boundaries of the Third Street Alcohol Restricted Use District.]

5 **Ordinance adding Section 782 to the Planning Code to create a Third Street Alcohol**
6 **Restricted Use District prohibiting liquor establishments and regulating existing non-**
7 **conforming liquor establishments; amending Section 249.14 of the Planning Code to**
8 **remove inconsistent regulations regarding liquor establishments; amending Zoning**
9 **Map Sheet 8SU and 10SU of the City and County of San Francisco to indicate the**
10 **boundaries of the Third Street Alcohol Restricted Use District, and making findings of**
11 **consistency with the priority policies of Planning Code Section 101.1 and the General**
12 **Plan.**

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

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

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

20 (a) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
21 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
22 Planning Commission Resolution No. _____ recommending approval of this Planning Code
23 Amendment, and incorporates such reasons by this reference thereto. A copy of said
24 resolution is on file with the Clerk of the Board of Supervisors in File No. _____.

25 (b) Pursuant to Planning Code Section 101.1, this Board of Supervisors finds that this
ordinance is in consistent with the Priority Policies of Section 101.1(b) of the Planning Code

1 and, when effective, with the General Plan as proposed to be amended and hereby adopts
2 the findings of the Planning Commission, as set forth in Planning Commission Resolution No.
3 _____, and incorporates said findings by this reference thereto.
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5 Section 2. The San Francisco Planning Code is hereby amended by adding Section
6 782, to read as follows:

7 Section 782 **Third Street Alcohol Restricted Use District Established.**

8 There is an unusually large number of establishments dispensing alcoholic beverages, including
9 beer and wine, for both on-site and off-site consumption in the Bayview area. The existence of this
10 many alcoholic beverage establishments appears to contribute directly to numerous peace, health,
11 safety and general welfare problems in the area, including loitering, littering, drug trafficking,
12 prostitution, public drunkenness, defacement and damaging of structures, pedestrian obstructions, as
13 well as traffic circulation, parking and noise problems on public streets and neighborhood lots. The
14 existence of such problems creates serious impacts on the health, safety and welfare of residents of
15 nearby single- and multiple-family areas, including fear for the safety of children, elderly residents and
16 of visitors to the area. The problems also contribute to the deterioration of the neighborhood and
17 concomitant devaluation of property and destruction of community values and quality of life. The
18 number of establishments selling alcoholic beverages and the associated problems discourage more
19 desirable and needed commercial uses in the area.

20 (a) In order to preserve the residential character and the neighborhood-serving commercial
21 uses of the area, the Third Street Alcohol Restricted Use District (Third Street Alcohol RUD) is hereby
22 established for the property in the area generally bounded by Islais Creek to the North, Quint Street,
23 Phelps Street, Tampa Street, Bridgeview Drive, Newhall Street, Venus Street and Egbert Avenue to the
24 West, US Highway 101 to the South, and Mendell Street, La Salle Avenue, Keith Street, Palou Street,
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1 Jennings Street, and Ingalls Street to the East, as designated on Sectional Map numbers 8 and 10. The
2 Third Street Alcohol RUD is designated on Section Map Numbers 8SU and 10SU.

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

5 (2) The prohibition on Liquor Establishments shall not be interpreted to prohibit the
6 following:

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

8 (B) Establishment of a Liquor Establishment if application for such Liquor
9 Establishment is on file with the California Department of Alcoholic Beverage Control prior to the
10 effective date of legislation establishing the Third Street Alcohol RUD.

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

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

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

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

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

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

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

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

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

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

17 (b) Definitions:

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

21 (2) An “on-sale liquor establishment” shall mean any liquor establishment which
22 has obtained Alcoholic Beverage Control Board License type 40 (on-sale beer), type 41 (on-sale beer
23 and wine eating place), type 42 (on-sale beer and wine public premises), type 47 (on-sale general
24 eating place), type 48 (on-sale general- public premises) or type 57 (special on-sale general) selling
25 alcoholic beverages for consumption on the premises. Typical on-sale establishments may include but

1 are not limited to bars and restaurants serving alcoholic beverages. It shall not include types 51,
2 52,59, 60, 61 67, 70 or 75.

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

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

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15 Section 3. The San Francisco Planning Code is hereby amended by amending Section
16 299.14 to read as follows:

17 SEC. 249.14. THIRD STREET SPECIAL USE DISTRICT.

18 (a) Purpose. There shall be a special use district known as the Third Street
19 Special Use District, as designated on Sectional Map No. 10SU of the Zoning Map of the City
20 and County of San Francisco, encompassing the commercially and industrially zoned property
21 fronting Third Street from Army Street to Meade Avenue. The purpose of this special use
22 district is to enhance the social and economic vitality of Third Street as the primary
23 neighborhood commercial district for the Bayview Hunters Points area and encourage a
24 healthier mix of essential neighborhood-serving retail uses ~~by restricting overconcentration of~~
25 ~~liquor stores on Third Street and~~ by allowing for drive-up facilities as a conditional use.

1 (b) Controls.

2 ~~(1) — Prohibition of Retail Uses Selling Alcoholic Beverages.~~

3 ~~(A) — No new off-sale liquor establishment shall be permitted in the special use~~
4 ~~district. An “off-sale liquor establishment” shall mean any establishment which has obtained the State~~
5 ~~of California's Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21~~
6 ~~(off-sale general) selling alcoholic beverages in an open or a closed container for consumption off the~~
7 ~~premises. Food markets, supermarkets and drug stores are exempted from this prohibition if no more~~
8 ~~than five percent of their shelf space is devoted to alcoholic beverages.~~

9 ~~—— (B) — No expansion of an existing off-sale liquor establishment shall be permitted in~~
10 ~~the special use district. Any such establishment lawfully existing prior to the effective date of this~~
11 ~~ordinance may continue in existence, provided such establishment remains in use, as follows:~~

12 ~~—— (i) — In the event that any such establishment ceases to operate or discontinues~~
13 ~~operation for 30 days or longer as set forth in state law, such use shall be deemed abandoned;~~

14 ~~—— (ii) — No establishment selling alcoholic beverages may expand the square footage~~
15 ~~devoted exclusively to the sale of alcoholic beverages, significantly increase the percentage of~~
16 ~~alcoholic beverage sales as a portion of total sales, or change its type of retail liquor license within a~~
17 ~~license classification.~~

18 ~~—— (2)(1) A large fast-food restaurant or a small self-service restaurant may have a~~
19 ~~drive-up facility only with conditional use authorization by the City Planning Commission. In~~
20 ~~addition to the conditional use criteria set forth in Section 303, the Commission shall find that:~~

21 (A) The restaurant does not form a part of any continuous retail frontage
22 (defined for purposes of this subsection as two or more buildings which contain commercial
23 uses and which have a continuous facade line at street level unbroken by any driveway, alley
24 or walkway having a width greater than five feet;

25 (B) The restaurant is located on a lot that:

- 1 (i) Adjoins three city streets,
2 (ii) Is not within 500 foot walking distance of an elementary or secondary
3 school; and
4 (C) The restaurant has sufficient off-street queuing space for at least eight
5 cars and has off- street parking as required in Article 1.5 of this Code; and
6 (D) The proposed building massing and site planning is designed to
7 complement the urban character of the street and respect pedestrian access along Third
8 Street; and
9 (E) To the extent feasible, the project provides for additional residential
10 development and/or other land use activities on the site.
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12 Section 4. Amendment of Sheet 8SU of the Zoning Map. In accordance with Planning
13 Code sections 106 and 302, the following change is hereby adopted as an amendment to
14 Zoning Map Sheet 8SU of the City and County of San Francisco, a copy of which is on file
15 with the Clerk of the Board of Supervisors in File No. _____:

16 The area generally bounded by Islais Creek to the North, Quint Street to the West,
17 Evans Avenue to the South, and Mendell Street to the East, and as indicated on a map of the
18 Third Street Alcohol Restricted Use District, a copy of which is on file with the Clerk of the
19 Board of Supervisors in File No. _____, shall be part of the Third Street Alcohol
20 Restricted Use District.
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22 Section 5. Amendment of Sheet 10 SU of the Zoning Map. In accordance with
23 Planning Code sections 106 and 302, the following change is hereby adopted as an
24 amendment to Zoning Map Sheet 8SU of the City and County of San Francisco, a copy of
25 which is on file with the Clerk of the Board of Supervisors in File No. _____:

1 The area generally bounded by Evans Avenue to the North, Quint Street to the West,
2 Evans Avenue to the South, Quint Street, Phelps Street, Tampa Street, Bridgeview Drive,
3 Newhall Street, Venus Street and Egbert Avenue to the West, US Highway 101 to the South,
4 and Mendell Street, La Salle Avenue, Keith Street, Palou Street, Jennings Street, and Ingalls
5 Street to the East, and as indicated on a map of the Third Street Alcohol Restricted Use
6 District, a copy of which is on file with the Clerk of the Board of Supervisors in File No. __
7 _____, shall be part of the Third Street Alcohol Restricted Use District.

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10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

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By: _____
Sarah Ellen Owsowitz
Deputy City Attorney

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