

1 [Requiring Notice to Potential Buyers of Certain Deemed Approved Off-Sale Alcohol Uses
2 Where the Use Has Violated the Performance Standards.]

3 **Ordinance amending the ordinance Regulating Deemed Approved Off-Sale Alcohol**
4 **Uses and Establishing An Annual Fee (Board File No. _____) by amending**
5 **Section 26.20 to require that the seller of a Deemed Approved Off-Sale Alcohol Use**
6 **(“Use”) provide certain notice to potential buyers of the Use if the Use has, within the**
7 **past three years, been the subject of an administrative hearing at which a finding of**
8 **violation of the Performance Standards was made, at which conditions were imposed**
9 **on the Use’s continued operations, and/or at which administrative penalties were**
10 **imposed on the Use for violation of the Performance Standards; and making**
11 **environmental findings.**

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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. Environmental Findings. The Planning Department has determined that the
19 actions contemplated in this Ordinance are exempt from the California Environmental Quality
20 Act (California Public Resources Code section 21000 et seq.). Said determination is on file
21 with the Clerk of the Board of Supervisors in File No. _____ and is incorporated
22 herein by reference.

23 Section 2. The Ordinance Regulating Deemed Approved Off-Sale Alcohol Uses and
24 Establishing an Annual Fee (Board File No. _____), which proposes to amend the
25 San Francisco Administrative Code by adding Chapter 26, is amended by amending Section
26.20 to read as follows:

1 SEC. 26.20 PURPOSE OF THE ADMINISTRATIVE HEARING.

2 The purpose of the administrative hearing is to receive information as to whether the
3 Deemed Approved Off-Sale Alcohol Use is in compliance with the Performance Standards.

4 The Hearing Officer shall determine whether the Deemed Approved Off-Sale Alcohol
5 Use is in compliance with the Performance Standards. Based on this determination, the
6 Hearing Officer may continue the Deemed Approved status for the use in question, may
7 impose administrative penalties for violations of the Performance Standards, may impose
8 such reasonable conditions as are in the judgment of the Hearing Officer necessary to ensure
9 compliance with the Performance Standards, and, in the event that the Deemed Approved
10 Off-Sale Alcohol Use has within the past three years been the subject of an administrative
11 hearing at which a finding of violation of the Performance Standards was made, may revoke
12 the Deemed Approved Off-Sale Alcohol Use's Deemed Approved Status. If the Hearing
13 Officer determines instead to impose further, new conditions on the Deemed Approved Off-
14 Sale Alcohol Use, such conditions shall be based upon the information then before the
15 Hearing Officer.

16 The decision of the Hearing Officer shall be based upon all information received at the
17 administrative hearing, including, but not limited to, information compiled by City staff,
18 testimony from the owner of the Deemed Approved Off-Sale Alcohol Use, and the testimony
19 of all other interested persons. Any conditions imposed by the Hearing Officer shall be a
20 condition of the Deemed Approved Off-Sale Alcohol Use's continued operation. Any condition
21 imposed by the Hearing Officer shall not be considered a suspension, revocation, or
22 withdrawal of a Deemed Approved Off-Sale Alcohol Use's use permit.

23 All determinations, decisions, and conditions made or imposed under this Chapter
24 regarding the use of a Deemed Approved Off-Sale Alcohol Use shall run with the land.

1 Prior to the transfer of a Deemed Approved Off-Sale Alcohol Use, the seller of the use shall
2 provide written notice to any prospective buyer of the use if the use has, within the past three years,
3 been the subject of an administrative hearing at which a finding of violation of the Performance
4 Standards was made, at which conditions were imposed on the Deemed Approved Off-Sale Alcohol
5 Uses' continued operations, and/or at which administrative penalties were imposed on the Deemed
6 Approved Off-Sale Alcohol Use for violation of the Performance Standards.

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8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 Marlena G. Byrne
12 Deputy City Attorney