

FILE NO. 070617

ORDINANCE NO.

1 [Zoning – modifying the definition of liquor store to remove prohibitions on grocery stores and
2 similar uses.]

3 **Ordinance amending Planning Code Sections 790.55, 790.102, 249.5, 781.8, 781.9, 782,**
4 **~~and 783~~, and 784 to remove grocery stores and other similar uses from prohibitions**
5 **placed on the establishment of liquor stores in certain districts; and making**
6 **environmental findings and findings of consistency with the General Plan and priority**
7 **policies of Planning Code Section 101.1.**

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

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

13 Section 1. Findings. The Board of Supervisors of the City and County of San
14 Francisco hereby finds and declares as follows:

15 a. The City created certain zoning districts that prohibit new off-sale liquor licenses in
16 order to address a proliferation of neighborhood liquor stores that upset the balance of
17 neighborhoods services and attracted various public nuisances and criminal activity.

18 b. Grocery stores and certain other retail establishments require the same type of
19 liquor license from the State Department of Alcoholic Beverage Control as do conventional
20 liquor stores. As a consequence, those districts where off-sale liquor licenses are prohibited
21 have unintentionally precluded the establishment of grocery stores and similar uses where
22 alcohol sales are accessory to the primary product offerings of the store and do not have the
23 negative impacts identified above

24 c. The recent citywide spate of grocery store closures and the general desirability of
25 such stores necessitate efforts to recraft alcohol restrictions in the Planning Code to be more
permissive toward grocery stores and similar uses.

1 Section 2. Environmental Findings, General Plan Findings, and Other Required
2 Findings.

3 a. The Planning Department has determined that the actions contemplated in this
4 Ordinance are in compliance with the California Environmental Quality Act (California Public
5 Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the
6 Board of Supervisors in File No. 070617 and is incorporated herein by reference.

7 b. On September 20, 2007, the Planning Commission, in Resolution No. 17488
8 ~~approved and recommended~~ disapproval of ~~for adoption by the Board~~ this legislation and
9 ~~adopted findings that it is consistent, on balance, with the City's General Plan and eight~~
10 ~~priority policies of Planning Code Section 101.1~~ ~~The Board adopts these findings as its own.~~
11 A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No.
12 070617, and is incorporated by reference herein. As a consequence, the Board of
13 Supervisors adopts herein its own findings that this legislation is consistent, on balance, with
14 the City's General Plan and eight priority policies of Planning Code Section 101.1. Said
15 findings are on file with the Clerk of the Board of Supervisors in File No. _____, and
16 are incorporated herein by reference.

17 c. Pursuant to Planning Code Section 302, this Board of Supervisors finds that this
18 legislation will serve the public necessity, convenience, and welfare for the reasons set forth in
19 Planning Commission Resolution No. 17488, and incorporates such reasons by reference
20 herein.

21 Section 3. The San Francisco Planning Code is hereby amended by amending Section
22 790.55, to read as follows:

23 **SEC. 790.55. LIQUOR STORE.**

24 A retail use which sells beer, wine, or distilled spirits to a customer in an open or closed
25 container for consumption off the premises and which needs a State of California Alcoholic

1 Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general).
2 This classification shall not include retail uses that (1) are classified as a general grocery store use as
3 set forth in Section 790.102(a) or (2) have both (a) a use size as defined in Section 790.130 of this Code
4 of greater than 10,000 gross square feet and (b) a gross floor area devoted to alcoholic beverages that
5 is within accessory use limits as set forth in Section ~~240.2~~ 204.2 or 703.2(b)(1)(c) of this Code,
6 depending on the zoning district in which the use is located. For purposes of Planning Code
7 Sections 249.5, 781.8, 781.9, 782, 783, and 784, the retail uses explicitly exempted from this
8 definition as set forth above shall not:

9 (a) sell any malt beverage with an alcohol content greater than 5.7% by volume; any
10 wine with an alcohol content of greater than 15% by volume, except for "dinner wines" that
11 have been aged two years or more and maintained in a corked bottle; or any distilled spirits in
12 container sizes smaller than 600 ml; and

13 (b) devote more than 15% of the gross square footage of the establishment to the
14 display and sale of alcoholic beverages.

15 Section 4. The San Francisco Planning Code is hereby amended by amending Section
16 249.5, to read as follows:

17 **SEC. 249.5. NORTH OF MARKET RESIDENTIAL SPECIAL USE DISTRICT.**

18 (a) General. A special use district entitled the "North of Market Residential Special Use
19 District," which includes RC-4 and P Use Districts, the boundaries of which are shown on Sectional
20 Map No. 1Sub of the Zoning Map, is hereby established for the purposes set forth below.

21 (b) Purposes. In order to protect and enhance important housing resources in an area near
22 downtown, conserve and upgrade existing low and moderate income housing stock, preserve
23 buildings of architectural and historic importance and preserve the existing scale of development,
24 maintain sunlight in public spaces, encourage new infill housing at a compatible density, limit the
25 development of tourist hotels and other commercial uses that could adversely impact the residential

1 nature of the area, and limit the number of commercial establishments which are not intended primarily
2 for customers who are residents of the area, the following controls are imposed in the North of Market
3 Residential Special Use District.

4 (c) Controls. The following zoning controls are applicable in the North of Market Residential
5 Special Use District. Certain controls are set forth in other Sections of this Code and are referenced
6 herein.

7 (1) Conditional Use Criteria. In making determinations on applications for conditional
8 use authorizations required for uses located within the North of Market Residential Special Use
9 District, the City Planning Commission shall consider the purposes as set forth in Subsection (b)
10 above, in addition to the criteria of Section 303(c) of this Code.

11 (2) Notwithstanding the provisions of Section 209.8 of this Code, commercial
12 establishments shall be limited to the ground floor and the first basement floor, except that such
13 establishments may be permitted on the second story as a conditional use if authorized pursuant to
14 Section 303 and Section 249.5(c)(1) of this Code.

15 (3) Garment shops that meet the qualifications set forth in Section 236(a) may be
16 permitted on the ground floor and first basement floor as a conditional use if authorized pursuant to
17 Section 303 and Section 249.5(c)(1) of this Code.

18 (4) The following uses are not permitted: (A) A hotel, inn, hostel or motel; and (B)
19 massage establishments which are not incidental to the institutional uses permitted in Sections 217(a)
20 through (d) of the Planning Code or are not incidental to a health club, gymnasium or other facility with
21 a regular membership or other facility which is used primarily for instruction and training in body
22 building, exercising, reducing, sports, dancing or other similar physical activities.

23 (5) In the portion of the area designated as Subarea No. 1 of the North of Market
24 Residential Special Use District, as shown on Section Map 1Sub of the Zoning Map, the density ratio
25 shall be one dwelling unit for each 125 square feet of lot area; in Subarea No. 2, as shown on Section

1 Map 1Sub of the Zoning Map, the density ratio shall be one dwelling unit for each 200 feet of lot area.
2 The double density provisions of Section 209.1(m) shall not result in greater density than that
3 permitted in an RC-4 District.

4 (6) Off-street parking requirements may be modified by the City Planning Commission,
5 as provided in Section 161(h) of this Code.

6 (7) A bulk district "T" shall apply pursuant to the provisions of Section 270, Table 270
7 of this Code.

8 (8) Special exceptions to the 80-foot base height limit in height and bulk districts 80-
9 120-T and 80-130-T may be granted pursuant to the provisions of Section 263.7 of this Code.

10 (9) Building setbacks are required in this district pursuant to Section 132.2; provisions
11 for exceptions are also set forth in Section 132.2 of this Code.

12 (10) Exceptions to the rear yard requirements for an RC-4 District may be granted
13 pursuant to Section 134(f) of this Code.

14 (11) Awnings, canopies and marquees, as defined in Sections 790.20, 790.26 and
15 790.58 of this Code, and further regulated by the Building Code and Sections 249.5(c)(12), 136.2 and
16 607.4 of this Code are permitted.

17 (12) Signs located in the RC-4 portion of this district shall be regulated as provided in
18 Section 607.4 of this Code.

19 (13) All provisions of the City Planning Code applicable in an RC-4 Use District shall
20 apply within that portion of the district zoned RC-4, except as specifically provided above. All
21 provisions of the City Planning Code applicable in a P Use District shall apply within that portion of the
22 district zoned P, except as specifically provided above.

23 (14) All demolitions of buildings containing residential units shall be permitted only if
24 authorized as a conditional use under Section 303 of this Code, unless the Director of the Department
25 of Building Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines that

1 the building is unsafe or dangerous and that demolition is the only feasible means to secure the public
2 safety. When considering whether to grant a conditional use permit for the demolition, in lieu of the
3 criteria set forth in City Planning Code Section 303(c), consideration shall be given to the purposes of
4 the North of Market Residential Special Use District set forth in Section 249.5(b), above, to the
5 adverse impact on the public health, safety and general welfare due to the loss of existing housing
6 stock in the district and to any unreasonable hardship to the applicant if the permit is denied.
7 Demolition of residential hotel units shall also comply with the provisions of the Residential Hotel
8 Ordinance.

9 (d) Liquor Establishments. In addition to all other applicable controls set forth in this Code,
10 Liquor Establishments in the North of Market Residential Special Use District shall be subject to the
11 controls set forth in this Section.

12 (1) No Off-Sale Liquor Establishments shall be permitted in the North of Market
13 Residential Special Use District, ~~except for grocery stores as defined in Section 790.102 of this~~
14 ~~Code.~~

15 (2) An Off-Sale Liquor Establishment lawfully existing in the North of Market
16 Residential Special Use District and selling alcoholic beverages as licensed by the State of California
17 prior to the effective date of this legislation may continue operation only under the following conditions,
18 as provided by California Business and Professions Code Section 23790:

19 (A) The premises shall retain the same type of retail liquor license within a license
20 classification; and

21 (B) The licensed premises shall be operated continuously without substantial change
22 in mode or character of operation.

23 (3) The prohibition on Off-Sale Liquor Establishments shall not be interpreted to
24 prohibit the following, provided that the type of California liquor license does not change, the location
25

1 of the establishment does not change, and the square footage used for the display and sale of
2 alcoholic beverages does not increase:

3 (A) A change in ownership of an Off-Sale Liquor Establishment or an owner-to-owner
4 transfer of a California liquor license; or

5 (B) Re-establishment, restoration or repair of an existing Off-Sale 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 (C) Temporary closure of an existing Off-Sale Liquor Establishment for not more than
9 ninety (90) days for repair, renovation or remodeling.

10 (4) The prohibition on Off-Sale Liquor Establishments shall not be interpreted to
11 prohibit the following:

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

13 (B) Establishment of an Off-Sale Liquor Establishment if application for such Off-Sale
14 Liquor Establishment is on file with the California Department of Alcoholic Beverage Control prior to
15 the effective date of this legislation; or

16 (C) Re-location of an existing Off-Sale Liquor Establishment in the North of Market
17 Residential Special Use District to another location within the North of Market Residential Special Use
18 District with conditional use authorization from the City Planning Commission, provided that (i) the type
19 of California liquor license does not, change, (ii) the square footage used for the display and sale of
20 alcoholic beverages does not increase, and (iii) the original premises shall not be occupied by an Off-
21 Sale Liquor Establishment unless by another Off-Sale Liquor Establishment that is also relocating from
22 within the North of Market Residential Special Use District. Any such conditional use authorization
23 shall include a requirement that the establishment comes with the "Good Neighbor Policies" set forth in
24 Subsection (d)(6) below; or

25

1 (D) A change in liquor license from a Type 21 (Off-Sale General) to a Type 20 (Off-
2 Sale Beer and Wine), provided that the square footage used for the display and sale of alcoholic
3 beverages does not increase.

4 (5) The prohibition on Off-Sale Liquor Establishments shall be interpreted to prohibit
5 the transfer of any California Alcoholic Beverage Control Board off-sale liquor license from a location
6 outside of the North of Market Residential Special Use District to a location within the North of Market
7 Residential Special Use District or the issuance of any original California Alcoholic Beverage Control
8 Board off-sale liquor license for a location within the North of Market Residential Special Use District.

9 (6) The following "Good Neighbor Policies" shall apply to all Liquor Establishments in
10 the North of Market Residential Special Use District in order to maintain the safety and cleanliness of
11 the premises and vicinity:

12 (A) Employees of the establishment shall walk a 100-foot radius from the premises
13 some time between 30 minutes after closing time and 8:00 a.m. the following morning, and shall pick
14 up and dispose of any discarded beverage containers and other trash left by patrons;

15 (B) The establishment shall provide outside lighting in a manner sufficient to illuminate
16 street and sidewalk areas and adjacent parking, as appropriate to maintain security, without disturbing
17 area residences;

18 (C) No alcoholic beverages shall be consumed on any outdoor property adjacent to
19 the establishment and which is under the control of the establishment, excepting those areas of the
20 property that are enclosed and not visible from the sidewalk. are intended for patron services, are
21 supervised by the establishment, and are not located adjacent to any sidewalk areas;

22 (D) No more than 33 percent of the square footage of the windows and clear doors of
23 the establishment shall bear advertising or signage of any sort, and all advertising and signage shall
24 be placed and maintained in a manner that ensures that law enforcement personnel have a clear and
25 unobstructed view of the interior of the premises, including the area in which the cash registers are

1 maintained, from the exterior public sidewalk or entrance to the premises. This requirement shall not
2 apply to premises where there are no windows, or where existing windows are located at a height that
3 precludes a view of the interior of the premises to a person standing outside the premises;

4 (E) No person under the age of 21 shall sell or package alcoholic beverages;

5 (F) Employees of the establishment shall regularly police the area under the control of
6 the establishment in an effort to prevent the loitering of persons about the premises; and

7 (G) The establishment shall promptly remove any graffiti from the exterior of the
8 premises.

9 (7) For purposes of this Section, the following definitions shall apply:

10 (A) "Liquor Establishment" shall mean any enterprise selling alcoholic beverages
11 pursuant to a California Alcoholic Beverage Control Board license.

12 (B) "Off-Sale Liquor Establishment" shall mean any ~~enterprise selling alcoholic~~
13 ~~beverages pursuant to a California Alcoholic Beverage Control Board License Type 20 (Off-Sale Beer~~
14 ~~and Wine), Type 21 (Off-Sale General), or any other California Alcoholic Beverage Control Board~~
15 ~~License which includes the privilege to sell alcoholic beverages for consumption off of the premises.~~
16 ~~Typical Off-Sale Liquor Establishments may include, but are not limited to, grocery stores,~~
17 ~~supermarkets and other retail sales and services~~ establishment that is defined in Section 790.55 of this
18 Code ~~except that for purposes of this Section such establishment shall not sell the following:~~

19 _____ (i) ~~any malt beverage with an alcohol content greater than 5.7 by volume;~~

20 _____ (ii) ~~any wine with an alcohol content of greater than 15% by volume~~

21 ~~except for "dinner wines" that have been aged two years or more and maintained in a corked~~
22 ~~bottle; or~~

23 _____ (iii) ~~any distilled spirits in container sizes smaller than 600 ml.~~

24 (C) "Alcoholic Beverages" shall mean "alcoholic beverages," as defined by California
25 Business and Professions Code Sections 23004 and 23025;

1 (D) "Sell" or "Sale" shall mean and include any retail transaction whereby, for any
2 consideration, an alcoholic beverage is transferred from one person to another.

3 Section 5. The San Francisco Planning Code is hereby amended by amending
4 Sections 781.8 and 781.9, to read as follows:

5 **SEC. 781.8. MISSION ALCOHOLIC BEVERAGE SPECIAL USE SUBDISTRICT.**

6 There is an unusually large number of establishments dispensing alcoholic beverages,
7 including beer and wine, for both on-site and off-site consumption in this area. The existence of this
8 many alcoholic beverage establishments appears to contribute directly to numerous peace, health,
9 safety and general welfare problems in the area, including loitering, littering, drug trafficking,
10 prostitution, public drunkenness, defacement and damaging of structures, pedestrian obstructions, as
11 well as traffic circulation, parking and noise problems on public streets and neighborhood lots. The
12 existence of such problems creates serious impacts on the health, safety and welfare of residents of
13 nearby single- and multiple-family areas, including fear for the safety of children, elderly residents and
14 of visitors to the area. The problems also contribute to the deterioration of the neighborhood and
15 concomitant devaluation of property and destruction of community values and quality of life. The
16 number of establishments selling alcoholic beverages and the associated problems discourage more
17 desirable and needed commercial uses in the area. In order to preserve the residential character and
18 the neighborhood-serving commercial uses of the area, there shall be a Mission Alcoholic Beverage
19 Special Use Subdistrict to prohibit new establishments, or expansion of existing establishments, selling
20 alcoholic beverages for the property in the area generally bounded by Guerrero Street, San Jose
21 Avenue, Randall Street, Mission Street, Cesar Chavez Street, Potrero Avenue and Fourteenth Street
22 as designated on Sectional Map Numbers 7SU and 8SU.

23 The following restrictions shall apply within such district:
24
25

1 (a) Prohibition of New Establishments Selling Alcoholic Beverages. No new establishment
2 where alcoholic beverages are sold, served or given away for on-site or off-site consumption, shall be
3 established in this special use district as set forth below:

4 (1) No new bar, as defined in Planning Code Section 790.22, shall be permitted in this
5 special use district;

6 (2) No new off-sale liquor establishment shall be permitted in the special use district.
7 An "off-sale liquor establishment" shall mean any establishment ~~which has obtained Alcoholic~~
8 ~~Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) selling~~
9 ~~alcoholic beverages in an open or a closed container for consumption off the premises. Typical off-sale~~
10 ~~liquor establishments may include but are not limited to the following: food markets, supermarkets,~~
11 ~~drugstores, liquor stores, bars and convenience markets~~ that is defined in Section 790.55 of this Code
12 ~~including the limitations on sale of specified beverages set forth in Section 249.5(d)(7)(B).~~

13 (b) Prohibition of Expansion of Existing Establishments Selling Alcoholic Beverages. Any
14 establishment selling alcoholic beverages lawfully existing prior to the effective date of this resolution
15 and licensed by the State of California for the retail sale of alcoholic beverages for on-site and off-site
16 consumption, so long as otherwise lawful, may continue in existence, provided such establishment
17 remains in use, as follows:

18 (1) In the event that any such establishment ceases to operate or discontinues
19 operation for 30 days or longer as set forth in State law, such use shall be deemed abandoned;

20 (2) No establishment selling alcoholic beverages may substantially change the mode
21 or character of operation of the establishment, nor may it expand the square footage devoted
22 exclusively to the sale of alcoholic beverages, significantly increase the percentage of alcoholic
23 beverage sales as a portion of total sales, or change its type of retail liquor license within a license
24 classification.

1 (c) Exception for Bona Fide Restaurant. A bona fide restaurant shall be permitted to serve
2 alcoholic beverages in this special use district. A "bona fide restaurant" shall mean a place which is
3 regularly used and kept open for the service of meals to guests for compensation and which has (1)
4 suitable kitchen facilities for the cooking of an assortment of foods which may be required for meals,
5 (2) a primary use of sit-down service to patrons, (3) adequate seating arrangements for sit-down
6 patrons provided on the premises, (4) take-out service that is only incidental to the primary sit-down
7 use, (5) alcoholic beverages which are sold or dispensed for consumption on the premises only when
8 served at tables or sit-down counters by employees of the restaurant, and (6) a minimum of 51 percent
9 of the restaurant's gross receipts shall be from the sale of meals. A "bona fide restaurant" does not
10 include any billiard or pool hall, bowling alley, or adult entertainment business as defined in Planning
11 Code Section 790.36.

12 (d) Exception for Non-Profit Theaters. A non-profit theater shall be permitted to serve
13 alcoholic beverages in this special use district. A "non-profit theater" shall mean a building or
14 part of a building intended to be used for the specific purposes of presenting any act, play,
15 revue, pantomime, scene, song, dance act, or song and dance act, conducted or participated
16 in by one or more persons, whether or not such person or persons are compensated for such
17 performance, and which is exempted from payment of income tax under Section 23701d of
18 the California Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue
19 Code of the United States. A "non-profit theater" does not include any dance hall as defined in
20 Section 1060 of the San Francisco Police Code, billiard parlor, pool hall, bowling alley, or
21 adult entertainment business as defined in Planning Code Section 790.36.

22 **SEC. 781.9. HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT.**

23 There is an unusually large number of establishments dispensing alcoholic beverages,
24 including beer and wine, for both on-site and off-site consumption in the Haight-Ashbury
25 neighborhood. A concentration of alcoholic beverage establishments in a neighborhood disrupts the

1 desired mix of land uses that contribute to a livable neighborhood and discourages more desirable and
2 needed commercial uses in the area. A concentration of establishments selling alcoholic beverages in
3 an area may therefore contribute to the deterioration of the neighborhood and to the concomitant
4 devaluation of property and destruction of community values and quality of life. These effects
5 contribute to peace, health, safety and general welfare problems in these areas, including loitering,
6 littering, public drunkenness, driving while intoxicated, defacement and damaging of structures,
7 pedestrian obstructions, as well as traffic circulation, parking and noise problems on public streets and
8 neighborhood lots, and other nuisance activities. The existence of such problems creates serious
9 impacts on the health, safety and welfare of residents of nearby single- and multiple-family areas.
10 These impacts include fear for the safety of children, elderly residents and visitors to the area.

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

17 (1) No new on-sale or off-sale liquor establishment shall be permitted in the Haight
18 Street RUSD, ~~except for grocery stores as defined in Section 790.102 of this Code.~~

19 (2) These controls also shall apply within 1/4-mile of the Haight Street Alcohol RUSD
20 to nonconforming uses in R districts pursuant to Planning Code Section 186, and in NC-1 Districts,
21 pursuant to the Special Provisions for NC-1 Districts which follows the Control Table constituting
22 Sections 710.10 through 710.95.

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

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

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

4 (C) Establishment of a Liquor Establishment if: (1) such use is an eligible movie
5 theater, (2) only beer and wine are offered for consumption, and (3) such beer and wine are: (i) only
6 consumed on the premises and primarily in the main theater auditorium, (ii) only sold to and consumed
7 by ticketholders and only immediately before and during performances, and (iii) only offered in
8 conjunction with the screening of films and not as an independent element of the establishment that is
9 unrelated to the viewing of films. For purposes of this Section, an "eligible movie theater" shall be a
10 movie theater as defined in Code Section 790.64 that contains only a single screen and auditorium,
11 has seating for 150 or fewer persons, and is not a formula retail use as defined in Code Section
12 703.3(b).

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

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

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

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

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

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

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

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

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

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

21 (b) Definitions:

22 (1) A "liquor establishment" shall mean any enterprise selling alcoholic beverages, as
23 defined by California Business and Professions Code Section 23004 and 23025, pursuant to a
24 California Alcoholic Beverage Control Board license.

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1 (2) An "on-sale liquor establishment" shall mean any liquor establishment which has
2 obtained Alcoholic Beverage Control Board License type 40 (on-sale beer), type 41 (on-sale beer and
3 wine eating place), type 42 (on-sale beer and wine public premises), type 47 (on-sale general eating
4 place), type 48 (on-sale general-public premises) or type 57 (special on-sale general) selling alcoholic
5 beverages for consumption on the premises. Typical on-sale establishments may include but are not
6 limited to bars and restaurants serving alcoholic beverages. It shall not include types 51, 52, 59, 60,
7 61, 67, 70 or 75.

8 (3) An "off-sale liquor establishment" shall mean any *liquor* establishment ~~which has~~
9 ~~obtained Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-~~
10 ~~sale general) selling alcoholic beverages in an open or a closed container for consumption off the~~
11 ~~premises. Typical off-sale liquor establishments may include but are not limited to the following uses~~
12 ~~licensed to sell off-sale alcoholic beverages: food markets, supermarkets, drugstores, liquor stores,~~
13 ~~bars and convenience markets. It shall not include producers and distributor's licenses for offices or~~
14 ~~establishments not open to the general public that is defined in Section 790.55 of this Code including~~
15 ~~the limitations on sale of specified beverages set forth in Section 249.5(d)(7)(B).~~

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

20 Section 6. The San Francisco Planning Code is hereby amended by amending
21 Sections 782 and 783, to read as follows:

22 **SEC. 782. THIRD STREET ALCOHOL RESTRICTED USE DISTRICT**
23 **ESTABLISHED.**

24 There is an unusually large number of establishments dispensing alcoholic beverages,
25 including beer and wine, for both on-site and off-site consumption in the Bayview area. The existence

1 of this many alcoholic beverage establishments appears to contribute directly to numerous peace,
2 health, safety and general welfare problems in the area, including loitering, littering, drug trafficking,
3 prostitution, public drunkenness, defacement and damaging of structures, pedestrian obstructions, as
4 well as traffic circulation, parking and noise problems on public streets and neighborhood lots. The
5 existence of such problems creates serious impacts on the health, safety and welfare of residents of
6 nearby single- and multiple-family areas, including fear for the safety of children, elderly residents and
7 of visitors to the area. The problems also contribute to the deterioration of the neighborhood and
8 concomitant devaluation of property and destruction of community values and quality of life. The
9 number of establishments selling alcoholic beverages and the associated problems discourage more
10 desirable and needed commercial uses in the area.

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

18 (1) No new on-sale or off-sale liquor establishment shall be permitted in the Third
19 Street Alcohol RUD, ~~except for grocery stores as defined in Section 790.102 of this Code.~~

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

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

23 (B) Establishment of a Liquor Establishment if application for such Liquor

24 Establishment is on file with the California Department of Alcoholic Beverage Control prior to the
25 effective date of legislation establishing the Third Street Alcohol RUD.

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

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

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

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

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

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

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

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

24 (4) Re-location of an existing Prohibited Liquor Establishment in the Third Street
25 Alcohol RUD to another location within the same Third Street Alcohol RUD with conditional use

1 authorization from the City Planning Commission, provided that the original premises shall not be
2 occupied by a Prohibited Liquor Establishment, unless by another Prohibited Liquor Establishment that
3 is also relocating from within the Third Street Alcohol RUD.

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

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

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

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

19 (c) Definitions.

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

23 (2) An "on-sale liquor establishment" shall mean any liquor establishment which has
24 obtained Alcoholic Beverage Control Board license type 40 (on-sale beer), type 42 (on-sale beer and
25 wine public premises), type 48 (on-sale general-public premises) or type 57 (special on-sale general)

1 selling alcoholic beverages for consumption on the premises. Typical on-sale establishments may
2 include but are not limited to bars serving alcoholic beverages. It shall not include types 41, 47, 51, 52,
3 59, 60, 61, 67, 70 or 75.

4 (3) An "off-sale liquor establishment" shall mean ~~liquor any~~ establishment ~~which has~~
5 ~~obtained Alcoholic Beverage Control Board license type 20 (off-sale beer and wine) or type 21 (off-sale~~
6 ~~general) selling alcoholic beverages in an open or closed container for consumption off the premises.~~
7 ~~Typical off-sale liquor establishments may include but are not limited to the following uses licensed to~~
8 ~~sell off-sale alcoholic beverages: food markets, supermarkets, drugstores, liquor stores, bars and~~
9 ~~convenience markets. It shall not include producers and distributor's licenses for offices or~~
10 ~~establishments not open to the general public that is defined in Section 790.55 of this Code including~~
11 ~~the limitations on sale of specified beverages set forth in Section 249.5(d)(7)(B).~~

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

16 **SEC. 783. DIVISADERO STREET ALCOHOL RESTRICTED USE DISTRICT**
17 **ESTABLISHED.**

18 There are an unusually large number of establishments dispensing alcoholic beverages,
19 including beer and wine, for off-site consumption in the Small-Scale Neighborhood Commercial District
20 along Divisadero Street between Haight and Geary Streets. The existence of this many alcoholic
21 beverage establishments appears to contribute directly to numerous peace, health, safety and general
22 welfare problems in the area, including loitering, littering, public drunkenness, defacement and
23 damaging of structures, pedestrian obstructions, as well as traffic circulation, parking and noise
24 problems on public streets and neighborhood lots. The existence of such problems creates serious
25 impacts on the health, safety and welfare of residents of nearby single- and multiple-family areas,

1 including fear for the safety of children, elderly residents and of visitors to the area. The problems also
2 contribute to the deterioration of the neighborhood and concomitant devaluation of property and
3 destruction of community values and quality of life. The number of establishments selling alcoholic
4 beverages and the associated problems discourage more desirable and needed commercial uses in
5 the area.

6 (a) In order to preserve the residential character and the neighborhood-serving commercial
7 uses of the area, the Divisadero Street Alcohol Restricted Use District (Divisadero Street Alcohol RUD)
8 is hereby established for the properties in the Small-Scale Neighborhood Commercial District along
9 Divisadero Street between Haight and Geary Streets, as designated on Sectional Map numbers 2 and
10 7. The Divisadero Street Alcohol RUD is designated on Sectional Map Numbers 2SU and 8SU.

11 (1) No new off-sale liquor establishments shall be permitted in the Divisadero Street
12 Alcohol RUD, ~~except for grocery stores as defined in Section 790.102 of this Code.~~

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

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

16 (B) Establishment of a Liquor Establishment if an application for such Liquor
17 Establishment is on file with the California Department of Alcoholic Beverage Control prior to the
18 effective date of legislation establishing the Divisadero Street Alcohol RUD.

19 (C) Re-location of an existing liquor establishment from outside the Divisadero Street
20 Alcohol RUD to a location within the Divisadero Street Alcohol RUD if that liquor establishment
21 received conditional use authorization from the City Planning Commission prior to the effective date of
22 this legislation.

23 (3) Continuation of Existing Prohibited Liquor Establishments. In the Divisadero Street
24 Alcohol RUD, any Prohibited Liquor Establishment may continue in accordance with Planning Code
25 Section 180 through 186.2, subject to the following provisions:

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

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

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

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

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

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

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

21 (4) Re-location of an existing Prohibited Liquor Establishment in the Divisadero Street
22 Alcohol RUD to another location within the same Divisadero Street Alcohol RUD with conditional use
23 authorization from the City Planning Commission, provided that the original premises shall not be
24 occupied by a Prohibited Liquor Establishment, unless by another Prohibited Liquor Establishment that
25 is also relocating from with the Divisadero Street Alcohol RUD.

1 (b) The following shall apply to all liquor establishments in the Divisadero Street Alcohol RUD
2 in order to maintain the safety of the premises and vicinity:

3 (1) Liquor establishments shall provide outside lighting in a manner sufficient to
4 illuminate street and sidewalk areas and adjacent parking, as appropriate to maintain security, without
5 disturbing area residences;

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

13 (c) Definitions:

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

17 (2) An "off-sale liquor establishment" shall mean any *liquor* establishment ~~which has~~
18 ~~obtained Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-~~
19 ~~sale general) selling alcoholic beverages in an open or a closed container for consumption off the~~
20 ~~premises. Typical off-sale liquor establishments may include but are not limited to the following uses~~
21 ~~licensed to sell off-sale alcoholic beverages: food markets, supermarkets, drugstores, liquor stores,~~
22 ~~bars and convenience markets. It shall not include producers and distributor's licenses for offices or~~
23 ~~establishments not open to the general public that is defined in Section 790.55 of this Code including~~
24 ~~the limitations on sale of specified beverages set forth in Section 249.5(d)(7)(B).~~

1 (3) A "prohibited liquor establishment" shall mean any establishment selling alcoholic
2 beverages lawfully existing prior to the effective date of the establishment of the Divisadero Street
3 Alcohol RUD and licensed by the State of California for the retail sale of alcoholic beverages for off-
4 site consumption, so long as otherwise lawful.

5 **SEC. 784. LOWER HAIGHT STREET ALCOHOL RESTRICTED USE DISTRICT.**

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

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

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

3 (2) Properties in the Neighborhood Commercial Cluster District located
4 generally along Haight Street at Pierce Street;

5 (3) Properties in the Small-Scale Neighborhood Commercial District located
6 generally along Haight Street at and between Steiner and Webster Streets.

7 The above Neighborhood Commercial Cluster Districts and Small-Scale Neighborhood
8 Commercial District are designated on Sectional Map Number 7 of the Zoning Map of the City
9 and County of San Francisco. Block and lot numbers for the properties included in these
10 districts are on file with the Clerk of the Board of Supervisors in File No. 060537 and are
11 incorporated herein by reference. The Lower Haight Street Alcohol RUD is designated on
12 Sectional Map Number 7SU of the Zoning Map of the City and County of San Francisco.

13 (1) No new off-sale liquor establishments ~~selling alcoholic beverages for off-site~~
14 ~~consumption~~ shall be permitted in the Lower Haight Street Alcohol RUD, ~~except for grocery~~
15 ~~stores as defined in Section 790.102 of this Code.~~

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

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

19 (B) Establishment of an off-sale liquor establishment if an application for such
20 liquor establishment is on file with the California Department of Alcoholic Beverage Control
21 prior to the effective date of this ordinance establishing the Lower Haight Street Alcohol RUD.

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

25

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

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

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

10 (B) A break in continuous operation shall not be interpreted to include the
11 following, provided that, except as indicated below, the location of the establishment does not
12 change, the square footage used for the sale of alcoholic beverages does not increase, and
13 the type of California Department of Alcoholic Beverage Control Liquor License ("ABC
14 License") does not change:

15 (i) A change in ownership of a prohibited liquor establishment or an owner-to-
16 owner transfer of an ABC License;

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

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

24 (iv) Relocation of an existing prohibited liquor establishment in the Lower
25 Haight Street Alcohol RUD to another location within the same Lower Haight Street Alcohol

1 RUD with conditional use authorization from the Planning Commission, provided that the
2 original premises shall not be occupied by a prohibited liquor establishment, unless by
3 another prohibited liquor establishment that is also relocating from within the Lower Haight
4 Street Alcohol RUD.

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

6 (1) ~~A "liquor establishment" shall mean any enterprise selling alcoholic~~
7 ~~beverages, as defined in California Business and Professions Code Sections 23004 and~~
8 ~~23025, pursuant to an ABC License. An "off-sale liquor establishment" shall mean any~~
9 ~~establishment that is defined in Section 790.55 of this Code including the limitations on sale of~~
10 ~~specified beverages set forth in Section 249.5(d)(7)(B).~~

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

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

17 **SEC. 790.102. SALES AND SERVICES, OTHER RETAIL.**

18 A retail use which provides goods and/or services but is not listed as a separate zoning
19 category in zoning category numbers .41 through .63 listed in Article 7 of this Code, including,
20 but not limited to, sale or provision of the following goods and services:

21 (a) General groceries. As used herein, general groceries means:

22 (1) An individual retail food establishment that:

23 (A) Exceeds 5,000 gross square feet;

24

25

1 (B) Offers a diverse variety of unrelated, non-complementary food and non-
2 food commodities, such as ~~non-alcoholic~~ beverages, dairy, dry goods, fresh produce and
3 other perishable items, frozen foods, household products, and paper goods;

4 (C) Prepares minor amounts or no food on-site for immediate consumption;
5 and

6 (D) Markets the majority of its merchandise at retail prices.

7 (b) Specialty groceries such as cheese, confections, coffee, meat, produce;

8 (c) Pharmaceutical drugs and personal toiletries;

9 (d) Personal items such as tobacco and magazines;

10 (e) Self-service laundromats and dry cleaning, where no portion of a building occupied
11 by such use shall have any opening other than fixed windows and exits required by law within
12 50 feet of any R District;

13 (f) Household goods and service (including paint, fixtures and hardware, but excluding
14 other building materials);

15 (g) Variety merchandise;

16 (h) Florists and plant stores;

17 (i) Apparel and accessories;

18 (j) Antiques, art galleries and framing service;

19 (k) Home furnishings, furniture and appliances;

20 (l) Books, stationery, music and sporting goods;

21 (m) Toys, gifts, and photographic goods and services; and

22 (n) Retail coffee stores. As used herein, retail coffee store means:

23 (1) A retail drinking use which provides ready-to-drink coffee and/or other

24 nonalcoholic beverages for consumption on or off the premises, which may or may not

25 provide seating. Its intended design is not to serve prepared ready-to-eat food for

1 consumption on or off the premises, except where a conditional use is granted for an
2 exception in the West Portal NCD pursuant to the "Specific Provisions for the West Portal
3 District." Such use exhibits the following characteristics:

4 (A) Contains no more than 15 seats with no more than 400 square feet of floor
5 area devoted to seating,

6 (B) A limited menu of beverages prepared on the premises and able to be
7 quickly prepared for consumption on or off the premises,

8 (C) Beverages served in disposable or nondisposable containers for
9 consumption on or off the premises,

10 (D) Beverages are ordered and served at a customer service counter,

11 (E) Beverages are paid for prior to consumption,

12 (F) Public service area, including queuing areas and service counters, which
13 counters are designed specifically for the sale and distribution of beverages;

14 (G) Beverages are available upon a short waiting time,

15 (H) Equipment to prepare beverages for consumption,

16 (I) Limited amount of nonprepackaged food goods may be served, such as
17 pastries or similar goods,

18 (J) No on-site food preparation, and no equipment to cook or reheat food or
19 prepare meals other than that connected to beverage preparation, except where a conditional
20 use is granted for an exception in the West Portal NCD pursuant to the "Specific Provisions
21 for the West Portal District."

22 (K) Coffee beans, tea, syrups, herbs and other beverage-based products and
23 equipment to make and/or reconstitute beverages or consume coffee, tea and/or other
24 beverages may be sold.

25

1 It may include any use permitted for specialty grocery, as defined in Section
2 790.102(b), but if so, such use shall not include accessory take-out food activity, as described
3 in Section 703.2(b)(1)(C) of this Code, except to the extent permitted by this Subsection
4 790.102(n). It is distinct and separate from a small self-service or large fast-food restaurant,
5 as defined in Section 790.90 and 790.91 of this Code, or a full-service restaurant as defined in
6 Section 790.92 of this Code.

7 (2) It shall be conducted in accordance with the following conditions:

8 (A) All debris boxes shall be kept in enclosed structures,

9 (B) The operator shall be responsible for cleaning the sidewalk in front of or
10 abutting the building to maintain the sidewalk free of paper or other litter during its business
11 hours, in accordance with Article 1, Section 34 of the San Francisco Police Code,

12 (C) Noise and odors shall be contained within the premises so as not to be a
13 nuisance to nearby residents or neighbors.

14 This Section excludes tourist motels, as distinguished from tourist hotels in Section
15 790.46 of this Code, amusement game arcades as defined in Section 790.4 of this Code and
16 household goods self-storage facilities, which are included in storage as defined in Section
17 790.117 of this Code. It also excludes the sale of heating fuel and the sale or rental of
18 commercial equipment (excluding office equipment) and construction materials, other than
19 paint, fixtures and hardware.

20

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 John D. Malamut
25 Deputy City Attorney

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