

BOARD of SUPERVISORS



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November 27, 2013

File No. 131121

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On November 19, 2013, Supervisor Cohen introduced the following legislation:

**File No. 131121**

**Ordinance amending the Planning Code, to amend the Third Street Alcohol Restricted Use District, to allow Alcoholic Beverage Control (ABC) Type 2, "Winegrower" licenses; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Committee Clerk  
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning  
Nannie Turrell, Environmental Planning

*Not a project per CEQA  
Guidelines Section  
15060 (c)(2).  
Nannie Turrell  
Dec. 5, 2013*



1 [Planning Code - Amending the Third Street Alcohol Restricted Use District]

2

3 **Ordinance amending the Planning Code, to amend the Third Street Alcohol Restricted**  
4 **Use District, to allow Alcoholic Beverage Control (ABC) Type 2, "Winegrower" licenses;**  
5 **and making environmental findings, and findings of consistency with the General Plan,**  
6 **and the eight priority policies of Planning Code, Section 101.1.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
9 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.  
10 **Board amendment additions** are in double-underlined Arial font.  
11 **Board amendment deletions** are in ~~Arial font~~.  
12 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
13 subsections or parts of tables.

11

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

13 Section 1.

14 (a) The Planning Department has determined that the actions contemplated in this  
15 ordinance comply with the California Environmental Quality Act (California Public Resources  
16 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
17 Supervisors in File No. \_\_\_\_ and is incorporated herein by reference.

18 (b) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
19 amendments will serve the public necessity, convenience, and welfare for the reasons set  
20 forth in Planning Commission Resolution No. \_\_\_\_\_ and the Board incorporates such  
21 reasons herein by reference. A copy of Planning Commission Resolution No. \_\_\_\_\_ is on file  
22 with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

23 (c) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
24 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
25 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
2 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

3 Section 2. The Planning Code is hereby amended by revising Section 249.62, to read  
4 as follows:

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

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

19 (a) In order to preserve the residential character and the neighborhood-serving  
20 commercial uses of the area, the Third Street Alcohol Restricted Use District (Third Street  
21 Alcohol RUD) is hereby established for the property in the area generally bounded by Islais  
22 Creek to the North, Quint Street, Phelps Street, Tampa Street, Bridgeview Drive, Newhall  
23 Street, Venus Street and Egbert Avenue to the West, US Highway 101 to the South, and  
24 Mendell Street, La Salle Avenue, Keith Street, Palou Street, Jennings Street, and Ingalls  
25

1 Street to the East, as designated on Sectional Map numbers 8 and 10. The Third Street  
2 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  
10 the effective date of legislation establishing the Third Street Alcohol RUD; or

11 (C) Sales of wine and brandy pursuant to an Alcohol Beverage Control (ABC) License  
12 Type 2.

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

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

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

23 (2) Except as provided by Subsection (B) below, the licensed premises shall  
24 be operated continuously, without substantial change in mode or character of operation.  
25

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

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

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

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

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

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

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

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

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

12           (c) Definitions.

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

16           (2) An "on-sale liquor establishment" shall mean any liquor establishment which  
17 has obtained Alcoholic Beverage Control Board license type 40 (on-sale beer), type 42 (on-  
18 sale beer and wine public premises), type 48 (on-sale general-public premises) or type 57  
19 (special on-sale general) selling alcoholic beverages for consumption on the premises.  
20 Typical on-sale establishments may include but are not limited to bars serving alcoholic  
21 beverages. It shall not include types 41, 47, 51, 52, 59, 60, 61, 67, 70 or 75.

22           (3) An "off-sale liquor establishment" shall mean any establishment that is defined  
23 in Section 790.55 of this Code.

24           (4) A "prohibited liquor establishment" shall mean any establishment selling  
25 alcoholic beverages lawfully existing prior to the effective date of the establishment of the

1 Third Street Alcohol RUD and licensed by the State of California for the retail sale of alcoholic  
2 beverages for on- or off-site consumption, so long as otherwise lawful.

3 (d) Fringe Financial Services. In addition to all other applicable controls set forth in  
4 this Code, properties in the Third Street Alcohol Restricted Use District are within the Fringe  
5 Financial Service Restricted Use District established by Section 249.35 and are subject to the  
6 controls and exemptions set forth in Section 249.35.

7 Section 3. Effective Date. This ordinance shall become effective 30 days after  
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
10 of Supervisors overrides the Mayor's veto of the ordinance.

11 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Planning  
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
15 additions, and Board amendment deletions in accordance with the "Note" that appears under  
16 the official title of the ordinance.

17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By: \_\_\_\_\_  
21 ANDREA RUIZ-ESQUIDE  
22 Deputy City Attorney

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