

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

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3 **Ordinance amending the Planning Code to amend the Third Street Alcohol Restricted**
4 **Use District to allow Alcoholic Beverage Control Type 23, “Small Beer Manufacturer”**
5 **Licenses; and making environmental findings, and findings of consistency with the**
6 **General Plan, 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 *strikethrough italics Times New Roman font*.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

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

15 Section 1.

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

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

25 (c) On _____, the Planning Commission, in Resolution No. _____, adopted
findings that the actions contemplated in this ordinance are consistent, on balance, with the
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 beverages,
7 including beer and wine, for both on-site and off-site consumption in the Bayview area. The
8 existence of this many alcoholic beverage establishments appears to contribute directly to
9 numerous peace, health, safety and general welfare problems in the area, including loitering,
10 littering, drug trafficking, prostitution, public drunkenness, defacement and damaging of
11 structures, pedestrian obstructions, as well as traffic circulation, parking and noise problems
12 on public streets and neighborhood lots. The existence of such problems creates serious
13 impacts on the health, safety and welfare of residents of nearby single- and multiple-family
14 areas, including fear for the safety of children, elderly residents and of visitors to the area. The
15 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
4 Third Street Alcohol RUD.

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

7 (A) Temporary uses, as described in Planning Code Section 205.1 or
8 205.3;

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

12 (C) Sales of wine and brandy pursuant to an Alcohol Beverage Control
13 (ABC) License Type 2; or

14 (D) Sales and manufacturing of beer pursuant to an Alcohol Beverage Control
15 (ABC) License Type 23.

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

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

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

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

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

9 (~~1~~i) A change in ownership of a Prohibited Liquor Establishment or
10 an owner-to-owner transfer of an ABC License;

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

14 (~~3~~iii) Temporary closure of an existing Prohibited Liquor
15 Establishment for not more than ninety (90) days for repair, renovation or remodeling;

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

22 (~~5~~v) A change from a Type 21 (off-sale) to a Type 20 (off-sale beer
23 and wine) license or a change from any Alcohol Beverage Control Board License type to a
24 Type 41 (on-sale beer and wine - eating place).

1 (b) The following shall apply to all liquor establishments in the Third Street Alcohol
2 RUD 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,
5 without disturbing area residences; *and*

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

14 (c) Definitions.

15 ~~(1)~~ ~~A~~ "Liquor establishment" shall mean any enterprise selling alcoholic
16 beverages, as defined by California Business and Professions Code Section 23004 and
17 23025, pursuant to a California Alcoholic Beverage Control Board license.

18 "Off-sale liquor establishment" shall mean any establishment that is defined in Section
19 790.55 of this Code.

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

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

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

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

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

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

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

24 By: _____
25 ANDREA RUIZ-ESQUIDE
 Deputy City Attorney

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