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

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

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

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

c. The recent citywide spate of grocery store closures and the general desirability of such stores necessitate efforts to recraft alcohol restrictions in the Planning Code to be more permissive toward grocery stores and similar uses.
Section 2. Environmental Findings, General Plan Findings, and Other Required Findings.

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

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

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

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

SEC. 790.55. LIQUOR STORE.

A retail use which sells beer, wine, or distilled spirits to a customer in an open or closed container for consumption off the premises and which needs a State of California Alcoholic
Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general).

This classification shall not include retail uses that (1) are classified as a general grocery store use as set forth in Section 790.102(a) or (2) have both (a) a use size as defined in Section 790.130 of this Code of greater than 10,000 gross square feet and (b) a gross floor area devoted to alcoholic beverages that is within accessory use limits as set forth in Section 790.204 or 703.2(b)(1)(c) of this Code, depending on the zoning district in which the use is located. For purposes of Planning Code Sections 249.5, 781.8, 781.9, 782, 783, and 784, the retail uses explicitly exempted from this definition as set forth above shall not:

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

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

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

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

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

(b) Purposes. In order to protect and enhance important housing resources in an area near downtown, conserve and upgrade existing low and moderate income housing stock, preserve buildings of architectural and historic importance and preserve the existing scale of development, maintain sunlight in public spaces, encourage new infill housing at a compatible density, limit the development of tourist hotels and other commercial uses that could adversely impact the residential
nature of the area, and limit the number of commercial establishments which are not intended primarily
for customers who are residents of the area, the following controls are imposed in the North of Market
Residential Special Use District.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) All demolitions of buildings containing residential units shall be permitted only if authorized as a conditional use under Section 303 of this Code, unless the Director of the Department of Building Inspection or the Chief of the Bureau of Fire Prevention and Public Safety determines that
the building is unsafe or dangerous and that demolition is the only feasible means to secure the public
safety. When considering whether to grant a conditional use permit for the demolition, in lieu of the
criteria set forth in City Planning Code Section 303(c), consideration shall be given to the purposes of
the North of Market Residential Special Use District set forth in Section 249.5(b), above, to the
adverse impact on the public health, safety and general welfare due to the loss of existing housing
stock in the district and to any unreasonable hardship to the applicant if the permit is denied.
Demolition of residential hotel units shall also comply with the provisions of the Residential Hotel
Ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) any wine with an alcohol content of greater than 15% by volume except for "dinner wines" that have been aged two years or more and maintained in a corked bottle; or

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

(C) "Alcoholic Beverages" shall mean "alcoholic beverages," as defined by California Business and Professions Code Sections 23004 and 23025;
(D) "Sell" or "Sale" shall mean and include any retail transaction whereby, for any consideration, an alcoholic beverage is transferred from one person to another.

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

SEC. 781.8. MISSION ALCOHOLIC BEVERAGE SPECIAL USE SUBDISTRICT.

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

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

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

(2) No new off-sale liquor establishment shall be permitted in the special use district.

An "off-sale liquor establishment" shall mean any establishment which has obtained a California Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) selling alcoholic beverages in an open or a closed container for consumption off the premises. Typical off-sale liquor establishments may include but are not limited to the following: food markets, supermarkets, drugstores, liquor stores, bars and convenience markets that is defined in Section 790.55 of this Code including the limitations on sale of specified beverages set forth in Section 249.5(d)(7)(B).

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

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

(2) No establishment selling alcoholic beverages may substantially change the mode or character of operation of the establishment, nor may it expand the square footage devoted exclusively to the sale of alcoholic beverages, significantly increase the percentage of alcoholic beverage sales as a portion of total sales, or change its type of retail liquor license within a license classification.
(c) Exception for Bona Fide Restaurant. A bona fide restaurant shall be permitted to serve alcoholic beverages in this special use district. A "bona fide restaurant" shall mean a place which is regularly used and kept open for the service of meals to guests for compensation and which has (1) suitable kitchen facilities for the cooking of an assortment of foods which may be required for meals, (2) a primary use of sit-down service to patrons, (3) adequate seating arrangements for sit-down patrons provided on the premises, (4) take-out service that is only incidental to the primary sit-down use, (5) alcoholic beverages which are sold or dispensed for consumption on the premises only when served at tables or sit-down counters by employees of the restaurant, and (6) a minimum of 51 percent of the restaurant's gross receipts shall be from the sale of meals. A "bona fide restaurant" does not include any billiard or pool hall, bowling alley, or adult entertainment business as defined in Planning Code Section 790.36.

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

SEC. 781.9. HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT.

There is an unusually large number of establishments dispensing alcoholic beverages, including beer and wine, for both on-site and off-site consumption in the Haight-Ashbury neighborhood. A concentration of alcoholic beverage establishments in a neighborhood disrupts the
desired mix of land uses that contribute to a livable neighborhood and discourages more desirable and
needed commercial uses in the area. A concentration of establishments selling alcoholic beverages in
an area may therefore contribute to the deterioration of the neighborhood and to the concomitant
devolution of property and destruction of community values and quality of life. These effects
contribute to peace, health, safety and general welfare problems in these areas, including loitering,
public drunkenness, driving while intoxicated, defacement and damaging of structures,
pedestrian obstructions, as well as traffic circulation, parking and noise problems on public streets and
neighborhood lots, and other nuisance activities. The existence of such problems creates serious
impacts on the health, safety and welfare of residents of nearby single- and multiple-family areas.
These impacts include fear for the safety of children, elderly residents and visitors to the area.

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

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

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

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

(A) Temporary uses, as described in Planning Code Section 205.1 or 205.3; or
(B) Establishment of a Liquor Establishment if application for such Liquor Establishment is on file with the California Department of Alcoholic Beverage Control prior to the effective date of legislation establishing the Haight Street Alcohol RUSD.

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

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

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

(1) Except as provided by Subsection (B) below, the premises shall retain the same type of retail liquor license within a license classification; and
(2) Except as provided by Subsection (B) below, the licensed premises shall be operated continuously, without substantial change in mode or character of operation.

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

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

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

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

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

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

(b) Definitions:

(1) A "liquor establishment" shall mean any enterprise selling alcoholic beverages, as defined by California Business and Professions Code Section 23004 and 23025, pursuant to a California Alcoholic Beverage Control Board license.
(2) An "on-sale liquor establishment" shall mean any liquor establishment which has obtained Alcoholic Beverage Control Board License type 40 (on-sale beer), type 41 (on-sale beer and wine eating place), type 42 (on-sale beer and wine public premises), type 47 (on-sale general eating place), type 48 (on-sale general-public premises) or type 57 (special on-sale general) selling alcoholic beverages for consumption on the premises. Typical on-sale establishments may include but are not limited to bars and restaurants serving alcoholic beverages. It shall not include types 51, 52, 59, 60, 61, 67, 70 or 75.

(3) An "off-sale liquor establishment" shall mean any establishment which has obtained Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) selling alcoholic beverages in an open or a closed container for consumption off the premises. Typical off-sale liquor establishments may include but are not limited to the following uses licensed to sell off-sale alcoholic beverages: food markets, supermarkets, drugstores, liquor stores, bars and convenience markets. It shall not include producers and distributor's licenses for offcees or establishments not open to the general public that is defined in Section 790.53 of this Code including the limitations on sale of specified beverages set forth in Section 249.5(d)(7)(B).

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

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

SEC. 782. THIRD STREET ALCOHOL RESTRICTED USE DISTRICT ESTABLISHED.

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

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

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

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

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

(B) Establishment of a Liquor Establishment if application for such Liquor
Establishment is on file with the California Department of Alcoholic Beverage Control prior to the
effective date of legislation establishing the Third Street Alcohol RUD.
Continuation of existing Prohibited Liquor Establishments. In the Third Street Alcohol RUD, any Prohibited Liquor Establishment may continue in accordance with Planning Code Section 180 through 186.2, subject to the following provisions.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Definitions.

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

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

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

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

SEC. 783. DIVISADERO STREET ALCOHOL RESTRICTED USE DISTRICT

ESTABLISHED.

There are an unusually large number of establishments dispensing alcoholic beverages,
including beer and wine, for off-site consumption in the Small-Scale Neighborhood Commercial District
along Divisadero Street between Haight and Geary Streets. The existence of this many alcoholic
beverage establishments appears to contribute directly to numerous peace, health, safety and general
welfare problems in the area, including loitering, littering, public drunkenness, defacement and
damaging of structures, pedestrian obstructions, as well as traffic circulation, parking and noise
problems on public streets and neighborhood lots. The existence of such problems creates serious
impacts on the health, safety and welfare of residents of nearby single- and multiple-family areas,
including fear for the safety of children, elderly residents and of visitors to the area. The problems also contribute to the deterioration of the neighborhood and concomitant devaluation of property and destruction of community values and quality of life. The number of establishments selling alcoholic beverages and the associated problems discourage more desirable and needed commercial uses in the area.

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

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

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

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

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

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

(3) Continuation of Existing Prohibited Liquor Establishments. In the Divisadero Street Alcohol RUD, any Prohibited Liquor Establishment may continue in accordance with Planning Code Section 180 through 186.2, subject to the following provisions:
(A) A Prohibited Liquor Establishment lawfully existing and selling alcoholic beverages as licensed by the State of California prior to the effective date of this legislation, or subsequent legislation prohibiting that type of Liquor Establishment, so long as otherwise lawful, may continue to operate only under the following conditions, as provided by California Business and Professions Code Section 23790:

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

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

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

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

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

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

(4) Re-location of an existing Prohibited Liquor Establishment in the Divisadero Street Alcohol RUD to another location within the same Divisadero Street Alcohol RUD with conditional use authorization from the City Planning Commission, provided that the original premises shall not be occupied by a Prohibited Liquor Establishment, unless by another Prohibited Liquor Establishment that is also relocating from with the Divisadero Street Alcohol RUD.
(b) The following shall apply to all liquor establishments in the Divisadero Street Alcohol RUD in order to maintain the safety of the premises and vicinity:

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

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

(c) Definitions:

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

(2) An "off-sale liquor establishment" shall mean any liquor establishment which has obtained Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) selling alcoholic beverages in an open or a closed container for consumption off the premises. Typical off-sale liquor establishments may include but are not limited to the following uses licensed to sell off-sale alcoholic beverages: food markets, supermarkets, drugstores, liquor stores, bars and convenience markets. It shall not include producers and distributor’s licenses for offices or establishments not open to the general public that is defined in Section 790.55 of this Code including the limitations on sale of specified beverages set forth in Section 249.5(d)(7)(B).
(3) A "prohibited liquor establishment" shall mean any establishment selling alcoholic beverages lawfully existing prior to the effective date of the establishment of the Divisadero Street Alcohol RUD and licensed by the State of California for the retail sale of alcoholic beverages for off-site consumption, so long as otherwise lawful.

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

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

(b) Establishment of the Lower Haight Street Alcohol Restricted Use District. In order to preserve the residential character and the neighborhood-serving commercial uses of the area, the Lower Haight Street Alcohol Restricted Use District (Lower Haight Street Alcohol RUD) is hereby established for the following:
(1) Properties in the Neighborhood Commercial Cluster District located generally along Haight Street at Scott Street;

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

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

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

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

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

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

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

(3) Continuation of Existing Prohibited Liquor Establishments. In the Lower Haight Street Alcohol RUD, any prohibited liquor establishment may continue in accordance with Planning Code section 180 through 186.2, subject to the following provisions:
(A) A prohibited liquor establishment lawfully existing and selling alcoholic beverages as licensed by the State of California prior to the effective date of this legislation, or subsequent legislation prohibiting that type of liquor establishment, so long as otherwise lawful, may continue to operate only under the following conditions, as provided by California Business and Professions Code Section 23790:

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

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

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

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

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

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

(iv) Relocation of an existing prohibited liquor establishment in the Lower Haight Street Alcohol RUD to another location within the same Lower Haight Street Alcohol
RUD with conditional use authorization from the Planning Commission, provided that the original premises shall not be occupied by a prohibited liquor establishment, unless by another prohibited liquor establishment that is also relocating from within the Lower Haight Street Alcohol RUD.

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

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

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

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

SEC. 790.102. SALES AND SERVICES, OTHER RETAIL.

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

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

(1) An individual retail food establishment that:

(A) Exceeds 5,000 gross square feet;
(B) Offers a diverse variety of unrelated, non-complementary food and non-food commodities, such as non-alcoholic beverages, dairy, dry goods, fresh produce and other perishable items, frozen foods, household products, and paper goods;

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

and

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

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

(c) Pharmaceutical drugs and personal toiletries;

(d) Personal items such as tobacco and magazines;

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

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

(g) Variety merchandise;

(h) Florists and plant stores;

(i) Apparel and accessories;

(j) Antiques, art galleries and framing service;

(k) Home furnishings, furniture and appliances;

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

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

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

(1) A retail drinking use which provides ready-to-drink coffee and/or other nonalcoholic beverages for consumption on or off the premises, which may or may not provide seating. Its intended design is not to serve prepared ready-to-eat food for
consumption on or off the premises, except where a conditional use is granted for an
exception in the West Portal NCD pursuant to the "Specific Provisions for the West Portal
District." Such use exhibits the following characteristics:

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

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

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

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

(E) Beverages are paid for prior to consumption,

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

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

(H) Equipment to prepare beverages for consumption,

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

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

(K) Coffee beans, tea, syrups, herbs and other beverage-based products and
equipment to make and/or reconstitute beverages or consume coffee, tea and/or other
beverages may be sold.
It may include any use permitted for specialty grocery, as defined in Section 790.102(b), but if so, such use shall not include accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, except to the extent permitted by this Subsection 790.102(n). It is distinct and separate from a small self-service or large fast-food restaurant, as defined in Section 790.90 and 790.91 of this Code, or a full-service restaurant as defined in Section 790.92 of this Code.

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

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

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

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

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

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

By: John D. Malamut
Deputy City Attorney
Ordinance amending Planning Code Sections 790.55, 790.102, 249.5, 781.8, 781.9, 782, 783, and 784 to remove grocery stores and other similar uses from prohibitions placed on the establishment of liquor stores in certain districts; and making environmental findings and findings of consistency with the General Plan and priority policies of Planning Code Section 101.1.

October 30, 2007 Board of Supervisors — PASSED ON FIRST READING
Ayes: 9 - Alioto-Pier, Ammiano, Chu, Dufty, Elsbernd, Maxwell, Mirkarimi, Peskin, Sandoval
Noes: I - Daly
Absent: I - McGoldrick

November 6, 2007 Board of Supervisors — FINALLY PASSED
Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on November 6, 2007 by the Board of Supervisors of the City and County of San Francisco.

Date Approved

11/14/2007

Angela Calvinio
Clerk of the Board

Mayor Gavin Newsom