

BOARD of SUPERVISORS



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November 26, 2013

File No. 131120

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

Dear Ms. Jones:

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

File No. 131120

Ordinance amending the Planning Code, by adding a new Section 789, to establish the Broadway Alcohol Restricted Use District on parcels with street frontage on Broadway, between Columbus Avenue and Montgomery Street; amending the Zoning Map, Sheet SU-02, to designate the Broadway Alcohol Restricted Use District; 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

Handwritten signature of Alisa Miller in cursive.

By: Alisa Miller, 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
December 5, 2013*

1 [Planning Code, Zoning Map - Broadway Alcohol Restricted Use District]

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3 **Ordinance amending the Planning Code, by adding a new Section 789, to establish the**
4 **Broadway Alcohol Restricted Use District on parcels with street frontage on Broadway,**
5 **between Columbus Avenue and Montgomery Street; amending the Zoning Map, Sheet**
6 **SU-02, to designate the Broadway Alcohol Restricted Use District; and making**
7 **environmental findings, and findings of consistency with the General Plan, and the**
8 **eight priority policies of Planning Code, Section 101.1.**

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

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

17 Section 1.

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

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

1 (c) On _____, the Planning Commission, in Resolution No. _____, adopted
2 findings that the actions contemplated in this ordinance are consistent, on balance, with the
3 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
4 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
5 Board of Supervisors in File No. _____, and is incorporated herein by reference.

6 Section 2. The Planning Code is hereby amended by adding new Section 789, to read
7 as follows:

8 SEC. 789. BROADWAY ALCOHOL RESTRICTED USE DISTRICT.

9 (a) Findings. There is an unusually large number of establishments dispensing alcoholic
10 beverages for consumption on Broadway, between Columbus Avenue and Montgomery Street. The
11 existence of so many alcoholic beverage establishments, particularly bars and clubs selling spirits,
12 appears to contribute directly to numerous peace, health, safety and general welfare problems in the
13 area, including loitering, littering, public drunkenness, defacement and damaging of structures, and
14 pedestrian obstructions, as well as traffic circulation, parking and noise problems on public streets and
15 neighborhood. The existence of such problems creates serious impacts on the health, safety and
16 welfare of residents of nearby single- and multiple-family areas, including fear for the safety of
17 children, elderly residents, and visitors to the area. The problems also contribute to the deterioration of
18 the neighborhood and concomitant devaluation of property and destruction of community values and
19 quality of life. The number of establishments selling alcoholic beverages and the associated problems
20 discourage more desirable and needed commercial uses in the area.

21 (b) Establishment of the Broadway Alcohol Restricted Use District. In order to preserve the
22 residential character and the neighborhood-serving commercial uses of the area, the Broadway
23 Alcohol Restricted Use District is hereby established, covering all parcels with street frontage on
24 Broadway, between Columbus Ave. and Montgomery Street. The Broadway Alcohol Restricted Use
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1 District shall be designated on Map Sheet Number SU-02 on the Zoning Map of the City and County of
2 San Francisco.

3 (c) Definitions.

4 (1) A "liquor establishment" shall mean any enterprise selling alcoholic beverages, as
5 defined by California Business & Professions Code Section 23004 and 23025, pursuant to a California
6 Alcoholic Beverage Control Board license. It shall not be interpreted to mean an establishment that
7 (A) operates as a Bona Fide Eating Place, as defined in Section 790.142 of this Code, or (B) operates
8 as an "other retail sales and service" use that sells general groceries or specialty groceries, as defined
9 in Planning Code Section 790.102 (a) or (b), respectively.

10 (2) An "off sale liquor establishment" shall mean a Liquor Store as defined in Planning
11 Code Section 790.55.

12 (3) An "on sale liquor establishment" shall mean a Bar as defined in Planning Code
13 Section 790.22.

14 (d) Controls.

15 (1) No new on-sale or off-sale liquor establishment (except bars serving only wine and
16 beer with a California Department of Alcoholic Beverage Control Liquor License ("ABC License")
17 Type No. 42) shall be permitted in the Broadway Alcohol Restricted Use District. A liquor
18 establishment located in the Broadway Alcohol Restricted Use District may transfer its alcohol license
19 to another site, either within or outside the Broadway Alcohol Restricted Use District. A liquor
20 establishment located outside the Broadway Alcohol Restricted Use District shall not transfer any
21 alcohol license to a liquor establishment located within the Broadway Alcohol Restricted Use District.
22 Any transfer of a liquor an alcohol license to a new location within the Broadway Alcohol Restricted
23 Use District shall require a conditional use permit for the new liquor establishment.

24 (2) Whenever a liquor establishment has discontinued its use for a continuous period of
25 one year or more, the liquor establishment shall be deemed to have abandoned its use as a liquor

1 establishment: provided that a break in continuous operation shall not be interpreted to include the
2 following, as long as the location of the establishment does not change, the square footage used for the
3 sale of alcoholic beverages does not increase, and the type of ABC License does not change:

4 (A) Re-establishment, restoration or repair of an existing liquor establishment
5 on the same lot after total or partial destruction or damage due to fire, riot, insurrection, toxic accident
6 or other force majeure; or

7 (B) Temporary closure of an existing liquor establishment for repair, renovation
8 or remodeling, provided that permit applications for the repair, renovation or remodeling work shall
9 be submitted to the City upon or prior to the temporary closure and such permits and work shall be
10 pursued diligently to completion; or

11 (C) A change in ownership of a Liquor Establishment or an owner-to-owner
12 transfer of an ABC License.

13 (3) New Restaurants with ABC Licenses Types 47 and 49 may operate past 12:00
14 midnight provided that the Restaurant serves food in the following manner, until the time it closes:

15 (A) It continues to serve meals to guests for compensation and has available
16 kitchen facilities connected therewith, for cooking of an assortment of foods which may be required for
17 ordinary meals; and

18 (B) "Meals" that are offered after midnight shall mean an assortment of foods
19 commonly ordered at various hours of the day for breakfast, lunch or dinner. Incidental food service,
20 comprised only of appetizers to accompany drinks, is not considered a meal. Incidental, sporadic or
21 infrequent sales of meals or a mere offering of meals without actual sales is not compliance; and

22 (C) "Guests" shall mean persons who come to the Restaurant after midnight for
23 the purpose of obtaining, and actually order and obtain at such time, a meal therein. Nothing in this
24 section, however, shall be construed to require that any food be sold or purchased with any beverage.

1 (e) Sunset Provision. This Section 789 shall be repealed two (2) years after its initial Effective
2 Date unless the Board of Supervisors, on or before that date, extends or re-enacts it.

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

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

11 By: 
12 ANDREA RUIZ-ESQUIDE
13 Deputy City Attorney

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