

(O-90-66)

ORDINANCE NUMBER O- 17396 (NEW SERIES)

ADOPTED ON DEC 4 1989

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3, DIVISION 4 THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 103.0408 RELATING TO THE ISSUANCE OF ALCOHOL BEVERAGE PERMITS IN THE GASLAMP PLANNED DISTRICT.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter X, Article 3, of the San Diego Municipal Code be and the same is hereby amended by amending Section 103.0408 to read as follows:

SEC. 103.0408 Permitted Uses

In the Gaslamp Quarter Redevelopment Project Area, no building or improvement or portion thereof shall be erected, constructed, converted, established, altered, or enlarged, nor shall any premises be used except for one or more of the following purposes:

A. Retailing of consumer convenience goods and dispensing of consumer services from the following establishments:

1. [No change.]
2. [No change.]
3. [No change.]

CORRECTED 10/09/89

4. [No change.]
5. [No change.]
6. [No change.]
7. [No change.]
8. [No change.]
9. [No change.]
10. [No change.]
11. [No change.]
12. [No change.]
13. [No change.]
14. [No change.]
15. [No change.]
16. [No change.]
17. [No change.]
18. [No change.]
19. [No change.]
20. [No change.]
21. [No change.]
22. [No change.]
23. [No change.]
24. [No change.]
25. [No change.]
26. [No change.]
27. [No change.]
28. [No change.]
29. [No change.]
30. [No change.]

31. [No change.]
32. [No change.]
33. [No change.]
34. [No change.]
35. [No change.]
36. Entertainment Clubs, Comedy Clubs, etc.
37. Restaurants (excluding drive-in and drive-thru restaurants), subject to the provisions of subsection F of this section.

38. [No change.]
39. [No change.]
40. [No change.]
41. [No change.]
42. [No change.]
43. [No change.]

44. Supper clubs, excluding those establishments described under 27. "Nightclubs," subject to the provisions of subsection F of this section.

45. [No change.]
46. [No change.]
47. [No change.]
48. [No change.]
49. [No change.]
50. [No change.]
51. [No change.]
52. [No change.]

B. The following uses shall be permitted only above or below the first floor:

1. [No change.]
2. [No change.]
3. [No change.]
4. [No change.]
5. [No change.]
6. [No change.]
7. [No change.]
8. [No change.]
9. [No change.]
10. [No change.]
11. [No change.]
12. [No change.]
13. [No change.]
14. [No change.]
15. [No change.]
16. [No change.]
17. [No change.]

C. Specialized uses:

1. [No change.]
2. [No change.]
3. [No change.]
4. [No change.]

D. Other uses typically conducted within the street right-of-way during the 1880-1910 era; such as: flower sales, musicians, newsstands, shoeshine stands

and sales of merchandise typically sold by street vendors during the 1880-1910 era, when such uses are in conjunction with the use of adjacent private property and have been authorized by an encroachment permit' issued by the City Engineer pursuant to Sections 62.0301 and 62.0302 of the Code and subsection E of this section.

E. Specialized uses in the street right-of-way which are consistent with the 1880-1910 era may be considered on all streets with the exception of Broadway. Proposed uses must meet safety and design criteria set forth in the Gaslamp Quarter Urban Design and Development Manual as adopted by resolution by the City Council. Prior to the use of street right-of-way for a specialized use, an encroachment permit shall have been obtained from the City Engineer, pursuant to Section 62.0301 and 62.0302 of this Code. A clear separation of the encroachment area and the remainder of the sidewalk shall be provided. A special use shall be conducted in conjunction with the use of the adjacent private property.

In addition to special uses, an encroachment permit may be granted to provide for:

1. [No change.]
2. [No change.]
3. [No change.]

F. Uses involving sale of alcoholic beverages in the entertainment district. If any proposed use includes the sale of alcoholic beverages, an applicant, in addition to the information required by Section 103.0403(B), shall include the information required by subsection F(2) of this section and such uses shall be governed by the additional requirements of this section.

1. Restricted Uses

a. An Alcoholic Beverage Sale Permit for a use which includes the sale of alcoholic beverages for consumption "on the premises of the sale" shall be issued to only the following uses:

(1) [No change.]

(2) Restaurants (defined as businesses that regularly serve food), excluding drive-in and drive-through

(3) [No change.]

(4) Entertainment Clubs, Comedy Clubs, etc.

b. An Alcoholic Beverage Sale Permit for a use which includes the sale of alcoholic beverages for consumption "off the premises of the sale" shall be issued to only the following uses:

(1) [No change.]

(2) [No change.]

(3) [No change.]

(4) [No change.]

2. [No change.]

3. Alcoholic Beverage Sale Permit Approval

a Criteria for consumption of Alcoholic Beverages "on the premises of the sale." In addition to the criteria in Section 103.0403(C), the following criteria shall be used by the Planning Director in making his determination regarding the issuance of an Alcoholic Beverage Sale Permit for the sale of alcoholic beverages within the Gaslamp Quarter:

(1) [No change.]

(2) Application shall be for a location currently under significant rehabilitation and or new construction or where significant rehabilitation and/or new construction has been completed.

(3) Liquor, beer and wine sales shall not exceed 50 percent of the total gross sales of the business conducted at that location. Food may be served throughout the premises at anytime. Entertainment with amplification is permitted throughout the premises.

(4) [No change.]

b. Criteria for consumption of alcoholic beverages "off the premises of sale." In addition to the criteria in Section 103.0403(C), the following criteria are used by the Planning Director in making his determination regarding the issuance of an Alcoholic Beverage Sale Permit for the sale of alcoholic beverages within the Gaslamp Quarter:

(1) [No change.]

(2) Application shall be for a location currently under significant rehabilitation and/or new construction, or where significant rehabilitation and/or new construction has been completed.

(3) [No change.]

(4) [No change.]

(5) [No change.]

(6) [No change.]

(7) [No change.]

(8) No alcoholic beverage shall be sold or delivered except between the hours of (10 a.m.) and (10 p.m.) of each day of the week.

(9) [No change.]

(10) [No change.]

c. Decision. The Planning Director may grant an Alcoholic Beverage Sale containing each of the above conditions for a use which includes the sale of alcoholic beverages within the Gaslamp Quarter. The Planning Director may also grant, with Police Department comment, an Alcoholic Beverage Sale Permit with additional conditions as follows:

(1) allowing the sale of refrigerated or otherwise chilled alcoholic beverages and/or

(2) allowing the off premises quarterly sales of alcoholic beverages not to exceed 50% of the quarterly gross sales of the establishment and/or

(3) allowing uses as identified in subsection (F)(1)(a) of this section relief from subsection (F)(3)(a)(3) of this section

The Planning Director may grant such Permit, if, after considering the facts presented in the application and at the hearing concludes that the criteria set forth above and in Section

103.0403(C) have been met. In granting this Permit, the Planning Director may impose reasonable conditions to insure compliance with the provisions of this section.

(4) Revocation of the Alcoholic Beverage Sale Permit. The Planning Director may revoke an Alcoholic Beverage Sale Permit if conditions as set forth in the Permit are not being met.


G. [No change.]

H. [No change.]

Section 2. This ordinance shall take effect and be in force on the thirtieth (30) day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By


Allisyn L. Thomas
Deputy City Attorney

ALT:pev
10/02/89
Or.Dept:Plan.
O-90-66
Form=o.code

CORRECTED 10/09/89

Passed and adopted by the Council of The City of San Diego on DEC 4 1989,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Linda Bernhardt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By Ellen Bovard, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

NOV 21 1989, and on DEC 4 1989

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By Ellen Bovard, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>0-17396</u>	Adopted <u>DEC 4 1989</u>

CERTIFICATE OF PUBLICATION

OFFICE OF THE CITY CLERK
CITY ADM. BLDG.,
2ND FLOOR
SAN DIEGO, CA 92101

IN THE MATTER OF
AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3, DIVISION
4, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING
SECTION 103.0408 RELATING TO THE ISSUANCE OF ALCOHOL
BEVERAGE PERMITS IN THE GASLAMP QUARTER PLANNED DISTRICT

NO.

ORDINANCE NUMBER 0-17396 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 103.0408 RELATING TO THE ISSUANCE OF ALCOHOL BEVERAGE PERMITS IN THE GASLAMP QUARTER PLANNED DISTRICT.

THOMAS D. KELLEHER

I, _____, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER 0-17396 (NEW SERIES)

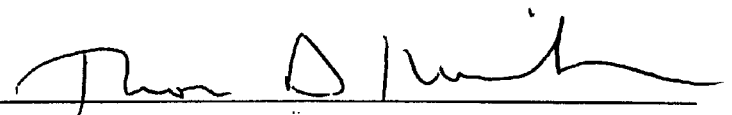
is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

DEC. 18

I certify under penalty of perjury that the foregoing is true and correct.

18 DEC. 89

Dated at San Diego, California this _____ day of _____, 19_____.


(Signature)

BE IT ORDAINED, by the Council for The City of San Diego, as follows:
Section 1. Chapter X, Article 3, Division 4, of the San Diego Municipal Code is hereby amended by amending Section 103.0408, to read as follows:
SEC. 103.0408 PERMITTED USES
A. through E. (No changes.)
F. Uses involving sale of alcoholic beverages in the entertainment district. If any proposed use includes the sale of alcoholic beverages, an applicant must provide the information required by Sections 103.0403.B and subsection (F) (B) of this section. Said uses shall be governed by this Section.
1. Restricted uses.
a. An Alcoholic Beverage Sale Permit for use including sale of alcohol beverage consumption "on the premises sale," shall be issued to only the following:
(1) Nightclubs and Supper clubs
(2) Restaurants
(3) Dinner Theatre
(4) Entertainment Clubs, Comedy Clubs, etc.
b. Uses involving sale of alcoholic beverages for consumption "off the premises of the sale" shall be issued to only the following:
(1) Delicatessens
(2) Drug Stores
(3) Food Stores
(4) Restaurants
2. Alcoholic Beverage Sale Permit application
Application must be made by the tenant of the property affected prior to any application to the Alcoholic Beverage Control Board. Application shall be filed with the Planning Department and state grounds for the application and be accompanied with appropriate documentation. Applicant shall file a fee equal to the cost of processing the application.
3. Alcoholic Beverage Sale Permit Approval
a. Criteria for approval "on the premises of the sale."
(1) Sale of alcoholic beverages shall be an accessory or secondary use to the primary use of the property.
(2) Location shall currently be under significant rehabilitation and/or new construction.
(3) Liquor, beer and wine sales shall not exceed 50% of the total gross sales of the business.
(4) Proposed use shall not adversely affect the General Plan, Centre City Community Plan or Gaslamp Quarter Redevelopment Plan.

8 7/8" x 2 = 210.10

Page 1 of 2

RECEIVED
CITY CLERK'S OFFICE
89 DEC 28 AM 10:13
SAN DIEGO, CALIF. *ML*

TO: THE CITY CLERK
FROM: THE CITY CLERK
SUBJECT: [Illegible]

[Illegible text]

Criteria for approval "off the premises of sale."

- (1) Sale of alcoholic beverages shall be an accessory or secondary use to the primary use of the property.
- (2) Location shall currently be under significant rehabilitation and/or new construction.
- (3) No wine or distilled spirits shall be sold in containers less than 750 milliliters.
- (4) No malt beverage products shall be sold in less than six-pack quantities.
- (5) No wine shall be sold with an alcoholic content greater than 15% by volume.
- (6) No refrigerated or chilled alcoholic beverages shall be sold or maintained on the premises.
- (7) Quarterly gross sales shall not exceed 20%.
- (8) Alcoholic beverages shall only be sold and delivered from 10:00 a.m. to 10:00 p.m.
- (9) No pool tables or amusement devices shall be maintained on the premises.
- (10) Proposed use shall not adversely affect the General Plan, Centre City Community Plan or Gaslamp Quarter Redevelopment Plan.

c. Decision. The Planning Director may grant the Permit with each of the above conditions. The Planning Director may also grant, with Police Department comment, the Permit with additional conditions:

- (1) Allowing sale of refrigerated or chilled alcoholic beverages.
 - (2) Allowing off-premises quarterly sales of alcoholic beverages not to exceed 50% quarterly gross sales.
 - (3) Allowing uses identified in subsection (F) (1) (a) of this section and relief from subsection (F) (3) (a) (3) of this section.
- In granting the Permit, the Planning Director may impose reasonable conditions.

d. Revocation. The Planning Director may revoke the Permit if the conditions set forth in the Permit are not met.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on November 21, 1989. Passed and adopted by the Council of The City of San Diego on December 4, 1989.

AUTHENTICATED BY:
MAUREEN O'CONNOR, Mayor of The City of San Diego, California
CHARLES G. ABDELNOUR, City Clerk of The City of San Diego, California
By ELLEN BOVARD, Deputy
Pub. Dec. 18 1989