

**MEMORANDUM**

**To:** Common Council File 051177  
**From:** Jeff Osterman, Legislative Reference Bureau  
**Date:** November 16, 2006  
**Subject:** BACKGROUND INFORMATION ON PROPOSED 300-FOOT SEPARATION  
DISTANCE REQUIREMENT BETWEEN ALCOHOL BEVERAGE ESTABLISHMENTS  
AND DAY CARE CENTERS

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As the October 18, 2006, letter from the Zoning Code Technical Committee regarding File Number 051177 indicates, the City Attorney's Office has indicated that it cannot determine the legality and enforceability of the proposed ordinance without a legislative record that demonstrates a rational basis for the provisions of the ordinance. Specifically, this legislative record should address such questions as: 1) How do licensed alcohol beverage establishments negatively impact day care centers, thereby warranting the establishment of a minimum separation distance between these 2 types of land uses?; 2) Why is 300 feet an appropriate minimum distance between a day care center and an alcohol beverage establishment?

The distance of 300 feet was selected because it is the minimum distance specified in both the Milwaukee Code of Ordinances (s. 90-14) and the Wisconsin Statutes (s. 125.68(3)) for separation of a class "A" or class "B" establishment from a school, hospital or church (copies attached). Unfortunately, the drafting records for the statutory provision, which dates from 1947, do not provide any explanation for the selection of the 300-foot distance at the time the state law was enacted. The drafting records only indicate that the legislation was introduced at the request of a Green Bay minister and that the City of Green Bay had adopted a similar 300-foot requirement in 1946. However, one could argue that, since day care centers are a child- and family-oriented land use like schools and churches, the 300-foot distance is appropriate for them, as well.

The LRB Library Section conducted an extensive online search for information on municipal or other laws requiring separation of alcohol establishments and day care centers. This search identified the following communities as having minimum separation distances between alcohol beverage establishments and day care centers:

**Temple Terrace, FL** - Temple Terrace, population 21,000, is a suburb of Tampa. The Temple Terrace code prohibits package stores, bars and cocktail lounges from being located within 1,000 feet of any existing place of worship, school, child care facility, library, public recreation center or community center (see attached copy of relevant code pages). All of these facilities are referred to as "protected facilities". Restaurants with bars or cocktail lounges, as well as non-package stores that sell alcoholic beverages (e.g., grocery stores, drug stores, convenience stores, etc.), may not be located within 400 feet of a protected facility. According to the Temple Terrace city manager's office, these distance requirements have not been subjected to legal challenge.

Also attached is a copy of the 2001 Temple Terrace ordinance that created the distance requirement for package stores relative to child care facilities. It contains two rather generic "Whereas" clauses, neither of which relate to distances from protected facilities. The minutes of the city council meeting at which this ordinance was adopted are also attached; they provide some insight into the council's rationale for applying the distance requirement to day care centers. Perhaps most importantly, they indicate that other Florida cities and counties treat day care centers as protected facilities in their alcohol beverage regulations.

**Baton Rouge, LA** - On October 11, 2006, the Metropolitan Council of the Parish of East Baton Rouge and City of Baton Rouge adopted an ordinance that prohibits the issuance of an alcoholic beverage license whenever the business is to be conducted within 300 feet of a place of worship, library, school, orphanage, playground or day care center (copy attached). According to the Baton Rouge council services office, no written legislative findings were made or recorded at the time the ordinance was adopted. However, it was pointed out that the Louisiana Revised Statutes contain enabling legislation that states that, when prohibited by a municipal or parish ordinance, no liquor permit (license) shall be granted for any premises within 300 feet or less of a playground, place of worship, library, school or day care center (see attached copy).

**Palmdale, CA** - Palmdale, population 146,000, is located 40 miles north of Los Angeles. In 2005, the City of Palmdale enacted an ordinance establishing minimum separation distances between an "on-sale" or "off-sale" alcoholic beverage establishment (establishments selling alcohol for on-premise and off-premise consumption, respectively) and various "existing sensitive or similar uses" (see page 12 of the attached ordinance). Among the required distances are 500 feet between an on-sale establishment and a day care facility and 1,000 feet between an off-sale establishment and a day care facility. In addition, a new "incidental alcoholic beverage establishment" (defined on page 7) must be located at least 500 feet from a day care center (page 13).

The Palmdale ordinance contains numerous legislative findings and recitals to justify the new regulations. Paragraph "c" on page 2 states that the ordinance is consistent with various goals, objectives and policies of the city's general plan, including "adopt appropriate codes to assure minimum standards to safeguard health, safety and public welfare by regulating the use and occupancy, location and maintenance of structures within the City". Other findings particularly relevant to the protection of children and day care facilities are found in paragraphs "e," "g" and "j" on pages 3 and 4. Similar findings were made by the Palmdale Planning Commission and are expressed in a resolution that is an attachment to the ordinance (see attached copy).

Palmdale's 2005 ordinance was actually an overhaul of existing alcoholic beverage establishment regulations. The separation-distance requirements were originally created by a 1994 ordinance (copy attached). Paragraphs "D" and "E" on page 1 of the ordinance provide legislative findings relating to protecting the public health, safety and welfare and preventing adverse impacts on "adjacent and nearby uses such as schools, places of worship, parks, day care facilities and residential uses". The distance requirements can be found on pages 6 and 8 of the ordinance.

06539

## 90-13 Liquor and Tavern Regulations

**7. REQUEST TO SURRENDER A LICENSE.** a. In the event that a licensee wishes to surrender his or her license after receiving a notice for a hearing on revocation or suspension, the licensee must request, in writing, permission from the proper licensing committee of the common council to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the suspension or revocation hearing.

b. In the event a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered pursuant to par. a, the licensee must request, in writing, permission from the licensing committee to do so and appear before the committee at the date, time and place specified in written notice provided to the licensee by the city clerk. The committee may approve the request and return the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth in this chapter for non-renewal or revocation. If the committee makes a recommendation to deny the request for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth in this chapter for non-renewal or revocation.

### **8. DISQUALIFICATION FOR LICENSE.**

a. Whenever any license is revoked it shall be so entered of record by the city clerk and no other alcohol license shall be granted to such person within 12 months of the date of its revocation nor shall any part of the money paid for any license so revoked be refunded.

b. No other intoxicating liquor license or fermented beverage license shall be granted within 30 days from the date of the revocation of such license to any other person to sell intoxicating liquors or fermented malt beverages on the premises operated by the licensee whose license has been so revoked.

c. When any license is surrendered in lieu of pending revocation or suspension proceedings, no other alcohol beverage license shall be granted to such person within 12 months of the date of its surrender nor shall any part of the money paid for any license that has been surrendered be refunded.

**90-13. Alterations to Premises.** Any alteration, change or addition resulting in expansion of a

licensed premises shall be approved by the utilities and licenses committee prior to issuance of a permit pursuant to s. 200-24 by the department of city development. An applicant whose permit application has been denied by the committee may appeal the decision to the common council.

### **90-14. Restrictions as to Location of Premises.**

**1. 300 FEET RESTRICTION.** No Class "A" or Class "B" license for the sale of intoxicating liquor may be issued for premises the main entrance of which is less than 300 feet from the main entrance of any church, school or hospital. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license.

**2. EXCEPTIONS.** The prohibition in sub. 1 does not apply to any of the following:

a. Premises covered by a Class "A" or Class "B" license on June 30, 1947.

b. Premises covered by a Class "A" or Class "B" license prior to the occupation of real property within 300 feet thereof by school, hospital or church building.

c. A restaurant located within 300 feet of a church or school. This paragraph applies only to restaurants in which the sale of alcohol beverages accounts for less than 50% of its gross receipts.

**90-15. Hours of Operation. 1. CLASS "A" RETAILER'S INTOXICATING LIQUOR LICENSE.** No premises for which a Class "A" retailer's intoxicating liquor license has been issued shall be permitted to remain open for the sale of intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m.

**2. CLASS "A" FERMENTED MALT BEVERAGE RETAILER'S LICENSE.** No holder of such a license shall sell fermented malt beverages between the hours of 9:00 p.m. and 8:00 a.m., except a brewery that operates a bonafide 3<sup>rd</sup> shift for at least 9 months of a previous year may sell fermented malt beverages to its employes in a designated employe shopping area on brewery premises between the hours of 8:00 a.m. to 11:00 p.m.

**3. CLASS "B" FERMENTED MALT BEVERAGE AND INTOXICATING LIQUOR RETAILER LICENSES OR CLASS "B" SERVICE BAR LICENSE.** a. Closing Hours - Prohibited Hours. a-1. No person holding such licenses

so revoked, another permit may not be issued to the same person for a period of 2 years following revocation.

**History:** 1981 c. 79; 1985 a. 302; 1989 a. 253; 1993 a. 112; 1995 a. 27.  
**Cross Reference:** See also ss. Tax 8.12 and 8.76, Wis. adm. code.

**125.66 Sale without license; failure to obtain permit; penalties. (1)** No person may sell, or possess with intent to sell, intoxicating liquor unless that person holds the appropriate license or permit. Whoever violates this subsection may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

**(2)** The issuance of any current permit or special tax stamp of the federal government to any person, authorizing or permitting the person to sell intoxicating liquor, shall be prima facie evidence in any prosecution for violation of this section that the person was engaged in selling intoxicating liquor.

**(3)** Any person manufacturing or rectifying intoxicating liquor without holding appropriate permits under this chapter, or any person who sells such liquor, is guilty of a Class F felony.

**(4)** Notwithstanding sub. (1) and s. 125.04 (1), a "Class A" licensee who sells intoxicating liquor to a "Class B" licensee for resale may be fined not more than \$100.

**History:** 1981 c. 79; 1989 a. 253; 1995 a. 27; 1997 a. 283; 2001 a. 109.  
A license never should have been issued when a notice of application had not been published as required under s. 125.04 (3) (g), and a license issued without publication is void under s. 125.04 (2). Selling liquor under a void license constitutes a violation of s. 125.66 (1). Under s. 125.12, a renewal licensee, if refused, is guaranteed a right to be heard by the municipality, and the municipality must show cause for refusal, but a new licensee, if refused, has no such guarantee. When an original license is void, the applicant is a new licensee. *Williams v. City of Lake Geneva*, 2002 WI App 95, 253 Wis. 2d 618, 643 N.W.2d 864.

**125.67 Evading provisions of law by giving away intoxicating liquor; penalties.** No person may give away intoxicating liquor or use any other means to evade any law of this state relating to the sale of intoxicating liquor. Whoever violates this subsection may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

**History:** 1981 c. 79; 1989 a. 253.

**125.68 General restrictions and requirements.**

**(1) MANAGERS' LICENSES: "CLASS B" AND "CLASS C" PREMISES.** (a) If a municipal governing body elects to issue managers' licenses under s. 125.18, no person may manage premises operating under a "Class B" license or permit or a "Class C" license unless the person is the licensee or permittee, an agent of a corporation or limited liability company appointed as required by s. 125.04 (6) or the holder of a manager's license. A manager's license issued in respect to a vessel under s. 125.51 (5) (c) is valid outside the municipality that issues it. A person manages premises if that person has responsibility or authority for:

1. Personnel management of all employees, whether or not the person is authorized to sign employment contracts;
2. The terms of contracts for the purchase or sale of goods or services, whether or not the person is authorized to sign the contracts; or
3. The daily operations of the premises.

(b) The municipal governing body may, by ordinance, define factors in addition to those listed in par. (a) which constitute management of premises.

**(2) OPERATORS' LICENSES: "CLASS A", "CLASS B" OR "CLASS C" PREMISES.** Except as provided under s. 125.07 (3) (a) 10., no premises operated under a "Class A" or "Class C" license or under a "Class B" license or permit may be open for business unless there is upon the premises either the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or limited liability company, or some person who has an operator's license and who is responsible for the acts of all persons selling or serving any intoxicating liquor to customers. An operator's license issued in respect to a vessel under s. 125.51 (5) (c) is valid outside the municipality that issues it. For the purpose of this subsection, any person holding a manager's license issued under s. 125.18 or any member of the licensee's or permit-

tee's immediate family who has attained the age of 18 shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent may serve or sell alcohol beverages in any place operated under a "Class A" or "Class C" license or under a "Class B" license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee or agent or a person holding an operator's license, who is on the premises at the time of the service.

**(2m) USE BY ANOTHER PROHIBITED.** (a) No person may allow another to use his or her "Class A" or "Class C" license or "Class B" license or permit to sell alcohol beverages.

(b) The license or permit of a person who violates par. (a) shall be revoked.

**(3) RESTRICTIONS ON LOCATION.** No "Class A" or "Class B" license or permit may be issued for premises the main entrance of which is less than 300 feet from the main entrance of any public or parochial school, hospital or church, except that this prohibition may be waived by a majority vote of the governing body of the municipality in which the premises is located. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license or permit. The prohibition in this subsection does not apply to any of the following:

- (a) Premises covered by a license or permit on June 30, 1947.
- (b) Premises covered by a license or permit prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.
- (c) A restaurant located within 300 feet of a church or school. This paragraph applies only to restaurants in which the sale of alcohol beverages accounts for less than 50% of their gross receipts.

**(4) CLOSING HOURS.** (a) *Wholesalers.* No premises for which a wholesale intoxicating liquor permit has been issued may remain open for the sale of intoxicating liquor between the hours of 5 p.m. and 8 a.m., except on Saturday the premises may remain open until 9 p.m.

(b) *"Class A" retailers.* No premises for which a "Class A" license or permit has been issued may remain open for the sale of intoxicating liquor between the hours of 9 p.m. and 8 a.m.

(c) *"Class B" and "Class C" retailers.* 1. No premises for which a "Class B" license or permit or a "Class C" license has been issued may remain open between the hours of 2 a.m. and 6 a.m., except as otherwise provided in this subdivision and subd. 4. On January 1 premises operating under a "Class B" license or permit are not required to close. On Saturday and Sunday, no premises may remain open between 2:30 a.m. and 6 a.m. This subdivision does not apply to a "Class B" license issued to a winery under s. 125.51 (3) (am).

3. Between 12 midnight and 6 a.m. no person may sell intoxicating liquor on "Class B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises. A municipal governing body may, by ordinance, impose more restrictive hours than are provided in this subdivision. This subdivision does not apply to a "Class B" license issued to a winery under s. 125.51 (3) (am).

3m. No premises for which a "Class B" license has been issued under s. 125.51 (3) (am) may remain open for the sale of intoxicating liquor between the hours of 9 p.m. and 8 a.m.

4. Hotels and restaurants the principal business of which is the furnishing of food, drinks or lodging to patrons, bowling centers, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell intoxicating liquor during the closing hours under subd. 1.

5. A municipality may not, by ordinance, impose different hours than those provided under subd. 1.

**TEMPLE TERRACE CODE  
ALCOHOLIC BEVERAGES**

- (1) 3:00 a.m. through 7:00 a.m., Monday, Tuesday, Wednesday, Thursday, Friday and Saturday.
- (2) 3:00 a.m. through 11:00 a.m., Sunday.

(b) **For consumption off premises; including package stores.** It shall be unlawful for any licensee or other person to sell, serve, deliver or permit to be sold, served or delivered any alcoholic beverages containing more than one (1%) percent of alcohol by weight in any place in the City holding a license under the State Beverage Department or in any public place within the City for consumption off the premises during the hours hereafter described:

- (1) 3:00 a.m. through 7:00 a.m., Monday, Tuesday, Wednesday, Thursday, Friday and Saturday.
- (2) 3:00 a.m. through 11:00 a.m., Sunday.

*(Ord. No. 83, 6-6-61; Ord. No. 117, 3-19-63; Ord. No. 126, 2-21-64; Ord. No. 163, 6-7-66; Ord. No. 177, 2-7-67; Ord. No. 239, 1-5-71; Ord. No. 402, 3-4-80; Ord. No. 820, 11-3-92; Ord. No. 1099, 10-21-03)*

**Section 3.330**

**ZONING DISTRICTS AND LOCATIONS WHERE SALE OF ALCOHOLIC BEVERAGES PERMITTED; DISTANCE REQUIREMENTS.**

(a) The sale of alcoholic beverages shall be permitted in accordance with the requirements more particularly set forth hereinabove in the following zoning districts: C-G, Commercial General; PROF, Planned Research Office Facilities; commercial areas within P-D, Planned Development; R-10 Single Family Residential, where said sales occur pursuant to a private club license and such sales and consumption are directly associated with and incidental to the operation and activities of a golf course and/or authorized by the terms of any lease or other agreement approved by City Council, and properties annexed into the City of Temple Terrace having a Hillsborough County commercial zoning designation which permits said use.

- (1) Package stores shall neither be located within two thousand (2,000') feet of any other package store within the corporate limits, nor shall package stores be located within one thousand (1,000') feet of any existing church, synagogue or any other place of worship, school, child care facility as defined by Section 402.305 Florida Statutes, library, public recreation center, or community center within the corporate limits. *(Ord. No. 1058, 12-18-01)*
- (2) Churches, synagogues and other places of worship, schools, child care facilities as defined by Section 402.305 Florida Statutes, libraries, public recreation centers, and community centers, shall hereinafter be called a "protected facility" or "protected facilities."
- (3) Bars, cocktail lounges, or other establishments containing bars or cocktail lounges, not meeting the criteria outlined in Subsections (5) and/or (6) below, shall neither be located within one thousand (1,000') feet of any other bar, cocktail lounge, or restaurant selling alcoholic beverages, or other establishment containing a bar or cocktail lounge within the corporate limits; nor shall they be located within one thousand (1,000') feet of any "protected facility," together with Temple Terrace City Hall.
- (4) Restaurants with bars or cocktail lounges may be established provided said restaurants are located no closer than four hundred (400') feet from an existing "protected facility," and provided further that said restaurant meets the following criteria for on-premises consumption:

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- a. The restaurant encompasses at least two thousand-five hundred (2,500) square feet of service area under a permanent roof; and
  - b. The restaurant shall be equipped with full accommodations for the service of full course meals to one hundred-fifty (150) or more patrons at one time; and
  - c. Alcoholic beverages shall be served only during the hours in which the restaurant is serving full course meals; and
  - d. At least fifty-one (51%) percent of the restaurant's gross revenues are attributable to the sale of food; and
  - e. The restaurant possesses all of the qualifications necessary to obtain State of Florida 4-COP-SX beverage license.
- (5) Restaurants meeting the following criteria may serve beer and wine, without regard to separation distances between one another or between themselves and any other establishment selling alcoholic beverages, whether such sales are for on-premises or off-premises consumption, or a "protected facility:"
- a. The restaurant shall encompass at least one thousand two hundred-fifty (1,250) square feet of service area, under a permanent roof; and
  - b. The restaurant shall be equipped with full accommodations for the service of full course meals to at least fifty (50) patrons at one time; and
  - c. Alcoholic beverages shall be served only during the hours in which the restaurant is serving full course meals; provided, however, that no alcoholic beverages shall be served or sold before 11:00 a.m. or after 11:00 p.m.; and
  - d. At least seventy (70%) percent of the restaurant's gross revenues are attributable to the sale of food; and
  - e. Alcoholic beverages shall be served to patrons at the table and no bar or cocktail lounge shall be located in the restaurant; and
  - f. The restaurant shall not provide drive-through or drive-up facilities; and
  - g. The restaurant possesses all of the qualifications necessary to obtain a State of Florida 2-COP beverage license. (*Ord. No. 978, 6-2-98*)
- (6) There are no required separation distances between establishments selling beer, or beer and wine, when such sales are incidental to the establishment's principal use (e.g., food stores, drug stores, gas marts, convenience stores, etc.), and such sales are in sealed containers for off-premises consumption only. This exemption from separation distance does not apply between said establishments and any "protected facility," which separation distance is four hundred (400') feet. (*Ord. No. 936, 12-3-96*)
- (7) Any restaurant which sells alcoholic beverages for on-premises consumption shall maintain separate books and records reflecting the gross sale of non-alcoholic beverages for each calendar year. Failure to maintain such books and records shall be grounds for the City Council to revoke the right to sell alcoholic beverages on the property and to notify the Division of Beverage, Department of Business Regulation, State of Florida, that prior certification of the licensed premises for the sale of alcoholic beverages is no longer valid.

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- a. Any such restaurant shall prepare and submit to the City Manager, or his designee, an unaudited report every ninety (90) days and an audited report prepared by a Certified Public Accountant at the end of each calendar year. Failure to file the reports required herein shall be grounds for the City Council to revoke the right to sell alcoholic beverages on the property pursuant to said exception and to notify the Division of Beverage, Department of Business Regulation, State of Florida, that prior certification of the licensed premises for the sale of alcoholic beverages is no longer valid.
  - b. The City Manager, or his designee, may, during normal working hours, request to inspect and audit the books and records of any such restaurant to verify the gross sales of the restaurant. Refusal of an owner or operator of such restaurant to allow said inspection shall be grounds for the City Council to revoke the right to sell alcoholic beverages on the property and to notify the Division of Beverage, Department of Business Regulation, State of Florida, that prior certification of the licensed premises for the sale of alcoholic beverages is no longer valid.
  - c. If the required reports and/or the audit conducted by the City reveal that the combined gross sales of such restaurant do not comply with the requirements of this Section, or if any restaurant fails to submit said reports or audit or in any other way fails to comply with the requirements of this Section, the City Manager, or his designee, shall notify the owner or the operator of the business that the property upon which the business operates has reverted to a dry status and shall notify the Division of Beverage, Department of Business Regulation, State of Florida, that prior certification of the licensed premises for the sale of alcoholic beverages is no longer valid.
  - d. Upon adoption of this Section, the City Manager, or his designee, shall transmit a copy of this Section to all owners or operators of businesses operating pursuant to the aforesaid exception; further, he shall notify all such businesses that if all existing non-compliances with the requirements of this Section are not fully cured and all required reports and audits are not filed within ten (10) days of the date of said notice, said business shall revert to dry status.
- (8) Distance requirements between establishments selling alcoholic beverages, not meeting the criteria established in Subsection (a)(4)a.-e., and Subsection (a)(5)a.-g., above, shall be measured by following the shortest straight line from the main entrance of one establishment selling alcoholic beverages to the main entrance of the other establishment selling alcoholic beverages. Otherwise, distances shall be measured by following the shortest route from the main entrance of any business selling alcoholic beverages to the nearest point of the nearest property line of the site, including the parking areas of related facilities, in which any "*protected facility*," together with Temple Terrace City Hall, is located. The main entrance of any establishment selling alcoholic beverages shall be the entrance facing the most frequently traveled public thoroughfare adjacent to the property on which the establishment is located. In the event that portion of the establishment which faces the most traveled public thoroughfare has no building entrance, measurement of distance shall be made from the center of that portion of the establishment's frontage which represents the addressable frontage of the establishment. In the event of any dispute regarding the measurement of distances or the location of the main entrance, the determination of the City Manager shall be conclusive.



ORDINANCE NO. 1058

**AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 3, TEMPLE TERRACE CODE OF ORDINANCES, BY REPEALING SUBSECTIONS 3.330(a)(1) AND (2) IN THEIR ENTIRETY, AND BY ENACTING A NEW SUBSECTION 3.330(a)(2) PROVIDING DISTANCE REQUIREMENTS FOR PACKAGE STORES; PROVIDING A SEPARABILITY CLAUSE, EFFECTIVE DATE, AUTHORITY TO CODIFY AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.**

**WHEREAS**, the Mayor and City Council of the City of Temple Terrace, Florida, have determined that amendments to the City's alcoholic beverage code should be made with regard to minimum square footage requirements for individual package stores; and

**WHEREAS**, the Mayor and City Council of the City of Temple Terrace, Florida, have further determined that amendments to the City's alcoholic beverage code should be made relative to distance requirements between package stores,

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPLE TERRACE, FLORIDA:**

**Section 1.** Chapter 3, Temple Terrace Code of Ordinances, is hereby amended by repealing Subsection 3.330(a)(1) in its entirety.

**Section 2.** Chapter 3, Temple Terrace Code of Ordinances, is hereby amended by repealing Subsection 3.330(a)(2) in its entirety, and by enacting a new Subsection 3.330(a)(2), to provide as follows:

**SECTION 3.330 ZONING DISTRICTS AND LOCATIONS WHERE SALE OF ALCOHOLIC BEVERAGES PERMITTED; DISTANCE REQUIREMENTS.**

- (a)(2) Package stores shall neither be located within two thousand (2,000') feet of any other package store within the corporate limits, nor shall package stores be located within one thousand (1,000') feet of any existing church, synagogue or any other place of worship, school, child care facility as defined by Section 402.305 Florida Statutes, library, public recreation center, or community center within the corporate limits.

**Section 3.** If any part of this ordinance is declared invalid by a court of competent jurisdiction, such part or parts shall be severable, and the remaining part or parts hereof shall continue to be in full force and effect.

**Section 4.** This ordinance shall take effect immediately upon its passage, approval, and being posted or published as required by law.

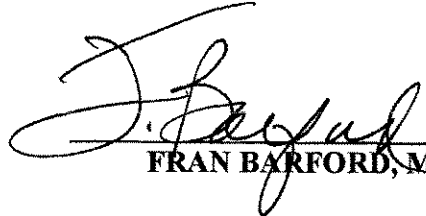
**Section 5.** The provisions of this ordinance shall become and be made a part of the Temple Terrace Code, and the sections of this ordinance may be renumbered to accomplish this end.

**Section 6.** All ordinances or parts of ordinances not specifically in conflict herewith are hereby continued in full force and effect, but all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE TERRACE, FLORIDA, THIS 18<sup>th</sup> DAY OF December, 2001.**

**APPROVED BY THE MAYOR THIS 18<sup>th</sup> DAY OF December, 2001.**

(CORPORATE SEAL)

  
FRAN BARFORD, MAYOR

ATTEST:

  
S. FAYE BARKHOLZ, CMC  
CITY CLERK

**RESOLUTION NO. 171-01**, approving the professional services agreement between the City and Parsons Engineering Science, Inc., for the provision of design/build consulting services for the initial phases of the City's 3.1 million gallon per day water reclamation facility construction, in an amount not to exceed \$890,000; payment for said services to be made from account 460-3801-535.31-22.

**Proposed Ordinances for Consideration and Action:**

Mr. Atul Solanki, 11730 N. 56<sup>th</sup> Street, said he has been coming before the Council for a year asking for help in expanding his business, but has received everything but help. He said he has tried to present his case on a common sense level, presenting facts, yet he felt the Council ignored him, focusing only on keeping the liquor store business out of the City. He asked Council to be honest and up-front and tell him what they are afraid of. He said he has presented letters and petitions, but the Council does not respond, leaving him to feel that they are holding him back and pushing him down, yet another business, which also sells alcohol is allowed to expand, and he asked what the difference was. Late last year, he said, he turned in almost 500 signatures of persons living within a mile radius of his business, and if that number is multiplied by five, that represents almost 10% of the City's population, but Council has not listened to that either. Council has made up its mind not to help out any new package or existing liquor storeowner, no matter what they do, he said.

Mr. Solanki continued by comparing his situation with ABC Liquors, stating that the Council made a new ordinance, and reclassified the Sylvan Learning Center as a school although it didn't meet any of the State guidelines as a school to keep ABC Liquors out of the City. He said his store is a package store by State and City definition and he sells alcohol, but the City chooses to shut him down by making up a new ordinance about day care centers, which were not protected facilities for the last 40-50 years. He stated that his business has had no negative impact on the day care center. In closing, he asked the Council to please address why they do not give him any help.

Mayor Barford briefly summarized the Council's position and said that protected facilities trigger the City's ordinance; that is what the Council is abiding by, and the Council is unanimous about that. She said it has nothing to do with Mr. Solanki being a good, small business owner, adding that they all shop at his business. She continued that the Council has appreciated his input, his candor and the polite manner in which he addresses the Council, however, there is a protected facility: counties protect day care centers, cities protect day care centers and Temple Terrace is one of those cities that does. She said she would not discuss the ABC Liquor situation other than to say that the legal interpretation was that Sylvan Learning Center was a protected facility.

Council Member Chillura said he personally did not have anything against Mr. Solanki and respects him as a businessperson, adding that he thinks he's done a good job with his property. He explained that Mr. Solanki's request was not ignored, because when Mr. Solanki initially made the request, the Council did revisit the ordinance and waived the 100,000 square foot requirement. He said the Council had asked the City Manager to look at the ordinances of surrounding municipalities, and in doing so, the Council found other municipalities included day care facilities as protected facilities. He said he knew that was not what Mr. Solanki wanted to hear, but the Council did listen to his concerns and did visit the ordinance, but unfortunately there is a day care facility by his property. He pointed out that when Mr. Solanki's property was in the County, he was not permitted because the County considered day care facilities as protected facilities. He said if the Council chose day care as a protected facility and no other municipalities did, then there would be a problem. He said if the day care were to close tomorrow, and all the other requirements were satisfied, Mr. Solanki would have a green light to do what he wants to do. He clarified that Sylvan Learning Center is accredited by the State.

Council Member Affronti reminded Mr. Solanki that when the issue was brought up in February, he supported Mr. Solanki's permit to sell package liquors because he felt at that time that Mr. Solanki had been there long enough selling alcohol and deserved the right to be able to sell package liquor. Unfortunately, he said, the vote of the Council was not the same as his vote. He said the reason he wouldn't do anything now is for the same reason that he voted against amending the ordinance again for Mr. Ciaccio. He said he feels the same as he felt last February that the Council needs to be consistent, there is an ordinance in place, and he doesn't want to change it again. He said he sympathizes with Mr. Solanki, because he thinks he should have had the approval to begin with, but they now have to move forward.

Following **SECOND** and **FINAL** reading, by caption, upon motion of Council Member King, seconded by Council Member Chillura, **ORDINANCE NO. 1058** was **ADOPTED**, being: AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, AMENDING CHAPTER 3, TEMPLE TERRACE CODE OF ORDINANCES, BY REPEALING SUBSECTIONS 3.330(a)(1) AND (2) IN THEIR ENTIRETY, AND BY ENACTING A NEW SUBSECTION 3.330(a)(2) PROVIDING DISTANCE REQUIREMENTS FOR PACKAGE STORES; PROVIDING A SEPARABILITY CLAUSE, EFFECTIVE DATE, AUTHORITY TO CODIFY AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH. Vote on the motion being: Council Members Chillura and King voting "aye," Council Members Affronti and Jeter voting "nay," and Mayor Barford voting "aye." Council Member Knapp was **ABSENT** and did not vote.

Prior to vote on the above motion, Council Member Jeter stated that as she said at the last meeting, she is not in favor of this ordinance, and she thinks the Council is terribly inconsistent and appears "wishy-washy."

Council Member Affronti said he thinks shortly down the road someone will come in and say they want to open up a 300-square foot package store in Temple Terrace and the Council will be faced with maybe having to change the ordinance again because Council may not want a 300 square foot package store in Temple Terrace. The Council is just not consistent, he said, and that's why he opposed this ordinance.

There was no unfinished business before the Council.

**City Manager's Report:**

The City Manager said he has been in contact with J. K. Lawler & Associates, Inc., the redevelopment consultants; they hope to meet the first week of January, and he will keep the Council advised of their progress. Associated with that report, he said the Council did ask for staff recommendations for an Advisory Committee, and he will provide the recommendations to the Council on Friday.

The City Manager said the Council completed the first phase of meetings with Herb Marlowe, and he had received positive feedback. The second of the three phases, roles and expectations, will be conducted in a 3 or 4-hour session sometime the first of January, he said, and after the holidays the Council will be called to arrange an appropriate time.

**New Business:**

Mayor Barford advised that after advertising the opportunity for service on the Hillsborough County Citizens Environmental Advisory Committee, one resident, Gnanamony J. Thabaraj, expressed an interest in serving on the Board. Mr. Thabaraj introduced himself, advising the Council that they could call him "Jay" and shared his background and expertise in the environmental area.

Upon motion of Council Member Jeter, seconded by Council Member Chillura, **RESOLUTION NO. 172-01(m)** was **ADOPTED**, appointing Gnanamony J. (Jay) Thabaraj to serve as the City's representative on the Hillsborough County Citizens Environmental Advisory Committee. Vote on the motion being: Council Members Affronti, Chillura, Jeter and King voting "aye," no "nay." Council Member Knapp was **ABSENT** and did not vote.

Council Member King, joined by the Mayor and the rest of the Council, wished everyone a Merry Christmas and Happy Holidays.

There being no further business to consider, upon proper motion, the meeting was adjourned at 7:20 p.m.

ADOPTED  
METROPOLITAN COUNCIL

OCT 11 2006

719

ORDINANCE 13766 *Brian Maynard*  
COUNCIL ADMINISTRATOR TREASURER

By *Quiso*  
Introduced *7-26-06*  
PH. *8-9-06*  
*P.H.* *9-13-06*  
*P.H.* *10-11-06*

AMENDING ORDINANCE 13126 (WINE, BEER AND LIQUOR ORDINANCE), ADOPTED NOVEMBER 23, 2004, SO AS TO AMEND AND RE-ENACT SECTION 4.B (LOCATION PROHIBITIONS) THEREOF, RELATIVE TO ALCOHOL PROMOTIONS AND DISTANCE UPON WHICH THE BUSINESS IS TO BE CONDUCTED.

BE IT ORDAINED by the Metropolitan Council of the Parish of East Baton Rouge and City of Baton Rouge that:

Section 1. Ordinance 13126, (Wine, Beer and Liquor Ordinance) adopted November 23, 2004, is hereby amended so as to amend and re-enact Section 4.B thereof, which shall read as follows:

"4.B. LOCATION PROHIBITIONS:

4.B.1. 300' DISTANCE REQUIREMENT FROM CHURCHES, SCHOOLS, PUBLIC PLAYGROUNDS, AND DAYCARE CENTERS:

No license or permit shall be granted hereunder to any applicant when the property upon which the business is to be conducted is within three hundred feet (300') of any property used exclusively as a regular church or synagogue, public library, school or orphans' home (except a school for business education conducted as a business college or school, and except a state college or university), or within 300 feet of a public playground, or within 300 feet of a daycare center, provided that the provisions of this section shall not apply to premises which are maintained as a bona fide hotel, wholesale dealer, railway car, or fraternal organization, or to any premises licensed to deal in beverages of low alcoholic content, for a period of one (1) year, or longer, prior to the passage of this ordinance. The 300-foot minimum distance shall be measured as provided by state law in Title 26 of the Louisiana Revised."

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

## §81. Location of business limited

A. No permit shall be granted under this Chapter in contravention of any municipal or parish ordinances adopted pursuant to the zoning laws of the state.

B.(1) No permit shall be issued by the commissioner or by any municipality or parish to authorize any business in any subdivision of the state where the business has been prohibited by referendum vote.

(2) In any subdivision where saloons are prohibited, but package sales of liquor are permitted, Class B package liquor permits may be issued in combination with Class A retail beer permits.

(3) Any premises licensed to deal in alcoholic beverages, upon proper application, shall be issued a permit for beverages of low alcoholic content as defined in R.S. 26:241. The new permit shall be of the same class as the one for which the premises has a license.

C.(1) When prohibited by municipal or parish ordinance, no permit shall be granted for any premises situated within three hundred feet or less, as fixed by the ordinance, of a public playground or of a building used exclusively as a church or synagogue, public library, school, or full-time day care center as defined in R.S. 17:405(A)(4). In municipalities and in unincorporated areas which are divided into subdivisions with streets, blocks, and sidewalks, subject to the adoption of the alternate method of measurement as provided for in Paragraph (2) of this Subsection, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the church, synagogue, public library, public playground, school, or full-time day care center to the nearest point of the premises to be licensed.

(2) A municipality may adopt an ordinance establishing an alternate method of measurement of the three hundred foot limitation by measuring in a straight line from the nearest point of the property line of the church or synagogue, public library, school, or full-time day care center to the nearest point of the premises to be licensed. Such alternate method of measurement shall only apply prospectively to the issuance of a new alcohol permit issued on or after the date the ordinance has been adopted.

D. Outside of municipalities and unincorporated areas which are not divided into subdivisions with streets, blocks, or sidewalks, parish ordinances may extend the prohibition to a distance of five hundred feet of the church, synagogue, public library, school, full-time day care center, or playground. The measurement of this distance shall be made in the same manner as the measurement is made in municipalities.

E. The prohibitions in this Section do not apply to any premises which are maintained as a bona fide hotel, or fraternal organization, nor to any premises which have been licensed to deal in alcoholic beverages for a period of one year or longer prior to the adoption of the ordinance.

F. For the purposes of this Section, "public library" shall mean a public library which is located in a permanent structure and is open to the public for three or more days per week.

Amended by Acts 1962, No. 463, §6; Acts 1964, No. 183, §1; Acts 1987, No. 696, §1; Acts 1988, No. 845, §1; Acts 1995, No. 1076, §1, eff. June 29, 1995; Acts 1999, No. 1010, §1; Acts 2003, No. 1173, §2; Acts 2005, No. 508, §1, eff. July 13, 2005.

§405. Drug free zone; notice; signs

A.(1) A "drug free zone" is:

- (a) An area inclusive of any property used for school purposes by any school.
- (b) An area within one thousand feet of any property used for school purposes by any school.
- (c) A school bus.
- (d) Any building or area owned by the state or by a political subdivision and used or operated as a playground or recreational facility.
- (e) Any park or recreational area administered by the state.
- (f) Any building owned by any quasi public agency or body as defined in R.S. 24:513(A) (1)(b) and used or operated as a community center.
- (g) Any public housing dwelling.
- (h) Any area inclusive of any property used for a full-time day care center.
- (i) Any area within one thousand feet of any property used for the purposes of a full-time day care center.

(2) For purposes of this Section, "school" means any public or private elementary, secondary, or vocational-technical school or any public or private college or university in Louisiana.

(3) For the purposes of this Section, "property used for school purposes by any school" means all property used for school purposes, including but not limited to school playgrounds.

(4) For the purposes of this Section, "full-time day care center" or "property used for a full-time day care center" means any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group pursuant to a license issued by the state for the primary purpose of providing care, supervision, and guidance of seven or more children, not including those related to the care giver, unaccompanied by parent or guardian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week.

B. The local governing authority which has jurisdiction over zoning matters in which each drug free zone is located shall publish a map clearly indicating the boundaries of each drug free zone in accordance with the specifications in Subsection A. The drug free zone map shall be made an official public document and placed with the clerk of court for the parish or parishes in which the drug free zone is located.

C.(1) The state superintendent of education, with the approval of the State Board of Elementary and Secondary Education, and the commissioner of higher education, with the approval of the Board of Regents, shall develop a method by which to mark drug free zones, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school and on and in each school bus indicating that such area is a drug free zone, that such zone extends to one thousand feet of school property, and that a felony violation of the Uniform Controlled Dangerous Substances Law will subject the offender to severe penalties under law. The state Department of Education shall assist each school system with providing for the posting required in this Subsection.

(2) The Department of Public Safety and Corrections shall coordinate and provide rules for the establishment of toll free telephone numbers for use in submitting anonymous information regarding drug activity to local law enforcement agencies. Such telephone numbers shall be displayed on the drug free zone signs which shall be manufactured in correctional institutions subject to the regulation of the office of corrections in the Department of Public



Safety and Corrections.

D.(1) It shall be unlawful for any person to cover, remove, deface, alter, or destroy any sign or other marking identifying a drug free zone as provided in this Section.

(2) Any violation of this Subsection shall be punishable by a fine of not more than one thousand dollars or by a jail sentence of not more than six months, or both.

Acts 1989, No. 171, §1; Acts 1990, No. 293, §1, eff. July 5, 1990; Acts 1990, No. 1027, §1, eff. July 26, 1990; Acts 1991, No. 464, §1, eff. July 15, 1991; Acts 1999, No. 668, §1; Acts 2003, No. 1173, §1.

**CITY OF PALMDALE  
COUNTY OF LOS ANGELES, CALIFORNIA  
ORDINANCE NO. 1262**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMDALE,  
CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT 04-01, TO  
AMEND THE CITY OF PALMDALE ZONING ORDINANCE TEXT  
REGULATING ALCOHOLIC BEVERAGE ESTABLISHMENTS AS  
DESCRIBED HEREIN (ZOA 04-01)**

**CITY COUNCIL OF THE CITY OF PALMDLAE DOES ORDAIN AS FOLLOWS:**

SECTION 1. Pursuant to Government Code Section 65853, Zoning Ordinance Amendment 04-01, amends the text of the Palmdale Zoning Ordinance (Title 17 of the Palmdale Municipal Code) for the purpose of incorporating revisions to Section 92.07, Alcoholic Beverage Establishments and add Temporary Sales of Alcoholic Beverages to Section 27, Temporary Uses. The proposed Zoning Ordinance Amendment amends sections of the Zoning Ordinance for the purpose of regulating alcoholic beverage outlets.

SECTION 2. The requested Zoning Ordinance Amendment is applicable to properties city-wide.

SECTION 3. The Planning Commission conducted to public hearings on the Zoning Ordinance Amendment on October 21, 2004, November 18, 2004, December 16, 2004, January 14, 2005, March 17, 2005, and April 7, 2005, when the Planning Commission concluded the public hearings and adopted Resolution No. PC-2004-062 recommending approval of the proposed Zoning Ordinance Amendment 04-01.

SECTION 4. On June 27, 2005, the City Council conducted a duly noticed public haring to consider Zoning Ordinance Amendment 04-01 at the City Council Chamber, 38300 Sierra Highway, Suite B, Palmdale, California. Notice of the time, place, and purpose of the aforesaid meeting was duly noticed in accordance with California Government Code Section 65090, and Public Resources Code Section 21092.

SECTION 5. Based upon substantial evidence presented to the City Council during the above-referenced June 27, 2005 public hearing, including public testimony, written and oral staff reports, this Council specifically finds as follows:

- a) The City Council hereby finds that an Initial Study was completed for the text modification and additions contained herein and found the proposed components are consistent with the project which was reviewed in EIR 91-3, as certified by City Council Resolution No. 93-10, and the findings

of mitigation of environmental impacts contained in Section 4 and the findings of overriding consideration in Section 6 of Resolution No. 93-10, approving the City of Palmdale General Plan, apply to this project and are incorporated herein by reference. These findings shall constitute the findings required by Public Resources Code Section 21081. The City Council further finds that EIR 91-3 and this finding of conformance represent the independent judgment of this City Council.

- b) The additional information provided in the staff report and the proposed Zoning Ordinance Amendment does not represent significant new information so that to require Recirculation of the EIR pursuant to Public Resources Code Section 21092.1.
  
- c) Pursuant to Section 65860 of the State Planning and Zoning Law (Division 1 of Title 7 of the California Code), this Zoning Ordinance Amendment is consistent with the goals, objectives and policies of the City's General Plan, more specifically Objective S2.5 which states, "Minimize potential hazards related to crime through the development review process and through on-going public education programs"; Policy S2.5.1 which states, "Through the development review process, ensure that sites are designed so as to maximize safety and security of users"; Policy S2.5.3 which states, "Where appropriate, require provisions of security within new development on a continuing basis"; Policy S2.5.4 which states, "Encourage the formation and continued education of neighborhood and business watch groups, to assist the Sheriff Department in crime preventions and detection". Zoning Ordinance Amendment 04-01 modifies the text to require alcoholic beverage establishments to obtain a Conditional Use Permit to provide an opportunity for public review and evaluation of site-specific requirements and characteristics, to provide adequate mitigation of any potentially adverse impacts, require alcoholic beverage establishment to participate in the Business Watch Program, and to ensure that all site development regulations and performance standards are provided in accordance with the Zoning Ordinance and mitigate the adverse impacts to the community associated with the sale of alcoholic beverages. Further, Zoning Ordinance Amendment 04-01 is consistent with the General Plan Policy S4.1.1 which states, "Adopt appropriate codes to assure minimum standards to safeguard health, safety and public welfare by regulating the use and occupancy, location and maintenance of structures within the City" because the proposed changes to Section 92.07 will regulate the

operations, site location, lighting, noise, and education of the employees in the proper procedures for selling and serving of alcoholic beverages.

- d) The proposed Zoning Ordinance Amendment conforms to the intent of the Zoning Ordinance and is consistent with all other related provisions thereof because each proposed change is consistent with the stated purpose and intent of the applicable chapters.
- e) The proposed Zoning Ordinance Amendment is reasonable and beneficial at this time as it provides for the maintenance of the document as envisioned by Section 92.07 of the Zoning Ordinance to establish specific standards for off-sale and on-sale of alcoholic beverage establishments by ensuring that such businesses are appropriately located, so as not to pose a significant threat to the public peace, health, safety and welfare by encouraging an undue concentration and proliferation of alcoholic beverage establishments.
- f) The City recognizes that the selling of alcoholic beverages is a legitimate activity; the City also seeks to encourage safe and responsible alcohol practices by consumers and alcohol serving businesses.
- g) The City seeks to provide additional tools in order to reduce the costly and harmful impacts of irresponsible alcohol sales and consumption practices on local businesses, residential law enforcement, medical care, educational, preventative, treatment and rehabilitation resources.
- h) Alcohol can be a highly addictive substance that impairs motor skills, decision-making and judgment, and the excessive uncontrolled and unmanaged sale of alcoholic beverages may have a negative impact on public health, safety, and welfare.
- i) Studies show that increases in the availability of alcohol are associated with increased in crime rates, automobile crashes and other accidents in an urban municipal area.
- j) This ordinance is intended and designed to reduce alcohol related environmental problems and conditions by regulating the location of alcohol outlets in relation to environmental problems and conditions by regulating the location of alcohol outlets in relation to one another, and

their proximity to sensitive use areas and facilities primarily devoted to use by children and the general public, and through the imposition of conditions upon alcohol outlets or denial of use permit to prevent undesirable community impact on such uses.

SECTION 6. Zoning Ordinance Section 92.07, Alcoholic Beverage Establishments, of the Palmdale Zoning Ordinance is hereby amended to read as follows:

**Section 92.07 Alcoholic Beverage Establishments**

A. Purpose and intent

It is the purpose of these regulations to establish specific standards for alcoholic beverage establishments to ensure that such businesses are appropriately located and operated so as not to pose a significant threat to the public health, safety, peace and welfare.

B. Definitions

For the purposes of this Article, the following words and phrases are defined as follows. Any word, phrase or term that is not defined in this Article but that is defined in another Article of this Ordinance shall have the meaning prescribed by such other Article.

**ABC License** shall mean a license issued by the Department of Alcoholic Beverage Control.

**Alcoholic Beverage Establishment** shall mean any or all of the following: a bonafide restaurant, an Incidental Off-Sale Alcoholic Beverage Establishment; an Incidental On-Sale Alcoholic Beverage Establishment; a Primary Off-Sale Alcoholic Beverage Establishment; and a Primary On-Sale Alcoholic Beverage Establishment.

**Banquet Facility** shall mean an establishment that provides a gathering place restricted to guests attending a particular event and that does not impose an admission fee on such persons.

**Bar, Cocktail Lounge, and Night Club** shall mean an establishment that sells alcoholic beverages for consumption on the premises and that also does any of the following:

1. Promotes the sale of alcoholic beverages through manufacturer displays, discounted prices or special events intended to encourage alcoholic beverage consumption independent of food consumption;
2. Provides karaoke or live entertainment (except that a bona fide restaurant that provides live entertainment such as a solo pianist, an acoustical guitarist or a small chamber ensemble, on an occasional basis, which does not occupy more than 50 square feet in floor area, and is not amplified, shall not be considered as a bar, cocktail lounge, or night club);
3. Provides a patron dancing area on the premises;
4. Provides food service as an accessory use or;
5. Charges an admission fee or cover charge at any time for access to the premises .

**Billiards and Pool Hall** shall mean an establishment that provides billiard tables for entertainment.

**Bona Fide Restaurant** shall mean a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health. For purposes of this article, a restaurant will be considered a Bona Fide Restaurant if the following criteria are satisfied;

1. A Bona Fide Restaurant shall have an on-site operational kitchen from which a substantial portion of the menu items are prepared;
2. A Bona Fide Restaurant shall keep its kitchen open and operational and shall provide food service until one-half hour before the establishment closes;

3. No more than 10% of the gross floor area is used for the sale, display and storage of alcoholic beverages for consumption on the premises;
4. Alcoholic beverages are sold only for consumption on the Bona Fide Restaurant premises.
5. The primary use is sit-down dining.
6. Any take-out food service is incidental to the primary use.
7. Dancing is not permitted on the premises.
8. The establishment does not conduct a Bar, Cocktail Lounge, and Nightclub on the premises.
9. Service is not provided at counters or tables where patrons are standing.
10. Alcoholic beverages are not served in conjunction with any recreational activity, game of skill or chance, athletic event or adult entertainment.

**Break in Service** shall mean the closure of an Alcoholic Beverage Establishment for a period of one hundred eighty (180) consecutive days.

**Existing Non-CUP Alcoholic Beverage Establishment** shall mean an Alcoholic Beverage Establishment that was lawfully operating without a Conditional Use Permit on (the effective date of this ordinance).

**High Crime Areas** shall mean a crime-reporting district that has more than one hundred twenty (120) percent of the average crimes reported.

**Incidental Alcoholic Beverage Establishments** shall mean Incidental Off-Sale Alcoholic Beverage Establishments and Incidental On-Sale Alcoholic Beverage Establishments.

**Incidental Off-Sale Alcoholic Beverage Establishment** shall mean those establishments that both: (1) sell, serve or give away alcoholic beverages for consumption off the premises; and (2) utilize no more than the square footage provided in the table below for the sale, display and storage of alcoholic beverage for consumption off the premises.

Size of Outlet	Maximum square footage of gross floor area and shelf area for sale, display and storage of alcoholic beverages
0-100,000 gross square feet of total floor area	Up to 10% or 5,000 square feet, whichever is less.
Greater than 100,000 gross square feet of total floor area	Up to 5% or 7,500 square feet, whichever is less.

**Incidental On-Sale Alcoholic Beverage Establishment** shall mean those establishments the both: (1) sell, serve or give away alcoholic beverages for consumption on the premises; and (2) utilize ten (10) percent or less of the gross floor areas for the sale, display and storage of alcoholic beverages for consumption on the premises. Without limitation, this definition includes a hotel that maintains only a Type 70 Alcoholic Beverage License. For purposes of this article, a bona fide restaurant shall not be considered an Incidental On-Sale Alcoholic Beverage Establishment.

**Liquor Store** shall mean an establishment in which the primary use is the sale of alcoholic beverages for consumption off the premises.

**Nuisance Activities** shall mean without limitation the following: disturbance of the peace; illegal drug activity; public drunkenness; illegal public consumption of an alcoholic beverage; public urination; harassment of passerby; gambling; prostitution; sale of stolen goods; excessive loud noise; lewd conduct; loitering; vandalism; assault; battery; and illegal parking.

**Off-Sale Alcoholic Beverage Establishments** shall mean Incidental Off-Sale Alcoholic Beverage Establishments and Primary Off-Sale Alcoholic Beverage Establishments.



**On-Sale Alcoholic Beverage Establishments** shall mean Incidental On-Sale Alcoholic Beverage Establishments and Primary On-Sale Alcoholic Beverage Establishments.

**Primary Alcoholic Beverage Establishments** shall mean Primary Off-Sale Alcoholic Beverage Establishments and Primary On-Sale Alcoholic Beverage Establishments.

**Primary Off-Sale Alcoholic Beverage Establishment** shall mean those establishments that both: (1) sell, serve or give away alcoholic beverages for consumption off the premises; and (2) utilize more than ten (10) percent of the gross floor area or the shelf area for the sale, display and storage of alcoholic beverages for consumption off the premises. Without limitation, this definition includes a Liquor Store. For purposes of this Article, a Convenience Store that sells alcoholic beverages shall be considered a Primary Off-Sale Alcoholic Beverage Establishment regardless of the amount of gross floor area or shelf area utilized for the sale, display and storage of alcoholic beverages for consumption off the premises.

**Primary On-Sale Alcoholic Beverage Establishment** shall mean those establishments that both: (1) sell, serve or give away alcoholic beverages for consumption on the premises; and (2) utilize more than ten (10) percent of the gross floor area or shelf area for the sale, display and storage of alcoholic beverages for consumption on the premises. Without limitation, this definition includes an eating establishment or restaurant that sells alcoholic beverages and does not qualify as a Bona Fide Restaurant or Incidental On-Sale Alcoholic Beverage Establishment. For purposes of this Article, if any sale of alcoholic beverages for consumption on the premises is involved, the following uses shall be considered a Primary On-Sale Alcoholic Beverage Establishment regardless of the amount of gross floor area or shelf area utilized for the sale, display and storage of alcoholic beverages for consumption on the premises: Adult Cabaret; Bar, Cocktail Lounge and Night Club; Billiards and Pool Hall; and Club (Fraternal) or Lodge; and a bowling alley (except where alcohol is served within a bona fide restaurant).

**Responsible Beverage Service Training** shall mean a certified training program in responsible methods and skill for selling and serving alcoholic beverages. Such program must satisfy the standards of the California Coordinating Council on Responsible Beverage Service or an equivalent entity designated by the State.

**Substantial Change in Mode or Character of Operation** shall mean without limitation that an Alcoholic Beverage Establishment has done any of the following:

1. Increased its floor area by twenty-five (25) percent or more.
2. Increased the floor area principally devoted to alcoholic beverage sales by twenty-five (25) percent or more.
3. Converted from a Bona-Fide Restaurant to a Bar, Cocktail Lounge and Night Club.
4. Changed its ABC License type.
5. Had its ABC License suspended for a period greater than thirty (30) days.
6. Had a Break in Service.
7. Transferred its alcoholic beverage operations from one premises to another.

**Undue Concentration** shall be determined by the Population Density Method or by the Retail Density Method in the discretion of the Planning Director.

1. Population Density Method

Undue Concentration of Off-Sale Alcoholic Beverage Establishments shall occur where the ratio of the resident population number to the permitted number of Off-Sale Alcoholic Beverage Establishments (as defined by the Department of Alcoholic Beverage Control) within the census tract or census division exceeds the ratio of population to Off-Sale Alcoholic Beverage Establishments for the City.

Undue Concentration of On-Sale Alcoholic Beverage establishments shall occur where the ratio of the resident population number to the permitted number of On-Sale Alcoholic Beverage Establishments (as defined by the Department of Alcoholic Beverage Control) within the census tract or

census division exceeds the ratio of population to On-Sale Alcoholic Beverage Establishments for the City.

2. Retail Density Method

Undue Concentration of Off-Sale Alcoholic Beverage Establishments shall occur where the number of Off-Sale Alcoholic Beverage Establishments within a radius of two thousand, five hundred (2,500) feet of any location in question exceeds the average of the numbers of Off-Sale Alcoholic Beverage Establishments within a radius of two thousand, five hundred (2,500) feet of a sample of twenty (20) Off-Sale Alcoholic Beverage Establishments drawn at random from the City's commercially zoned areas.

Undue Concentration of On-Sale Alcoholic Beverage Establishments shall occur where the number of On-Sale Alcoholic Beverage Establishments within a radius of two thousand, five hundred (2,500) feet of any location in question exceeds the average of the numbers of On-Sale Alcoholic Beverage Establishments within a radius of two thousand, five hundred (2,500) feet of a sample of twenty (20) On-Sale Alcoholic Beverage Establishments drawn at random from the City's commercially zoned areas.

C. Conditional Use Permit Requirement

1. No new Alcoholic Beverage Establishment shall be established unless a permit has first been obtained pursuant to Article 22 (Conditional Use Permits).
2. In addition to the information required by Article 22, the following shall be included with the Conditional Use Permit application:
  - a. An interior floor plan of the proposed establishment drawn to scale indicating the total gross floor area and the percentage of gross floor area devoted to sale of alcoholic beverages. The percentage of gross floor area devoted to sale of alcoholic beverages shall be calculated based on the following criteria:

1. Off-Sale Alcoholic Beverage Establishments - The percentage of gross floor area devoted to sale of alcoholic beverages shall include any areas utilized for the sale, storage or display of alcoholic beverages.
  2. On-Sale Alcoholic Beverage Establishments - The percentage of gross floor area devoted to sale of alcoholic beverages shall include any areas utilized for the sale, storage or display of alcoholic beverages. Additionally, the percentage of gross floor area devoted to sale of alcoholic beverages shall include any bar service area(s), associated seating area(s), dance floor(s) and storage area(s).
- b. A vicinity map indicating the location of the proposed establishment and the distance separation from those uses specified in the location standards of this Section.
3. In addition to the findings required by Article 22, prior to approving or conditionally approving a Conditional Use Permit for an Alcoholic Beverage Establishment, the approval authority shall find that the proposed use is consistent with the purpose of this Section. In making the required findings, the approval authority may consider the following:
    - a. Whether the proposed establishment would result in an Undue Concentration.
    - b. Whether the proposed establishment would be located in a High Crime Area.
    - c. Information in the surrounding area.
    - d. The hours of operation of the proposed establishment.
- D. Location Standards – Primary On-Sale and Off-Sale Alcoholic Beverage Establishments

1. New Primary Alcoholic Beverage Establishments shall be separated from existing sensitive and similar uses based on the location standards specified below:

	On-Sale	Off-Sale
Religious Assembly	500	500
*Public or Private K-12 School or Day Care	500	1,000
Public Parks, Recreation Centers, Public Libraries, or Trails	500	500
**Residential Uses or Residentially Designated Property	500	500
Existing Bona Fide Restaurants	500	500
Existing Incidental Alcoholic Beverage Establishment	500	500
Existing Primary Alcoholic Beverage Establishment	1,000	1,000
Hospitals	1,000	1,000
Sexually Oriented Business	1,000	1,000

\*Includes both existing school facilities and undeveloped school sites as identified by the applicable School District.

\*\*Includes both existing residential uses and areas designated for future residential land uses on the General Plan Land Use Map.

2. For purposes of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or suite wall where a Primary Alcoholic Beverage Establishment is proposed to be conducted, to the nearest building or suite wall of an existing use or nearest property line if there is no structure. For school uses, the distance shall be measured from the nearest portion of the building or suite wall where the Primary Alcoholic Beverage Establishment is proposed to the nearest property line of an existing or future school site.

E. Location Standards – Bona Fide Restaurants and Incidental Alcoholic Beverage Establishments

1. Bona Fide Restaurants and new Incidental Alcoholic Beverage Establishments shall be separated from existing sensitive and like uses as based on the following location standards:

	On-Sale	Off-Sale	Bona Fide Restaurant
Religious Assembly	500	0	0
*Public or Private K-12 Schools and Day Care	500	0	0
Public parks, Recreation Centers, Public Libraries or Trails	500	0	0
**Residential Uses or Residentially Designated Property	300	0	0
Existing Bona Fide Restaurants	0	0	0
Existing Incidental Alcohol Beverage Establishment	300	0	0
Existing Primary Alcoholic Beverage Establishment	300	0	0
Hospitals	1,000	0	0
Sexually Oriented Business	1,000	1,000	1,000

\*Includes both existing school facilities and undeveloped school sites as identified by the applicable School District.

\*\*Includes both existing residential uses and areas designated for future residential land uses on the General Plan Land Use Map.

2. For purposes of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or suite wall where an Incidental Alcoholic Beverage Establishment is proposed to be conducted, to the nearest building or suite wall of an existing use or nearest property line if there is no

structure. For school uses, the distance shall be measured from the nearest portion of the building or suite wall where the Incidental Alcoholic Beverage Establishment is proposed to the nearest property line of an existing or future school site.

F. Development Standards – Off-Sale Alcoholic Beverage Establishments

In addition to any conditions imposed by the approval authority, Off-Sale Alcoholic Beverage Establishments that require a Conditional Use Permit shall comply with the following development standards.

1. No beer or wine shall be displayed within five (5) feet of the cash register or the front door unless such item is in a permanently affixed cooler.
2. No sale of alcoholic beverages shall be made from a walk-up or drive-in window.
3. No display or sale of alcoholic beverages shall be made from an ice tub. An "ice tub" is a vessel filled with ice that displays single servings of alcoholic beverages for customer self-service.
4. No beer or wine advertising shall be located on motor fuel islands and no self-illuminated beer or wine advertising shall be located on buildings or windows of establishments where motor vehicle fuels are sold or stored.
5. Alcoholic beverages and non-alcoholic beverages shall be stocked and displayed separately.
6. The establishment shall be a member of the "Business Watch Program."
7. Litter and trash receptacles shall be conveniently located inside and outside the establishment, and trash and debris shall be removed from the premises on a daily basis.

8. The exterior of the establishment, including all signs, accessory buildings and structures, shall be maintained free of litter and graffiti at all times. Graffiti shall be removed within twenty-four (24) hours of written notice from the City.
9. The sales area shall be located so that the clerk and customer are fully visible from the street at the time of the sales transaction.
10. The cash register and sales area shall be illuminated so as to provide clear observation for law enforcement surveillance.
11. For specific locations or defined geographic areas, the approval authority may restrict alcoholic beverages by container size and type, and/or by strength of alcohol content, where a nexus is demonstrated between such restriction and the public health and safety.
12. Alcoholic beverages shall not be consumed on the premises.
13. Loitering in the public right-of-way, parking area and in front of adjacent properties shall be prohibited.
14. Window signs shall comply with Article 88 (Signs) and shall be located so as to provide a clear and unobstructed view of the cash register and sales area from the parking lot and street.
15. The establishment shall conspicuously post the following signs:
  - a. Interior and exterior signs stating that consumption of alcoholic beverages on the premises is prohibited by law.
  - b. Exterior signs stating Penal Code Section 602.1 and Section 9.44.050 of this Code. Such signs shall be clearly visible from the establishment's parking area and shall include the Los Angeles County Sheriff's Department phone number.



- c. An interior sign stating: "We ID everyone under 30 years of age for alcohol sales." The dimensions of such sign shall be at least eight (8) inches by eleven (11) inches. If the predominant language of the establishment's clientele is not English, then the sign shall also be that language.
16. Public telephones shall be located within the establishment and shall be programmed to allow only out-going calls.
17. A copy of this Section and any conditions of approval imposed on the establishment shall be conspicuously posted on the premises.
18. No coin-operated games shall be permitted in any establishment that is located in a High Crime Area.
19. Exterior lighting of the parking area and premises shall be provided at a level sufficient for recognition of the features of a person at any point on the property. Lighting shall conform to Section 86.03 (Lighting) and shall not produce glare or illuminate nearby residential properties.
20. A security camera system approved by the Public Safety Division shall be installed on the premises, shall be maintained in proper working order at all times and shall be subject to periodic inspection by the City. The system must be capable of producing a retrievable image on film or tape that can be made a permanent record and that can be enlarged through projection or other means. Video or digital recordings generated by the system shall be maintained for thirty (30) days.
21. The establishment shall implement preventive architectural design features, as approved by the Public Safety Division and the Planning Director, to maintain security of the premises. Such features shall control access to the facility, open sight lines, lighting levels, ambient noise levels and circulation patterns.

22. Special security measures such as security guards, door monitors and burglar alarm systems may be required as a condition of approval. This will be determined on a case-by-case basis upon review by the Planning Director, the Public Safety Division and the Los Angeles County Sheriff's Department.

G. Development Standards – On-Sale Alcoholic Beverage Establishments

In addition to any conditions imposed by the approval authority, On-Sale Alcoholic Beverage Establishments that require a Conditional Use Permit shall comply with the following development standards.

1. Litter shall be removed from the exterior of the establishment as required and no less frequently than once each day the establishment is open.
2. The exterior of the establishment, including all signs, accessory buildings and structures, shall be maintained free of litter and graffiti at all times. Graffiti shall be removed within twenty-four (24) hours of written notice from the City.
3. Alcoholic beverages shall not be sold for consumption off the premises.
4. Alcoholic beverages shall not be consumed in the parking area or other exterior areas. This prohibition does not apply to City-approved outdoor eating-places that are adequately separated from direct public access.
5. Exterior lighting of the parking area and premises shall be provided at a level sufficient for recognition of the features of a person at any point on the property. Lighting shall conform to Section 86.03 (Lighting) and shall not produce glare or illuminate nearby residential properties.
6. A copy of this Section and any conditions of approval imposed on the establishment shall be conspicuously posted on the premises.
7. Public telephones shall be located within the establishment and shall be programmed to allow only out-going calls.

8. The establishment shall be a member of the "Business Watch Program."
9. The establishment shall conspicuously post an interior sign stating: "We ID everyone under 30 years of age for alcohol sales." The dimensions of such sign shall be at least eight (8) inches by eleven (11) inches. The language of such sign shall be English, as well as the predominant language of the establishment's clientele.
10. The establishment shall implement preventive architectural design features, as approved by the Public Safety Division and the Planning Director, to maintain security of the premises. Such features shall control access to the facility, open sight-lines, lighting levels, ambient noise levels and circulation patterns.
11. Special security measures such as security guards, door monitors and burglar alarm systems may be required as a condition of approval. This will be determined on a case-by-case basis upon review by the Planning Director, the Public Safety Division and the Los Angeles County Sheriff's Department.
12. The Planning Director or the Public Safety Division may also impose any or all of the following conditions of approval on a case-by-case basis:
  - a. Entertainment with amplification equipment shall not be conducted in the same room where meals are served.
  - b. Persons engaged in the sale or service of alcoholic beverages shall be at least twenty-one (21) years old.
  - c. No pool table or coin operated amusement device shall be maintained on the premises.

H. Training Requirement

1. Each person who sells or serves alcoholic beverages in any of the following venues shall successfully complete Responsible Beverage Service Training: (1) at a temporary use that requires a Temporary Alcoholic Beverage Sales Permit; (2) in a new Alcoholic Beverage

Establishment; or (3) in an existing Non-CUP Alcoholic Beverage Establishment that the City has determined has knowingly allowed Nuisance Activities on the premises. The program shall be completed within sixty (60) days of assuming the position that involves sale or service of alcoholic beverages, and shall be periodically completed again not less than once every three (3) years.

2. Records of successful completion of Responsible Beverage Service Training shall be maintained on the premises of the temporary use or the Alcoholic Beverage Establishment, and shall be presented to City and Los Angeles County Sheriff's Department representatives upon request.

- I. Existing Non-CUP Alcoholic Beverage Establishments

Any Existing Non-CUP Alcoholic Beverage Establishment that ceases to operate continuously without a Substantial Change in Mode or Character of Operation or on who premises nuisance activities occur shall, upon determination of the Planning Commission after a public hearing, be a non-conforming use until such time as a Conditional Use Permit is obtained.

SECTION 7. Zoning Ordinance Section 27.03.B.7, Temporary Uses, is added to read as follows:

**Section 27.03.B.7 Temporary Uses**

7. Temporary Sales of Alcoholic Beverages

Any event sponsor or applicant that anticipates a temporary event with alcohol sales shall obtain a Temporary Use Permit. The application is to be filed with the Planning Department at least sixty (60) days in advance of the event.

The Event Sponsor is the entity determined by the City to be liable for protecting public health and safety of event participants (those who attend the event), of event operators (those who create and execute the event), and of all others affected by the actions of event participants and event operators.

- A. The Planning Director shall review and approve applications for a Temporary Use Permit.
  
- B. Conditions for a Temporary Use Permit
  - 1. The applicant shall obtain property owner's authorization.
  - 2. The applicant shall obtain a Business License and any other permits applicable for the event.
  - 3. The applicant shall submit a site plan showing the event and areas that alcohol is to be sold.
  - 4. The applicant shall have control over points of access to the location where alcoholic beverages are dispensed and consumed.
  - 5. The applicant shall have control and containment of individuals who consume alcoholic beverages.
  - 6. Los Angeles Sheriff's Department liaison shall determine the number of deputies required for security of the event based on the type and size of the event.
  - 7. All alcoholic beverage servers shall have in their possession proof of completing "Responsible Beverage Service" training from the Department of Alcoholic Beverage Control.
  - 8. A Temporary Alcoholic Beverage Control license is required for the duration of this event. A copy of the temporary license is to be submitted to the City of Palmdale Planning Department prior to the start of the event.
  - 9. The applicant shall specify the hours of operation of the event and the hours of sale of alcoholic beverages.

10. The applicant shall provide liability insurance in the amount determined by the City Attorney based on the size and type of the event with an "Alcohol Endorsement" and naming the City of Palmdale as additionally insured.
11. The applicant shall provide traffic and parking control as required to facilitate safe and orderly on-site and off-site traffic flow and circulation for the event including handicapped access and fire lanes. Obtain approval of the site plan from the Los Angeles County Fire Department. The approved site plan is to be submitted to the Planning Department along with the Temporary Use Permit application.
12. The site shall be restored to the original condition. Site shall be free of debris, all trash receptacles removed, temporary fencing removed, and all disturbed asphalt shall be restored to the original condition. Disturbed landscape areas are also to be restored to the original condition. The applicant shall be financially responsible for any damage to the parking lot surface and landscape areas resulting from the event.
13. All proposed signage is to be approved by the Planning Department and shall comply with the Article 88 (Signs) of the City of Palmdale Zoning Ordinance.
14. All tents and other temporary structures shall require Fire Department approval. Provide a copy of the signed plans to the Planning Department prior the event.
15. The applicant is to comply with all Los Angeles County Fire Department requirements such as Fire lanes, access points, and may require on-site Los Angeles County Fire Department staff.
16. All uses involving electricity require an electrical permit from the Building and Safety Department.
17. The applicant shall provide sanitary facilities for the participants of the event.

18. All unimproved parking areas and main walk areas shall be kept damp or shall be covered with a material to prevent dust.
19. The site shall be kept free of debris and wind blown trash. The applicant shall provide adequate number of trash receptacles based on the size of the event.
20. All temporary lighting shall be directed away from and shielded from adjacent parcels, streets, and public rights-of-way.
21. If live entertainment is planned, noise generated from performances is to be directed away from residential uses and kept at an acceptable level.
22. All food vendors are required to obtain a Los Angeles County Health Permit for the sale of food and drinks.
23. A minimum deposit of five hundred (\$500) or more as determined by the Planning Director is to be submitted to the Planning Department prior to the event to ensure timely compliance with Temporary Use Requirements.
24. The applicant shall comply with all other Conditions of Approval for the Temporary Use Permit.

SECTION 8. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

PASSED, APPROVED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2005 by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_ ABSENT: \_\_\_\_\_

\_\_\_\_\_  
James C. Ledford, Jr., Mayor

ATTEST:

\_\_\_\_\_  
Victoria L. Hancock, CMC  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney



**ATTACHMENT 1**

**CITY OF PALMDALE  
LOS ANGELES COUNTY, CALIFORNIA  
RESOLUTION NO. PC-2004-062**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALMDALE, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF PALMDALE, CALIFORNIA, APPROVE ZONING ORDINANCE AMENDMENT 04-01, AMENDING TEXT AS DESCRIBED HEREIN (ZOA 04-01)**

**A. RECITALS**

- (i) Pursuant to Section 65800 and 65850 of the Government Code, the City of Palmdale has adopted a Zoning Ordinance which regulates the use of buildings, structures, and land uses as between industry, business, residences, open space and other purposes; regulates signs and billboards; regulates the location, height, bulk, number of stories and size of buildings and structures, the size and use of lots, yards, courts and other open spaces, the percentage of a lot which may be occupied by a building or structure, and the intensity of land use; establishes requirements for off-street parking and loading; establishes building setback lines, as authorized by state law; and other matters.
- (ii) Pursuant to Section 65853 of the Government Code, Zoning Ordinance Amendment 04-01, as contemplated, proposes to amend, clarify and add provisions to text within the Palmdale Zoning Ordinance (Title 17 of the Palmdale Municipal Code) for the purpose of regulating sales of alcoholic beverages. The proposed Zoning Ordinance Amendment applies to properties city-wide.
- (iii) The aforementioned text amendments are incorporated as Exhibit I and II of this Resolution.
- (iv) On January 25, 1993, the City Council of the City of Palmdale adopted Resolution No. 93-10, certifying EIR 91-3 and adopting a Statement of Overriding Considerations and a Mitigation Monitoring Program pertaining to the City of Palmdale General Plan.
- (v) On July 13, 2004, an environmental Initial Study was prepared for Zoning Ordinance Amendment 04-01. The Initial Study concluded that the proposed amendment to the Zoning Ordinance has been reviewed and found to be in substantial conformance with the project reviewed in EIR

91-3, as certified by the City Council of the City of Palmdale by adoption of Resolution No. 93-10.

- (vi) On October 21, 2004, the Planning Commission of the City of Palmdale conducted a duly noticed public hearing on Zoning Ordinance Amendment 04-01 and continued said hearing to November 18, 2004.
- (vii) On November 18, 2004, the Planning Commission of the City of Palmdale conducted a public hearing on Zoning Ordinance Amendment 04-01 and continued said hearing to December 16, 2004.
- (viii) On December 16, 2004, the Planning Commission of the City of Palmdale conducted a public hearing on Zoning Ordinance Amendment 04-01 and continued said hearing to January 14, 2005.
- (ix) On January 14, 2005, the Planning Commission of the City of Palmdale conducted a duly notice public hearing on Zoning Ordinance Amendment 04-01 and continued said hearing to March 17, 2005.
- (x) On March 17, 2005, the Planning Commission of the City of Palmdale conducted a duly notice public hearing on Zoning Ordinance Amendment 04-01 and continued said hearing to April 7, 2005
- (xi) On April 7, 2005, the Planning Commission of the City of Palmdale conducted a duly noticed public hearing on Zoning Ordinance Amendment 04-01 and concluded said hearing on that date.
- (xii) All legal prerequisites to the adoption of this Resolution have occurred.

## **B. RESOLUTION**

NOW THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the City of Palmdale, as follows:

1. The Planning Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A of this Resolution, are true and correct.
2. Based upon substantial evidence presented to this Commission during the above-referenced public hearings, including public testimony, and written and oral staff report, this Commission specifically finds as follows:

- (a) Based upon the environmental Initial Study, the proposed Zoning Ordinance Amendment is consistent with the project which was reviewed in the General Plan Final EIR, and with the findings of mitigation of environmental impact contained in Section 4 and the findings of Overriding Considerations in Section 6 of Resolution No. 93-10, approving the General Plan. That project, findings, mitigation measures and findings of Overriding Considerations are hereby found to apply to this project and are incorporated by reference, and shall constitute the findings required by Public Resources Code Section 21081.
- (b) The additional information provided in the staff report and the proposed Zoning Ordinance Amendment does not represent significant new information so as to require recirculation of the EIR pursuant to Public Resources Code Section 21092.1.
- (c) Pursuant to Section 65860 of the State Planning and Zoning Law (Division 1 of Title 7 of the California Code), this Zoning Ordinance Amendment is consistent with the goals, objectives and policies of the City's General Plan, more specifically Objective S2.5 which states, "Minimize potential hazards related to crime through the development review process and through on-going public education programs"; Policy S2.5.1 which states, "Through the development review process, ensure that sites are designed so as to maximize safety and security of users"; Policy S2.5.3 which states, "Where appropriate, require provisions of security within new development on a continuing basis"; Policy S2.5.4 which states, "Encourage the formation and continued education of neighborhood and business watch groups, to assist the Sheriff Department in crime preventions and detection". Zoning Ordinance Amendment 04-01 modifies the text to require alcoholic beverage establishments to obtain a Conditional Use Permit to provide an opportunity for public review and evaluation of site-specific requirements and characteristics, to provide adequate mitigation of any potentially adverse impacts, require alcoholic beverage establishment to participate in the Business Watch Program, and to ensure that all site development regulations and performance standards are provided in accordance with the Zoning Ordinance and mitigate the adverse impacts to the community associated with the sale of alcohol. Further, Zoning Ordinance Amendment 04-01

is consistent with the General Plan Policy S4.1.1 which states, "Adopt appropriate codes to assure minimum standards to safeguard health, safety and public welfare by regulating the use and occupancy, location and maintenance of structures within the City" because the proposed changes to Section 92.07 will regulate the operations, site location, lighting, noise, and education of the employees in the proper procedures for selling and serving of alcoholic beverages.

- (d) The proposed Zoning Ordinance Amendment conforms with the intent of the Zoning Ordinance and is consistent with all other related provisions thereof because each proposed change is consistent with the stated purpose and intent of the applicable chapters.
- (e) The proposed Zoning Ordinance Amendment is reasonable and beneficial at this time as it provides for the maintenance of the document as envisioned by Section 92.07 of the Zoning Ordinance.
- (f) The City recognized that the selling of alcohol is a legitimate activity; the City also seeks to encourage safe and responsible alcohol practices by consumers and alcohol serving businesses.
- (g) The City seeks to provide additional tools in order to reduce the costly and harmful impacts of irresponsible alcohol sales and consumption practices on local businesses, residential law enforcement, life guard, medical care, educational, preventative, treatment and rehabilitation resources.
- (h) Alcohol can be a highly addictive substance that impairs motor skills, decision-making and judgment, and the excessive uncontrolled and unmanaged sale of alcohol may have a negative impact on public health, safety, and welfare.
- (i) Studies show that increases in the availability of alcohol are associated with increased in crime rates, automobile crashes and other accidents in an urban municipal area.
- (j) This ordinance is intended and designed to reduce alcohol related environmental problems and conditions by regulating the location of alcohol outlets in relation to environmental problems and

conditions by regulating the location of alcohol outlets in relation to one another, and their proximity to sensitive use areas and facilities primarily devoted to use by children and the general public, and through the imposition of conditions upon alcohol outlets or denial of use permit to prevent undesirable community impact on such uses.

3. The Planning Commission hereby finds that the Finding of Consistency with the previously approved EIR 91-3 prepared in connection with ZOA 04-01 was prepared in compliance with the California Environmental Quality Act, has been reviewed and considered by the Planning Commission and reflects the independent judgment of this Planning Commission. Therefore, the Planning Commission hereby recommends to the City Council adoption of the Finding of Consistency for the project as included in the agenda packet for the April 7, 2005, Planning Commission hearing. The Director of Planning is hereby designated as the custodian of the documents and other materials which constitute the record of proceedings in this matter. The documents and other materials are on file at the City of Palmdale Planning Department, 38250 Sierra Hwy., Palmdale, California.
4. Based on the findings and conclusions set forth in paragraphs 1, 2, and 3 above, this Commission hereby recommends that the City Council adopt an ordinance that amends the text of the Palmdale Zoning Ordinance to incorporate the changes to the text described in Exhibit 1 attached hereto.
5. The Deputy City Clerk shall certify to the adoption of this resolution and shall transmit copies of this Resolution to the City Clerk and City Council.

**ADOPTED AND APPROVED** this 7<sup>th</sup> day of April, 2005.

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_

\_\_\_\_\_  
John Mayfield, Chairman  
Planning Commission

ATTEST:

\_\_\_\_\_  
Kathy Inman, Deputy City Clerk

CITY OF PALMDALE  
LOS ANGELES COUNTY, CALIFORNIA

ORDINANCE NO. U-1020

AN ORDINANCE OF THE CITY OF PALMDALE AMENDING THE PALMDALE ZONING ORDINANCE FOR THE PURPOSE OF ENACTING CITY-WIDE STANDARDS FOR THE LOCATION AND OPERATION OF ESTABLISHMENTS WHICH SELL OR SERVE ALCOHOLIC BEVERAGES, AND DECLARING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF PALMDALE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Palmdale makes the following findings with respect to the adoption of this Ordinance and the urgency thereof:

- A. Pursuant to Government Code Section 65800 et seq., the City of Palmdale may adopt zoning laws, rules, and ordinances to regulate the use of buildings, structures and land in order to protect the health, safety and welfare of its residents; and
- B. The Alcohol Beverage Control Act (Business and Professions Code 2300 et seq.) specifically provides that cities retain the powers granted to them under State law to regulate various types of establishments which sell or serve alcohol; and
- C. The City of Palmdale therefore has the authority to regulate establishments which sell or serve alcoholic beverages through the enactment of City-wide procedures and standards governing their location and operation; and
- D. In particular the Council has determined that establishments which sell or serve alcoholic beverages, if not appropriately located, may pose a significant threat to the public peace, health, safety and welfare by encouraging: an undue concentration and proliferation of alcohol-related establishments in areas of the City, crime including loitering, littering, property defacement, and drunk driving; and adverse impacts to adjacent and nearby uses such as schools, places of worship, parks, day care facilities and residential uses.

E. For these reasons, the City Council finds the enactment of this ordinance necessary to prevent a current and immediate threat to the public health, safety and welfare within the meaning of California Government Code Section 36937 (B). Therefore, this Ordinance shall take effect immediately.

SECTION 2. Section 15.01 (A) of Article 15 (Definitions) of Chapter 1 of the Palmdale Zoning Ordinance is hereby amended to add the following definitions:

"Alcohol-Related Establishments shall mean those establishments which are required to obtain a State Alcoholic Beverage Control License type 20 (off-sale beer and wine), type 21 (off-sale general), 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 bar), type 52 (veteran club) or type 63 (beer and wine hospital), and which sell or serve alcoholic beverages for on-site or off-site consumption either as a primary or accessory use. Bona fide restaurants, drug stores and food markets which allocate less than ten (10) percent of the gross floor area for alcohol sales, are not included within this definition."

"Automobile Service Stations shall mean those uses where the primary use is the sale of automotive fuels, and other

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Page 2

refined petroleum products, automobile accessories and other incidental auto parts, and may include minor automobile repair services, but does not include the sale of food or beverages other than from coin-operated vending machines."

SECTION 3. Section 15.02 (E) of Article 15 (Definitions) of Chapter 1 of the Palmdale Zoning Ordinance is hereby amended to add the following definition:

"Bars and Cocktail Lounges shall mean an establishment in which the primary use is the sale of alcoholic beverages for consumption on-site and which requires an Alcoholic Beverage Control license (type 40, 41, 42, 48 or 61) and which does not meet the definition of a Roma Fide Restaurant."

SECTION 4. Section 15.03 (C) of Article 15 (Definitions) of Chapter 1 of the Palmdale Zoning Ordinance is hereby amended to add the following definition:

"Convenience Store shall mean a retail establishment which contains less than five thousand (5000) square feet of gross floor area utilized in whole or in part for the retail sale of a variety of frequently needed personal convenience items such as groceries, delicatessen items, staples, dairy products, pre-packaged foods, sundry items and/or alcoholic beverages, and which may include the sale of automotive gasoline and related products. This definition is typified by the quick-sale retail store of which there are several national and many regional chains. This definition does not include specialty food stores such as meat markets, health food stores, or ethnic food stores carrying solely those items which are the customary fare of a particular culture without other non-ethnic items, or a full service food market containing less than five thousand 5,000 square feet of gross floor area wherein at least ten (10) percent of the gross floor area is utilized for the sale of fresh meat, seafood, and fresh produce."

SECTION 5. Section 15.12 (L) of Article 15 (Definitions) of Chapter 1 of the Palmdale Zoning Ordinance is hereby amended to add the following definition:

"Liquor Store shall mean an establishment in which the primary use is the sale of alcoholic beverages for consumption off-site and which requires a State Alcohol Beverage Control License (type 20 or 21)."

SECTION 6. Section 15.15 (O) of Article 15 (Definitions) of Chapter 1 of the Palmdale Zoning Ordinance is hereby amended to add the following definitions:

"Off-Sale Alcohol Establishment, primary shall mean those establishments required to obtain a State Alcohol Beverage Control license (type 20 or 21) and in which twenty percent (20) percent or more of the gross floor area is utilized for the sale, display and storage of beer, wine and/or distilled spirits for consumption off the premises. Typical uses include but are not limited to wholesale or retail Liquor Stores."

Off-Sale Alcohol Establishment, incidental shall mean those establishments required to obtain a State Alcohol Beverage Control License (type 20 or 21) and in which less than twenty (20) percent of the gross floor area is utilized for the sale, display and storage of beer, wine and/or distilled spirits for consumption off-site. This definition shall not include full service food markets and drug stores which allocate less than ten (10) percent of the gross floor area to alcohol sales, and convenience stores."



On-Sale Alcohol Establishment. Primary shall mean those establishments required to obtain a State Alcohol Beverage Control License (type 40, 41, 42, 47, 48, 51, 52 or 63) and in which twenty (20) percent or more of the gross floor area is utilized for the sale and storage of beer, wine, and/or distilled spirits for consumption on-site. The gross floor area shall include any bar service area(s), associated seating area(s), dance floor area(s), and storage area(s). Typical primary on-sale alcohol establishments include but are not limited to Bars and Cocktail Lounges.

On-Sale Alcohol Establishment, incidental shall mean those establishments required to obtain an State Alcohol Beverage Control License (type 40, 41, 42, 47, 48, 51, 52, or 63) and in which less than twenty (20) percent of the gross floor area is utilized for the sale and storage of beer, wine, and/or distilled spirits for consumption on-site. The gross floor area shall include any bar service area(s), associated seating area(s), dance floor area(s) and storage area(s). This definition shall not include Bona Fide Restaurants."

SECTION 7. Section 15.18 (R), of Article 15 (Definitions) of Chapter 1 of the Palmdale Zoning Ordinance is hereby amended to add the following definitions:

Restaurant, Bona Fide shall mean an establishment which is regularly and in a Bona Fide manner used and open for the serving of meals to guests for compensation and which has adequate kitchen facilities for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for the keeping of food on the premises and must comply with all the regulations of the local department of health. "Meals" means the usual assortment of foods commonly ordered at various hours of the day; the sole service of such food as sandwiches or salads shall not be deemed in compliance with this requirement. Any public eating establishment that satisfies the foregoing criteria but has areas designated for uses other than food preparation or consumption such as a bar areas, billiards, dance floors, etc., in excess of twenty (20) percent of the total floor area, shall not be deemed a Bona Fide Restaurant."

SECTION 8. Section 52.02 Principal Uses Permitted of Article 52 [Zone C-1 (Neighborhood Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete the following and renumber the remainder:

"20. Liquor Stores"

SECTION 9. Section 52.02 Principal Uses Permitted of Article 52 [Zone C-1 (Neighborhood Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete item no. 21 and replace with the following:

"21. Markets, food, excluding Convenience Stores"

SECTION 10. Section 52.02 Principal Uses Permitted of Article 52 [Zone C-1 (Neighborhood Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete item no. 28 and replace with the following:

"28. Restaurants, Bona Fide, not including dancing or entertainment"

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SECTION 11. Section 52.05 Uses by Conditional Use Permit of Article 52 [Zone C-1 (Neighborhood Commercial)] of Chapter 5 is hereby amended to add the following:

"4. Convenience Stores, pursuant to Section 94.12"

SECTION 12. Section 53.02 Principal Uses Permitted of Article 53 [Zone C-2 (Light Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete the following and renumber the remainder accordingly:

"9. Bars and Cocktail Lounges"  
"52. Liquor Stores"

SECTION 13. Section 53.02 Principal Uses Permitted of Article 53 [Zone C-2 (Light Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete item no. 56 and replace with the following:

"56. Markets, food, excluding Convenience Stores"

SECTION 14. Section 53.02 Principal Uses Permitted of Article 53 [Zone C-2 (Light Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to add the following:

"69.a. Off-Sale and On-Sale Alcohol-Related Establishments, incidental, pursuant to Section 91.08"

SECTION 15. Section 53.05 Uses by Conditional Use Permit of Article 53 [Zone C-2 (Light Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to add the following:

"2.a. Convenience Stores, pursuant to Section 94.12"

"18.a. Off-Sale and On-Sale Alcohol-Related Establishments, primary, including Bars, Cocktail Lounges, and Liquor Stores pursuant to Section 94.11"

SECTION 16. Section 54.02 Principal Uses Permitted of Article 54 [Zone C-3 (Medium Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to add the following:

"97.a. Off-Sale and On-Sale Alcohol-Related Establishments, incidental, pursuant to Section 91.08"

SECTION 17. Section 54.02, Principal Uses Permitted of Article 54 [Zone C-3 (Medium Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete the following and renumber the remainder accordingly:

"19. Bars and Cocktail Lounges"  
"77. Liquor Stores"

SECTION 18. Section 54.02 Principal Uses Permitted of Article 54 [Zone C-3 (Medium Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete item no. 82 and replace with the following:

"82. Markets, food, excluding Convenience Stores"

SECTION 19. Section 54.02 Principal Uses Permitted of Article 54 [Zone C-3 (Medium Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete item no. 117 and replace with the following:

"117. Restaurants, Bona Fide, and other eating establishments"

SECTION 20. Section 54.05 Uses by Conditional Use Permit of Article 54 [Zone C-3 (Medium Commercial)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to add the following:

"3.a. Convenience Stores, pursuant to Section 94.12"

"21.s. Off-Sale and On-Sale Alcohol-Related Establishments, primary, including, Bars, Cocktail Lounges, and Liquor Stores pursuant to Section 94.11"

SECTION 21. Paragraph A of Section 58.02 Uses Permitted of Article 58 [Zone C-M (Commercial/Manufacturing)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete the following and renumber the remainder accordingly:

"22. Bars and Cocktail Lounges"  
"76. Liquor Stores"

SECTION 22. Paragraph A of Section 58.02 Uses Permitted of Article 58 [Zone C-M (Commercial/Manufacturing)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete item no. A. 82 and replace with the following:

"82. Markets, food, excluding Convenience Stores"

SECTION 23. Paragraph A of Section 58.02 Uses Permitted of Article 58 [Zone C-M (Commercial/Manufacturing)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete item no. A. 118 and replace with the following:

"118. Restaurants, Bona Fide and other eating establishments"

SECTION 24. Paragraph B of Section 58.02 Uses Permitted of Article 58 [Zone C-M (Commercial/Manufacturing)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to delete item no. B. 108 and renumber the remainder accordingly:

"108. Restaurants"

SECTION 25. Section 58.05 Uses by Conditional Use Permit of Article 58 [Zone C-M (Commercial/Manufacturing)] of Chapter 5 of the Palmdale Zoning Ordinance is hereby amended to add the following:

"7.a. Convenience Stores, pursuant to Section 94.12"

SECTION 26. Paragraph B of Section 61.02 Principal Uses Permitted of Article 61 [Zone M-1 (Light Manufacturing and Industrial)] of Chapter 6 of the Palmdale Zoning Ordinance is hereby amended to delete item no. B. 126 and replace with the following:

"126 Restaurants, Bona Fide and other eating establishments"

SECTION 27. Paragraph B of Section 62.02 Principal Uses Permitted of Article 62 [Zone M-2 (Medium Manufacturing and Industrial)] of Chapter 6 of the Palmdale Zoning Ordinance is hereby amended to delete item no. B. 197 and replace with the following:

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\*197 Restaurants, Bona Fide and other eating establishments\*

SECTION 28. Article 91 Regulation of Principal Uses Permitted of Chapter 9 of the Palmdale Zoning Ordinance is hereby amended to add the following:

"Section 91.08 Off-Sale and On-Sale Incidental Alcohol-Related Establishments

In addition to compliance with all other applicable statutes, ordinances and regulations, the following regulations shall apply to new off-sale and/or on-sale incidental alcohol-related establishments where they are permitted as a principal use:

A. An interior floor plan of the proposed establishment drawn to scale indicating the total gross floor area of the establishment and the percentage of floor area devoted to alcohol sales shall be submitted to the Planning Department for review and approval. The percentage of gross floor area for incidental alcohol sales shall be calculated based on following criteria:

1. Off-sale alcohol-related establishments. The percentage of gross floor area devoted to alcohol sales shall include any areas utilized for the sale, storage or display of alcoholic beverages.
2. On-sale alcohol-related establishments. The percentage of gross floor area devoted to alcohol sales shall include any bar service area(s), associated seating area(s), dance floor(s) and storage area(s).

B. A vicinity map indicating that the proposed alcohol-related use complies with the minimum distance separation from those adjacent uses as specified in Section 91.08 (C) shall be submitted to the Planning Department for review and approval.

C. New incidental alcohol-related establishments shall be separated from sensitive and like uses as based on the following standards:

Places of Worship	500'
*High Schools	500'
*Junior High Schools	500'
*Elementary Schools	500'
Day Nurseries, Children	500'
Public Parks	500'
**Residential	300'
Existing Alcohol-Related Uses	300'
Sexually Oriented Businesses	1000'

\*Includes both existing schools and undeveloped school sites as identified by the applicable School District.

\*\*Includes both existing residential uses and areas designated for future residential land uses on the General Plan Land Use Map.

D. For purposes of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or suite wall where an incidental

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alcohol-related use is proposed to be conducted, to the nearest building or suite wall of an existing use or nearest property line if there is no structure, or as specified in above Section 91.08 (C). For school uses, the distance shall be measured from the nearest portion of the building or suite wall where the alcohol-related use is proposed to the nearest property line of an existing or future school site.

E. Any proposed incidental alcohol-related establishment unable to meet the minimum separation distance requirements shall be required to obtain a Conditional Use Permit and to meet the requirements of Section 94.11 (A)(B) and (F).

F. The requirements of this Section shall apply to all new incidental alcohol-related establishments or a reissue of a alcohol license which has been expired for over one (1) calendar year. "New" uses does not include a remodel of an existing use involving less than twenty (20) percent of the gross floor area of a change in the type of license.

G. Exceptions. The following uses shall be exempt from the requirements of Section 91.08: Bona fide restaurants, and full service food markets and drug stores which allocate less than ten (10) percent of the gross floor area for alcohol sales and storage.

H. Any bar, cocktail lounge, liquor store or other use meeting the definition of a primary off-sale or on-sale alcohol-related establishment shall be required to obtain a Conditional Use Permit as specified in Section 94.11."

SECTION 29. Article 94 Regulation of Uses Established By Conditional Use Permit of Chapter 9 of the Palmdale Zoning Ordinance is hereby amended to add the following:

"Section 94.11 Off-Sale and On-Sale Primary Alcohol-Related Establishments Including Bars, Cocktail Lounges and Liquor Stores"

In addition to compliance with all other applicable statutes, ordinances and regulations, the following regulations shall apply to new primary alcohol-related establishments where such uses are permitted by a Conditional Use Permit:

A. An interior floor plan of the proposed establishment drawn to scale indicating the total gross floor area of the establishment and the percentage of floor area devoted to alcohol sales shall be submitted with the Conditional Use Permit application for consideration by the Planning Commission. The percentage of gross floor area for alcohol sales shall be calculated based on following criteria:

1. Off-sale alcohol-related establishments. The percentage of gross floor area devoted to alcohol sales shall include any areas utilized for the sale, storage or display of alcoholic beverages.
2. On-sale alcohol-related establishments. The percentage of gross floor area devoted to alcohol sales shall include any bar service area(s), associated seating area(s), dance floor(s) and storage area(s).

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B. A vicinity map indicating the location of the proposed primary alcohol-related establishment and the distance separation from those adjacent uses as specified in Section 94.11 (C) shall be submitted with the Conditional Use Permit application for consideration by the Planning Commission.

C. New primary alcohol-related establishments are to be separated from existing sensitive and similar uses based on the standards specified below. Should the Commission determine that special circumstances exist which warrant the increase of these distance requirements, they shall have discretion to modify these minimum distance standards accordingly.

- Places of Worship 500'
- \*High Schools 500'
- \*Junior High Schools 500'
- \*Elementary Schools 500'
- Day Nurseries, Children 500'
- Public Parks 500'
- \*\*Residential 300'
- Existing Incidental Alcohol-Related Uses 300'
- Existing Primary Alcohol-Related Uses 500'
- Sexually Oriented Businesses 1000'

\*Includes both existing school facilities and undeveloped school sites as identified by the applicable School District.

\*\*Includes both existing residential uses and areas designated for future residential land uses on the General Plan Land Use Map.

D. For purposes of this Section, measurement shall be made in a straight line without regard to intervening structures or objects, from the nearest portion of the building or suite wall where a primary alcohol-related use is proposed to be conducted, to the nearest building or suite wall of an existing use or nearest property line if there is no structure or as specified in above Section 94.11 (C). For school uses, the distance shall be measured from the nearest portion of the building or suite wall where the alcohol-related use is proposed to the nearest property line of an existing or future school site.

E. The requirements of this Section shall apply to all new primary alcohol-related establishments or a reissue of a alcohol license which has been expired for over one (1) calendar year. "New" uses does not include a change in the type of license or an interior remodel that does not involve an expansion of use.

F. In addition to the findings required for approval of a Conditional Use Permit pursuant to Section 102.07, as well as any other applicable findings, the Planning Commission shall find that the proposed alcohol-related use will not adversely affect the health, safety or welfare of adjacent residents and will not result in an undue concentration of alcohol-related establishments."

SECTION 30. Article 94 Regulation of Uses Established By Conditional Use Permit of Chapter 9 of the Palmdale Zoning Ordinance is hereby amended to add the following:

"Section 34.12 Convenience Stores

In addition to compliance with all other applicable statutes, ordinances and regulations, the following location and operation regulations shall apply to convenience stores where permitted by Conditional Use Permit:

A. General Standards

1. No video or arcade type of games shall be installed or operated on the premises.
2. The site shall have direct frontage along a major arterial or secondary arterial street. The site shall not have direct access on a local residential street.
3. All signage shall comply with Article B7 of the Palmdale Zoning Ordinance. Temporary removable copy signs are expressly prohibited.
4. The premises shall be kept in a neat and orderly condition at all times.
5. Trash receptacles shall be provided at each building entrance and at convenient locations inside and outside of the convenience store.
6. A bicycle rack shall be installed in a convenient location visible from the inside of the store.
7. All public restrooms that are provided shall be accessible only from the inside of the store.
8. Any security lighting, site lighting or illuminated signage shall be designed and/or directed so as not to adversely affect adjacent residential areas.
9. Public pay telephones provided on-site shall not be set up for incoming calls. Public telephones shall be featured with call out service only.
10. Convenience stores which propose alcohol sales and satisfy the definition of an incidental alcohol-related establishment shall comply with the requirements of Section 91.08. Convenience stores which propose alcohol-related sales and satisfy the definition of a primary alcohol-related establishment shall comply with the requirements of Section 94.11.

B. Standards for Concurrent Sales of Alcohol and Gasoline

1. No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler.
2. No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
3. No sale of alcoholic beverages shall be made from a drive-in window.
4. No display or sale of beer or wine shall be made from an ice tub.

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- 5. No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.
- 6. Employees on duty between the hours of 10 p.m. and 2 a.m. shall be at least 21 years of age to sell beer and wine.

SECTION 31. This ordinance is subject to Article 109 (ENFORCEMENT) of the Zoning Ordinance.

SECTION 32. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, paragraph, sentence, clause or phrase hereof irrespective of the fact that one or more sections, subsection, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 33. The City Council hereby finds that the proposed Negative Declaration prepared in connection with this Ordinance has been reviewed and considered and reflects the independent judgement of this City Council, and that there is substantial evidence that the proposed project will not have a significant effect on the environment; therefore, the proposed Negative Declaration is adopted pursuant to CEQA.

SECTION 34. The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance to be published or posted as required by law.

PASSED, APPROVED and ADOPTED this 16th day of May, 1994.

AYES: Councilmembers Myers, Davies, Judge, and Root.

NOES: None

ABSENT: None

ABSTAIN: Mayor Ledford

ATTEST:

*Victoria L. Denham*  
Victoria L. Denham, City Clerk

*James C. Ledford*  
James C. Ledford, Mayor

APPROVED AS TO FORM:

*[Signature]*  
City Attorney

TH/wp13944