



DEPARTMENT OF
PLANNING AND DEVELOPMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
SACRAMENTO, CA

October 14, 1993

ADMINISTRATION
ROOM 300
95814-2987
916-449-5571

Law and Legislative Committee
Sacramento, California

ECONOMIC DEVELOPMENT
ROOM 300
95814-2987
916-449-1223

Honorable Members in Session:

ENVIRONMENTAL SERVICES
ROOM 301
95814-3982
PH 916-449-2037
FAX 916-449-1221

SUBJECT: RESOLUTION SUPPORTING ORDINANCE NUMBERS
87-077 AND 93-031 RELATING TO THE AUTHORITY
OF CITIES TO REGULATE LIQUOR STORES BY CONDITIONAL USE
PERMITS

LOCATION AND COUNCIL DISTRICT: Citywide

RECOMMENDATION:

Adopt the attached resolution reaffirming the City Council's support of Ordinance Numbers 87-077 and 93-031, which require a special permit for bars and for establishments that sell alcoholic beverages for off-premises consumption.

CONTACT PERSONS: Dianne Guzman, Director of Planning & Development, 265-5571
Sharon Cardenas, City Attorney, 264-5346

FOR COMMITTEE MEETING OF: October 18, 1993

SUMMARY

On October 20, 1993, the Assembly Governmental Organization Committee will be conducting a hearing to determine whether cities should have the right to require special permits for establishments that sell alcoholic beverages (Attachment A). The retail liquor industry is lobbying for the Committee to sponsor and support preemptive legislation that could occur in January of 1994. If this legislation is adopted it would remove the right of the City of Sacramento to require a special permit for the location of bars and establishments that sell alcoholic beverages whether or not it is a new establishment or the expansion of an existing establishment. The preemptive legislation if passed, would invalidate Ordinance #87-077, adopted by the City Council on June 23, 1987 (Attachment B), as well as Ordinance #93-031, that was adopted by the City Council on May 25, 1993 (Attachment C).

BACKGROUND

In 1987, the City Council adopted Ordinance #87-077, which requires a special permit for any new use involving the sale of alcoholic beverages for off-premises consumption and for new bars. The ordinance permits the Planning Commission to examine the appropriateness of these new uses for particular sites and to impose conditions to mitigate negative land use impacts.

Since the adoption of the 1987 Ordinance, 78 special permit applications have been submitted to the Planning Department for establishments that sell alcoholic beverages. Of the applications that have been received: 8 applications have been withdrawn; 19 special permit requests have been denied; and 51 special permits have been granted. In addition, 1 of the 51 special permit applications that have been granted was later revoked by the City Council.

On May 25, 1993, the City Council adopted Ordinance #93-031, which imposed a deemed special permit on all existing establishments, that sold alcoholic beverages, that were in existence prior to the adoption of Ordinance #87-077. The intent of this ordinance was to allow the City to impose similar standards on existing establishments as those imposed on establishments that opened after June of 1987.

Since the adoption of Ordinance #93-031, the Planning Department has been requested by the City Council or the Police Department to look into the operation of 11 establishments which appear to be creating law enforcement as well as neighborhood problems. In researching these establishments the following information has been obtained:

Washington Meat Market, Gene Kim (owner), 3700 2nd Avenue - this establishment has had 12 calls for police service within the last 120 days. In considering the complaints that have been received on this establishment it has been determined that there are other influences in the surrounding area that are contributing to the complaints. In addition, after initial discussions with their Councilperson the owner has made improvements to the establishment. No action is being recommended against this establishment at this time.

Capitol Grocery, Wai Kwong (owner), 1501 E Street - this establishment has had 15 calls for police service within the last 120 days. There is currently a joint POPS, Narcotics and Neighborhood Reclamation and Protection Plan (NRPP) project in this area which has identified the building and area as a site of narcotic use and sales. It is not however, believed that it is the result of the operation of the liquor licensed premise. No action is being recommended against this establishment at this time.

Fast Stop Food Store #6, Steve and Jackie Martinez (owners), 5601 Wilkinson Street - this establishment has had 25 calls for service within the last 120 days. After the adoption of Ordinance #93-031, the Councilperson for this district had a community meeting which was followed up by a couple of meetings between the Councilperson, the business owners, Planning and Police Department staff. The business owners have since

joined the neighborhood association and have been actively involved in community issues. To date there haven't been any neighborhood complaints since these meetings, regarding this establishment. No further action is being recommended at this time.

Fill 'N Save, Cuc Purser (owner), 300 El Camino Avenue - this establishment has had 40 calls for police service within the last 120 days and there is an existing special permit on this location. When brought to the attention of the Sector Captain, he instituted correctional action with the owners and their representatives which has resulted in a reduction of calls for service. The Police Department and Planning Department will continue to work with this establishment to mitigate existing problems.

Norm's Liquor Store, Sam Tayeh (owner), 3701 Marysville Boulevard - this establishment has had 51 calls for Police service within the last 120 days. The establishment is currently closed due to a fire that occurred in July. The establishment is currently under repair and is expected to reopen in November. The City Councilperson, Planning Division, Police Department, and the Redevelopment Agency staff have been working with the business owner and will be making recommendations to the owner on how to mitigate the problems that have been associated with this establishment.

Four Oaks Market, Chuhan Singh (owner), 2140 Grand Avenue - this establishment has had 61 calls for Police service within the last 120 days. In addition several complaints have been received by the surrounding property owners and neighbors. The Planning Division will be coordinating a meeting with the business owner and other City Agencies to try and obtain voluntary cooperation on conditions, that could reduce the problems associated with this establishment.

Oak Park Market, Gin Louie (owner), 3300 12th Avenue - this establishment has had 69 calls for Police service within the last 120 days. In addition several complaints have been received by the surrounding property owners and neighbors. The Planning Division will be contacting the business owner to try and obtain voluntary cooperation on conditions, that could reduce the problems associated with this establishment.

Sunland Liquors, Jatinder Matharu (owner), 2000 Del Paso Boulevard - this establishment has had 83 calls for Police service within the last 120 days. In addition several complaints have been received by the surrounding property owners and neighbors. The City Councilperson, Planning Division, Police Department, and the Redevelopment Agency staff have been working with the business owner and property owner on how to mitigate the problems that have been associated with this establishment. Several conditions have been agreed upon by both the business owner and the property owner. There has been a significant decrease in the amount of calls for service to this location within the last 30 days. Staff will continue to work with the business owner to further mitigate the problems associated with this establishment.

Food and Liquor #142, The Customer Company (owner), 809 20th Street - this establishment has had 88 calls for Police service within the last 120 days. In addition, several complaints have been received by the surrounding property owners and neighbors.

The Planning Division will be contacting the business owner to try and obtain voluntary cooperation on conditions, that could reduce the problems associated with this establishment.

Food and Liquor #146, The Customer Company (owner), 3100 Broadway - this establishment has had 156 calls for Police service within the last 120 days. In addition, several complaints have been received by the surrounding property owners and neighbors. The Planning Division will be contacting the business owner to try and obtain voluntary cooperation on conditions, that could reduce the problems associated with this establishment.

Circle K Store #1509, Carl Eller (owner), 7595 Franklin Boulevard - this establishment has had 176 calls for Police service within the last 120 days. In addition, several complaints have been received by the surrounding property owners and neighbors. The Planning Division will be contacting the business owner to try and obtain voluntary cooperation on conditions, that could reduce the problems associated with this establishment.

The Planning Division, with the cooperation of the Police Department, has pulled statistics on 25 establishments that currently have special permits. The average number of calls for Police service to these establishments is approximately 9.1 calls within a 120 day period. Of the special permit locations that were considered the types of conditions that were imposed include: restricting hours of operation; requiring on site security; and regulating quantities of alcohol sold. It is staff's opinion, that the existence of conditions on special permits have significantly reduced the need for law enforcement intervention and reflect responsible management of these establishments.

Without the existence of the special permit ordinances the City of Sacramento would not be able to address the social problems that are created by establishments that sell alcoholic beverages. The recently adopted ordinance has provided a necessary tool for Councilpersons, City staff, Business Associations and Neighborhood Associations to approach business owners on the problems that are created by their establishment. It is the intent of the City to work with businesses and not to force businesses out of business.

FINANCIAL CONSIDERATIONS

There are no financial impacts associated with this report, however, passage of legislation preempting a cities authority to require a special permit would result in increased law enforcement costs.

POLICY CONSIDERATIONS

Existing ordinances that require a special permit for establishments that sell alcoholic beverages supports General Plan Policies to enhance and maintain the quality of life in the City of Sacramento. The special permit requirement allows the City of Sacramento to

address issues related to crime, and debilitating influences that detract from the well-being of the neighborhood environment. The adoption of the attached resolution will further strengthen the City of Sacramento's commitment to improve the quality of life in Sacramento.

MBE/WBE

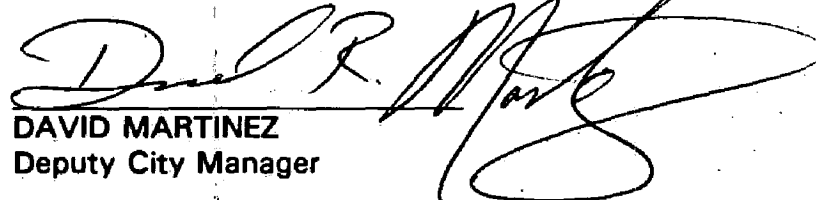
The recommendation of this report does not involve MBE/WBE considerations.

Respectfully Submitted,



DIANNE GUZMAN, AICP
Director of Planning and Development

Recommendation Approved:



DAVID MARTINEZ
Deputy City Manager

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

**RESOLUTION SUPPORTING ORDINANCE NUMBER 87-077
AND 93-031 RELATING TO THE AUTHORITY OF CITIES TO
REGULATE LIQUOR STORES BY CONDITIONAL USE PERMITS**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

WHEREAS, on June 23, 1987, the City Council adopted Ordinance No. 87-077 which dealt with the location of new establishments that sell alcoholic beverages, and later determining that the ordinance was proving successful in reducing the problems that are associated with these establishments the City Council adopted Ordinance No. 93-031 on May 25, 1993, in an attempt to mitigate problems associated with establishments in existence prior to June 1987; and

WHEREAS, these ordinances have provided a tool for City staff to utilize in mitigating problems associated with the sale of alcoholic beverages; and

WHEREAS, the existence of the special permit ordinance has provided an opportunity for community involvement in the location of these establishments and has helped to reduce the social problems associated with these establishments; and

WHEREAS, the special permit process requires the joint efforts of City Agencies, Business Owners and Neighborhood Organizations to improve the quality of life in Sacramento by demanding responsible management of establishments that sell alcoholic beverages.

NOW, THEREFORE, BE IT RESOLVED, that the Sacramento City Council request the Assembly Governmental Organization Committee, to consider the negative impacts that would result if the local jurisdictions were preempted from requiring special permits for establishments that sell alcoholic beverages.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____ **6**

DATE ADOPTED: _____

FURTHER BE IT RESOLVED, that the Assembly Governmental Organization Committee take all reasonable and necessary steps to recommend against any legislation to preempt the right of the local jurisdictions to regulate the establishment of businesses that sell alcoholic beverages.

MAYOR

ATTEST:


CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____ **7**

DATE ADOPTED: _____

ATTACHMENT A

cc: to T. Sullivan
D. Horn


CITY OF OAKLAND

1400 K STREET, SUITE 306 • SACRAMENTO, CALIFORNIA 95811

(916) 444-6789
**PLANNING & DEV
ADMINISTRATION**

Kenneth J. Emanuels
Legislative Advocate

URGENT

OCT - 4 1993

DATE: October 1, 1993

- TO:
- Joe Serna, Jr., Mayor, City of Sacramento
 - Bob Thomas, Deputy City Manager
 - Diane Balter, Deputy City Attorney
 - ✓ Diane Guzman, Planning & Development Director

RECEIVED
CITY OF SACRAMENTO
CITY PLANNING DIVISION

OCT 05 1993

FROM: Ken Emanuels, Legislative Advocate
City of Oakland

RECEIVED

SUBJECT: October 20, 1993 informational hearing of the Assembly Governmental Organization Committee. Topic: Should the Legislature remove the authority of cities to regulate liquor stores by conditional use permits?

Background

Because the enforcement activities of the State Alcoholic Beverage Control Department have declined so significantly in recent years, many cities are beginning to consider and enact conditional-use permit ordinances for those liquor stores which generate substantial law enforcement problems. Conditions might include the provision of adequate lighting, hours of operation or the employment of security guards. On September 1, 1993, Oakland's liquor store regulation ordinance became effective. The city has found the employment of a conditional-use permit to be one of the few helpful tools available in combating crime which is connected to irresponsible liquor store operators.

As you might imagine, the retail liquor industry is quietly organizing to invalidate the Oakland ordinance on two fronts: litigation is being prepared to challenge the validity of local ordinances and a legislative effort is being mounted to preempt local authority to regulate liquor stores. At the behest of the industry, Speaker Willie Brown has requested Assembly Member Curtis Tucker to conduct a hearing of the Assembly Governmental Organization Committee on the fairness and equity of the Oakland conditional-use permit ordinance. The hearing is on Wednesday, October 20, in Room 4202 of the Capitol Building, at 9:00 a.m.

Action Needed Now

1. All interested cities must now assemble a group of key city and community leaders, come to Sacramento and testify at the Assembly G.O. Committee on October 20.
2. In addition, letters should be directed to each member of the Assembly G.O. Committee. Their names and Capitol mailing addresses are attached to this memorandum.

While the Assembly G.O. Committee members will be conducting only an interim hearing on the 20th and no legislation will be before them for a vote, the hearing will be used by the industry to demonstrate convincingly the need for quick passage of preemptive legislation in January, perhaps even sponsored by the Committee. The need for an overwhelming and convincing city response is urgent.

8

3. Please contact your own legislators and ask for their assistance in opposing preemptive legislation in 1994.
4. Contact David Jones of the League staff if you are interested in participating.

Who makes our case most effectively?

Experience has shown that on the issue of liquor store regulation, witnesses representing law enforcement, neighborhood and community associations, and churches and schools have an impact.

- Law enforcement seems to be the most persuasive with legislators. Our objective should be to portray the problem with liquor stores as a crime, policing and public safety issue, not a morality issue. Having police chiefs or police officers testify is effective. We anticipate strong support for local regulation from the California Police Chiefs Association, the California Peace Officers Association, as well as the Los Angeles Police Protective League and the Los Angeles County Deputy Sheriffs Association.
- Leaders of neighborhood and community organizations that live with the problems of liquor stores should be enlisted. Usually these are the same activists who demanded the conditional-use permit ordinance in the first place. Now they need to come to Sacramento to defend our right to continue the ordinance.
- Local church leaders can also speak persuasively about the problems in the neighborhoods.
- School officials and PTA leaders have been helpful in speaking out in favor of local regulation when liquor outlets are close to schools.

Our best argument is that local regulation makes neighborhoods safer.

It is important to emphasize that the cities' purpose is not to drive liquor stores out of business. We get very little sympathy for such an argument with legislators. Instead, our best argument is that we want to make our neighborhoods safer for residents and that the Department of Alcohol Beverage Control has no ability to control criminal activities associated with problem liquor stores.

If you are able to develop statistics demonstrating the level of police calls from a specific location before and after the imposition of conditional-use permits, the data should be included in any testimony or letters to the Committee. In general, we'll want to establish the magnitude of the crime problem surrounding many liquor outlets.

Contact Persons:

David Jones
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814
916-444-5790

Ken Emanuels
City of Oakland Lobbyist
1400 K Street, Suite 306
Sacramento, CA 95814
916-444-6789

(9)

Members of the Assembly Governmental Organization Committee:

	<u>PHONE</u>	<u>FAX</u>
Curtis Tucker, Chair Room 4016 Capitol Building	916-445-7533	916-327-3517
Juanita McDonald Room 4005 Capitol Building	916-445-3134	916-322-0655
Joe Baca Room 5128 Capitol Building	916-445-7454	916-324-6980
Tom Connolly Room 2170 Capitol Building	916-445-3266	916-323-8470
Dominic Cortese Room 6031 Capitol Building	916-445-8243	916-323-8898
Delaine Eastin Room 3013 Capitol Building	916-445-7874	916-324-2936
Dan Hauser Room 2003 Capitol Building	916-445-8360	916-322-5214
William Hoge Room 4177 Capitol Building	916-445-8211	916-323-9420
Betty Karnette Room 5158 Capitol Building	916-445-9234	Not Available
William J. Knight Room 2196 Capitol Building	916-445-7498	916-327-1789
Gwen Moore Room 2117 Capitol Building	916-445-8800	916-324-6862
Grace Napolitano Room 6011 Capitol Building	916-445-0965	916-327-1203
Pat Nolan Room 4164 Capitol Building	916-445-8364	916-322-4398
Charles Quackenbush Room 4130 Capitol Building	916-445-8305	916-323-9989
Bernie Richter 4017 Capitol Building	916-445-7298	916-323-3550
Paul Woodruff Room 5164 Capitol Building	916-445-7552	916-445-7650

(State Capitol Zip Code for Assembly members is 94249-0001)



Press Release

September 22, 1993

For more information, call:

Don Beaver
(916) 448-3545

FOR IMMEDIATE RELEASE

California Beverage Retailer Coalition Forms to Combat Local Alcoholic Beverage Regulations.

Sacramento, CA.... A coalition representing over 10,000 licensed retail sellers of alcoholic beverages in California was formed last week in response to ordinances springing up throughout the state that hold alcoholic beverage retailers responsible for local crime.

According to Don Beaver, President of the California Grocers Association and chair of the newly formed California Beverage Retailer Coalition, the group's top priority is to support local merchants in their campaigns against conditional-use permit ordinances now being passed by municipalities. Under the ordinances, a municipality can revoke a retailer's right to sell alcoholic beverages at a particular location when there is repeated criminal and nuisance activity anywhere in the neighborhood.

The City of Oakland enacted such an ordinance on September 1. Many other cities including Los Angeles, Sacramento, Hayward, Richmond and Berkeley have either recently adopted such ordinances or are considering adopting similar regulations. The Oakland ordinance makes activities such as vandalism, drug sales, assaults, graffiti, public parking, gambling, loitering, parking violations, prostitution or any other criminal activity anywhere in the

(more)

surrounding neighborhood a ground for revoking a retailer's right to sell alcoholic beverages at a particular location. The ordinance also imposes an annual police inspection fee of \$600 on stores, plus charging \$200 for each reinspection.

"These ordinances will make it impossible for small businesses to survive," said Bever. "As private citizens, retailers are not able to control or prevent crime in the neighborhood in which they do business, making it impossible for them to comply with the new law. The solution is to develop a uniformly applied, statewide system of alcoholic beverage regulations to be enforced by the California Department of Alcoholic Beverage Control ("ABC"), the state agency which presently oversees the licensing and regulation of alcoholic beverage retailers," he said.

The coalition retained Oakland attorney Renee Wasserman of the law firm of Donahue, Gallagher, Woods & Wood to evaluate options for challenging the Oakland ordinance. John A. Hinman, an attorney with San Francisco's alcoholic beverage firm Hinman & Carmichael, and Wasserman will coordinate the coalition's effort to develop statewide regulatory alternatives to local ordinances.

The coalition members include the California Grocers Association, California Association of Neighborhood Stores, Northern California Grocers Association, California Package Store and Tavern Owners Association, Oakland Merchants Association, California Korean-American Grocers Association, Yemenia Merchants Association, California Beer and Wine Wholesalers Association, California Retail Wine & Spirits Association, East Bay Liquor Association, and other trade groups representing drug stores, general merchandisers and independent liquor, beer and wine retailers throughout the state. # # #

100-100

100-100

100-100

ATTACHMENT B

Amended

ORDINANCE NO. 87-077

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

JUN 23 1987

AN ORDINANCE ADDING SECTIONS 2-C-56, 2-C-57, 2-E-40, 15-C-3-e, 22-A-95 and 22-A-96 TO THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, ORDINANCE NO. 2550, FOURTH SERIES, AS AMENDED, RELATING TO BARS AND SALES OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION, AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY ORDINANCE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Sections 2-C-56 and 2-C-57 are hereby added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, as amended, to read as follows:

Sec. 56. USE: ALCOHOLIC BEVERAGE SALES FOR OFF-PREMISES CONSUMPTION

Sec. 57. USE: BAR

	H	S	C1	C2	C3	C4	M1	M2	MIP
	C	C					M1 (S)	M2 (S)	
56.		40	40	40	40	40	40	40	40
57.	40	40	40	40	40	40	40	40	40

SECTION 2.

Section 2-E-40 is hereby added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, as amended, to read as follows:

Sec. 40.

A Special Permit shall be required to establish this use in this zone. No Special Permit shall be required for any store greater than 15,000 square feet in gross floor area where the shelving allocated to alcoholic beverages does not exceed ten percent of the total shelving within the store. No Special Permit shall be required for an on-sale

licensee other than a bar on account of such licensee's statutory off-sale privileges, if the licensee does not hold itself out as selling alcoholic beverages for off-premises consumption.

A Special Permit shall not be issued unless the following findings of fact are made by the Planning Commission:

1. The proposed use will not adversely affect the peace or general welfare of the surrounding neighborhood.
2. The proposed use will not result in undue concentration of establishments dispensing alcoholic beverages.
3. The proposed use will not enlarge or encourage the development of a skid row or blighted area.
4. The proposed use will not be contrary to or adversely affect any program of redevelopment or neighborhood conservation.

In addition to the considerations applicable to all Special Permit applications, the Planning Commission may consider the following in evaluating a Special Permit application under this section: hours of operation; quantity and size of containers sold; alcoholic content of wines sold for off-premises consumption; percentage of shelf space devoted to alcoholic beverages; a requirement that the establishment post, in compliance with the City Code, signs prohibiting the possession of open alcoholic beverage containers or the consumption of alcoholic beverages on any property adjacent to the establishment under the control of the establishment's operator; any other activities proposed for the premises.

SECTION 3.

Section 15-C-3-e is hereby added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, as amended, to read as follows:

e. Alcoholic beverage sales for off-premises consumption; bars:

Notwithstanding the provisions of subparagraphs a), b) and c) above, in the case of an application for a Special Permit to sell alcoholic beverages for off-premises consumption or for a bar, notice shall be given to all owners of property located within five hundred (500) feet from the property involved in the proceedings.

SECTION 4.

Sections 22-A-95 and 22-A-96 are hereby added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, as amended, to read as follows:

95. Alcoholic beverage:

Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

96. Bar:

Any premises designed, maintained, operated, used or intended to be used for the selling or serving of alcoholic beverages to the public for consumption on the premises which does not qualify as, or is not part of, a bona fide public eating place as defined in Business and Professions Code Section 23038.

SECTION 5.

This ordinance is hereby declared to be an emergency ordinance to take effect immediately. The ground for the emergency is the need to immediately halt increasing concentration and proliferation of establishments selling alcoholic beverages, which is occurring without adequate review of the long-term land-use implications and the impact on affected neighborhoods. Unless this ordinance takes effect immediately, the time which elapses during the holding of additional hearings before the Planning Commission and the City Council would allow additional liquor licenses to be issued without regard to the policy set forth in this ordinance, leading to permanent adverse impacts on the public welfare, without the possibility of subsequent effective mitigation.

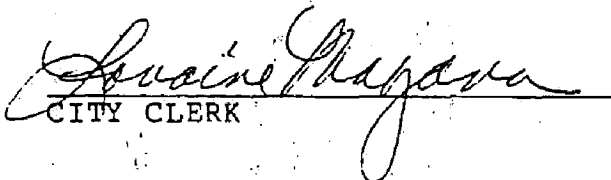
DATED ENACTED: 06-23-87

DATE EFFECTIVE: 06-23-87



MAYOR

ATTEST:



CITY CLERK

ORDINANCE No. 87-077

JUN 23 1987

CERTIFIED AS TRUE COPY OF Ordinance No. 93-031 4th Series

DATE JUN 25 1993
CERTIFIED
Melvin A. Burmaster
City Clerk, City of Sacramento

ATTACHMENT C

ORDINANCE NO. 93-031

ADOPTED BY THE SACRAMENTO CITY COUNCIL
MAY 25 1993

ON DATE OF _____

AN ORDINANCE AMENDING SECTIONS 2-C-56 AND 2-E-40 OF THE ZONING ORDINANCE OF THE CITY OF SACRAMENTO, AND ADDING SECTIONS 2-C-56a AND 15-F-5, RELATING TO SPECIAL PERMITS FOR SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION AND FOR BARS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 2-C-56 of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, as amended, is hereby amended and Section 2-C-56a is hereby added to the ordinance to read as follows:

§ 56 USE: BEER AND WINE SALES FOR OFF-PREMISES CONSUMPTION

§ 56a. USE: GENERAL ALCOHOLIC BEVERAGE SALES FOR OFF-PREMISES CONSUMPTION

	S	C1	C2	C3	C4	M1	M2	MIP
56.	40	40	40	40	40	M1 (S)	M2 (S)	40
56a.	40	40	40	40	40	40	40	40

FOR CITY CLERK USE ONLY

ORDINANCE NO.: 93-031

DATE ADOPTED: MAY 25 1993

SECTION 2

Section 2-E-40 of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, as amended, is hereby amended to read as follows:

Sec. 2-E-40

A Special Permit shall be required to establish this use in this zone. No Special Permit shall be required for any store greater than 15,000 square feet in gross floor area where the shelving allocated to alcoholic beverages does not exceed ten percent of the total shelving within the store. No Special Permit shall be required for an on-sale licensee other than a bar on account of such licensee's statutory off-sale privileges, if the licensee does not hold itself out as selling alcoholic beverages for off-premises consumption.

A Special Permit shall not be issued unless the following findings of fact are made by the Planning Commission:

1. The proposed use will not adversely affect the peace, health, safety or general welfare of the surrounding neighborhood.
2. The proposed use will not result in undue concentration of establishments dispensing alcoholic beverages.
3. The proposed use will not enlarge or encourage the development of a skid row or blighted area.
4. The proposed use will not be contrary to or adversely affect any program of redevelopment or neighborhood conservation.

The Planning Commission shall consider whether the proposed use will detrimentally affect nearby residentially zoned areas, and shall give consideration to the distance of the proposed use from residential buildings and from churches, schools, hospitals, public parks and playgrounds, daycare centers, social welfare institutions, and other similar uses.

In addition to the considerations applicable to all Special Permit applications, the Planning Commission may consider the following in evaluating a Special Permit application under

FOR CITY CLERK USE ONLY

ORDINANCE NO.: 93-031
DATE ADOPTED: MAY 25 1993

this section: hours of operation; quantity and size of containers sold; alcoholic content of wines sold for off-premises consumption; percentage of shelf space devoted to alcoholic beverages; whether refrigerated or otherwise chilled beverages are sold; a requirement that the establishment post, in compliance with the City Code, signs prohibiting the possession of open alcoholic beverage containers or the consumption of alcoholic beverages on any property adjacent to the establishment under the control of the establishment's operator; any other activities proposed for the premises.

For any use which does not have a Special Permit, a Special Permit shall be required before any of the following are allowed to occur:

- a. The establishment changes its type of retail liquor license within a license classification; or
- b. The reoperation of an establishment after it has been discontinued for a continuous period of one (1) year, including the case where the license for such operation is suspended or revoked; provided, however, that a suspension for violation of Business and Professions Code Section 23790.5(e) shall not constitute a break in the continuous operation of the establishment. An establishment which has discontinued operation shall not be deemed to have resumed operation unless the establishment reopens for business and operates, for sixty (60) days, in substantially the same manner that it operated before its operation was discontinued. Whether an establishment is being operated in substantially the same manner shall be determined by reference to the type and amount of merchandise for sale, the hours and days of operation, the number of persons on duty to serve customers, and such other factors as may be relevant; or
- c. There is a substantial change in the mode or character of operation of the establishment.

Examples of substantial change which would require issuance of a special permit include, but are not limited to:

- (1) Increasing the floor space devoted to display or storage of alcoholic beverages.

FOR CITY CLERK USE ONLY

ORDINANCE NO.: 93-031

DATE ADOPTED: MAY 25 1993

- (2) Modifying the premises by expanding the gross floor area more than 10%, which requires issuance of a building permit (not including routine maintenance and repair).

The fee charged for a special permit for a liquor license change, a reoperation, or a substantial change in mode of operation pursuant to subparagraphs a, b, or c immediately above shall be a special permit modification fee.

SECTION 3

Section 15-F-5 is added to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, as amended, to read as follows:

Sec. 15-F-5. Planning Commission May Order Modification or Discontinuance of Use Relating to Sale of Alcoholic Beverages for Off-Premises Consumption or Bar Established Prior to Special Permit Requirements

5. An existing use for the sale of alcoholic beverages for off-premises consumption or a bar which would require a special permit but for the fact that it was lawfully established without a special permit before the special permit requirement became effective, or at the time of annexation or consolidation into the City, may be ordered modified or discontinued if it is determined:
 - a. that the use is being conducted in a manner detrimental to the public peace, health or safety; or
 - b. that the use is being conducted in a manner so as to constitute a public nuisance; or
 - c. that the use as operated or maintained has resulted in repeated nuisance activities including but not limited to public inebriation, drinking in public, loitering, excessive littering, public urination, disturbances of the peace, harassment of passersby, excessive noise, illegal drug activity, gambling, prostitution, sale of stolen property, theft, assaults, batteries, vandalism, or police detentions and arrests.

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(12)

The proceeding shall be conducted in the same manner as a proceeding to revoke or modify a special permit, as set forth in Section 15-F-2, 15-F-3 and 15-F-4.

SECTION 4

Section 13-A-8 of the Zoning Ordinance pertaining to hearing before the Planning Commission shall not apply to the adoption of this ordinance. In fact, the Planning Commission held a lengthy public hearing noticed pursuant to Section 13-A-8. However, a provision regarding discontinuance of operation consisting of the second and third sentences of the second subparagraph b of Section 2-E-40 (Section 2, p. 3) was inadvertently omitted from the ordinance reviewed by the Commission. The staff did discuss with the Commission the substance of the omitted provision.

DATE PASSED FOR PUBLICATION: May 11, 1993

DATE ENACTED: May 25, 1993

DATE EFFECTIVE: June 24, 1993

JOE SERNA, JR.

MAYOR

ATTEST:

VALERIE BURROWES

CITY CLERK

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(20)