




CITY OF HUNTINGTON BEACH
INTER-DEPARTMENT COMMUNICATION

TO: Honorable Mayor and City Council Members
VIA: Fred A. Wilson, City Manager
FROM: Kenneth W. Small, Chief of Police 
SUBJECT: Strategic Objective – Downtown Alcohol Recommendations
DATE: May 20, 2013

In January, 2013, the city council approved a six-month strategic plan. One of the strategic objectives established by the city council and assigned to the Chief of Police was:

“Present a report with recommendations to the City Council for action regarding the impact of alcohol sales and consumption in downtown Huntington Beach”

In 2009, the City Council Ad Hoc Downtown Image Committee met for a period of several months to study and make recommendations regarding downtown Huntington Beach. Issues regarding the impact of alcohol sales and consumption in downtown Huntington Beach were fully discussed during that study and have been documented in reports to the city council since that time. For that reason, this report will only focus on new and updated recommendations.

In January, 2010, based on the recommendations from the Ad Hoc Committee, the city council adopted Resolution 2010-05 establishing conditions of approval for eating and drinking establishments with alcoholic beverage sale and live entertainment applicable to the Downtown Specific Plan District 1. A copy of the resolution is attached for your information. In March, 2011, the city council adopted Resolution 2011-16 which modified the previous resolution by making it only applicable to “conditional use permit applications applied for subsequent to adoption of the resolution and **only when the application is a new request for either the service of alcoholic beverages or entertainment**”. A copy of the resolution is attached for your review.

This subtle change in the triggering mechanism that would require established businesses to come into compliance with the conditions of approval in the original resolution (2010-05) and the recommendations of the City Council Ad Hoc Downtown Image Committee has rendered the resolution somewhat ineffective.

Because the land use entitlement or Conditional Use Permit stays with the property and not just an individual business, businesses can come and go at the same location and as long as no CUP changes are triggered by a “new request for either the service of

alcoholic beverages or entertainment” among other things. This situation has interfered with the original intent of the resolution which was to eventually, over some period of time, bring more locations into compliance with the conditions of approval developed by the City Council Ad Hoc Downtown Image Committee.

Therefore, recommendation number one of this report is to draft and adopt a new resolution that would replace resolution 2011-16 and would mirror the language of the original resolution (2010-05) to restore its effectiveness. That action will reinstate the original recommendations from the Ad Hoc Committee which made the conditions applicable to all new conditional use permits regardless of what type of circumstance triggers the need for a CUP modification in the Downtown Specific Plan District 1.

Most of the late night problems in downtown Huntington Beach are caused by customers leaving late night restaurants that serve alcohol. The problems occur both in the downtown business district and in downtown residential areas as customers walk and drive from Main Street through the surrounding residential areas. Reducing the ability of customers to consume an excessive amount of alcohol late in the evening will reduce the likelihood that these problems will occur.

The following conditions were drafted to specifically to address this issue:

- No new customers shall be allowed after 30 minutes before closing
- Last call for drinks shall be no later than 15 minutes before closing
- Only single-sized drinks and no multiple drinks shall be served after midnight
- Signage, posters and advertising with “Do Not Drink and Drive” shall be posted in the business
- Mandatory Responsible Beverage Service (RBS) training and certification shall be required for new employees within 90 days of being hired and for existing employees every 12 months. Training shall be provided by an ABC approved RBS trainer and records of the training must be maintained on-site for review
- Businesses shall install and maintain a video surveillance system to monitor public area of the premises and shall make the video available to the police department for any criminal or civil investigation

Recommendation number two of this report is that the new resolution which would mirror the conditions and language of the original resolution (2010-05), also include the additional conditions listed above which we believe will aid in reducing late night alcohol related problems. If the council chooses to include these conditions in the new resolution, the police department will include the conditions in all entertainment permits in Downtown Specific Plan District 1 that have closing times later than midnight.

The presence of foot-beat officers during the daytime hours is instrumental in reducing the number of “nuisance type” problems, some of which are related to the use of alcohol, in the downtown area. During citywide budget reductions over the last several years, it was necessary for the police department to eliminate these positions and assign the personnel to higher priority duties. Unfortunately, this resulted in an

increased number of complaints from businesses and visitors that are difficult for patrol officers to handle. It is anticipated that the foot-beat will be restored in the future as the city budget improves. However, it is not possible to determine when these positions will be restored. Recommendation number three is that the police department utilize overtime funding to assign foot-beat officers to the downtown area on weekends (Friday, Saturday and Sunday) until the foot-beat positions can be restored.

Many of the complaints the police department receives from downtown businesses, downtown residents and downtown visitors are related to intoxicated people and people who consume alcohol in public places. Experience has shown that many of the customers who purchase alcohol from "off sale" establishments downtown are "walk up" customers who consume the alcohol in public places where the consumption of alcohol is prohibited. Recommendation number four is that the city council prohibit any additional "off sale" alcohol sales from new or existing Conditional Use Permits in Downtown Specific Plan District 1. This recommendation, if approved, should be added as a condition to the new Downtown Resolution. This will reduce the likelihood that problems associated with public drinking and intoxication will increase in the future.

It is recommended that the city council approve the above four recommendations. The police department believes that implementation of these recommendations will mitigate the problems associated with alcohol sales and consumption in Downtown Huntington Beach.

Attachments

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HUNTINGTON BEACH ESTABLISHING CONDITIONS OF
APPROVAL FOR EATING AND DRINKING ESTABLISHMENTS WITH
ALCOHOLIC BEVERAGE SALES AND LIVE ENTERTAINMENT

WHEREAS, the City of Huntington Beach desires to maintain a vibrant and safe downtown commercial area to be enjoyed by visitors, residents and families; and

Toward that end, the City Council has established standardized Conditions of Approval for Conditional Use Permits in the Downtown Specific Plan District 1 area with alcoholic beverage sales and/or an entertainment permit,

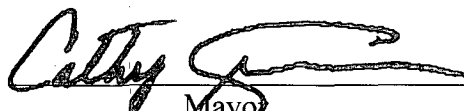
NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

1. That the Conditions of Approval set forth in Exhibit A attached hereto and incorporated by this reference shall apply to all eating and drinking establishments located in the designated area with alcoholic beverage sales.


2. That the Conditions of Approval set forth in Exhibit B attached hereto and incorporated by this reference shall apply to all eating and drinking establishments located in the designated area with alcoholic beverage sales and live entertainment.

3. These proposed conditions shall apply to conditional use permit applications applied for subsequent to adoption of this Resolution and shall remain in effect unless modified by the reviewing body as part of the Conditional Use Permit via a public hearing.

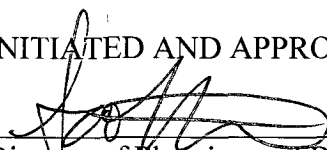
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 19th day of January, 2010.


Mayor

REVIEWED AND APPROVED:


City Administrator

INITIATED AND APPROVED:


Director of Planning and Building

APPROVED AS TO FORM:


City Attorney

1-12-10

EXHIBIT A

EATING AND DRINKING ESTABLISHMENTS WITH ALCOHOLIC BEVERAGE SALES:

The following standard Conditions of Approval shall be part of any Conditional Use Permit from the Zoning Administrator or Planning Commission for the establishment of any eating and drinking establishment with alcohol beverage sales located within the Downtown Specific Plan area, District 1:

- 1) Hours of operation shall be limited to between 7:00 a.m. to 12:00 a.m. midnight except for a business proposed in the following locations:
 - a. West side of 5th Street between Walnut Avenue and Orange Avenue the hours of operation shall be limited to between 7:00 a.m. to 10:00 p.m.
 - b. East side of 3rd Street between Walnut Avenue and Orange Avenue the hours of operation shall be limited to between 7:00 a.m. and 10:00 p.m.
- 2) A minimum of 70 percent of the net floor area of the establishment shall be designated as dining area excluding back of house areas (such as areas used for cooking, kitchen preparation, office, storage, and restrooms) and outdoor dining areas.
- 3) Full food service menus shall be served, at a minimum, until one (1) hour before closing, and a cook and food server shall be on duty during these times.
- 4) Alcoholic drinks shall not be included in the price of admission to any establishment.
- 5) There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
- 6) All alcohol shall remain on the establishment's premises, including within outdoor dining areas.
- 7) An employee of the establishment must be present at all times in areas within the establishment where alcohol is served.
- 8) All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business.
- 9) Dancing and/or dance floor and/or live entertainment shall be prohibited unless a Conditional Use Permit and Entertainment Permit are approved by the City.
- 10) Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
- 11) The establishment shall follow all conditions of the alcohol license issued by the California Department of Alcoholic Beverage Control, as well as all other relevant portions of the Huntington Beach Zoning and Subdivision Ordinance and Huntington Beach Municipal Code.

EXHIBIT BEATING AND DRINKING ESTABLISHMENTS WITH
ALCOHOLIC BEVERAGE SALES AND LIVE ENTERTAINMENT:

The following standard Conditions of Approval shall be part of any Conditional Use Permit from the Zoning Administrator or Planning Commission and the Entertainment Permit from the Police Department for the establishment of any eating and drinking establishment located within the Downtown Specific Plan area with alcohol beverage sales and entertainment, District 1:

- 1) Hours of operation shall be limited to between 7:00 a.m. to 12:00 a.m. midnight except for a business proposed in the following locations:
 - a. West side of 5th Street between Walnut Avenue and Orange Avenue the hours of operation shall be limited to between 7:00 a.m. to 10:00 p.m.
 - b. East side of 3rd Street between Walnut Avenue and Orange Avenue the hours of operation shall be limited to between 7:00 a.m. and 10:00 p.m.
- 2) A minimum of 70 percent of the net floor area of the establishment shall be designated as dining area excluding back of house areas (such as areas used for cooking, kitchen preparation, office, storage, and restrooms) and outdoor dining areas.
- 3) The seating capacity at all times within the dining area, excluding outdoor dining areas, shall be able to accommodate a minimum of 100 people.
- 4) Full food service menu items shall be served, a minimum, until one (1) hour before closing, and a cook and food server shall be on duty during these times.
- 5) Alcoholic drinks shall not be included in the price of admission to any establishment.
- 6) There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
- 7) All alcohol shall remain on the establishment's premises, including within outdoor dining areas.
- 8) An employee of the establishment must be present at all times in areas within the establishment where alcohol is served.
- 9) If dancing is allowed, the activity must be specifically identified as part of the Entertainment Permit and only in a pre-approved designated area.
- 10) Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
- 11) No outside promoters can be used under any circumstances.
- 12) All exterior doors and windows shall be closed at all times during live entertainment.

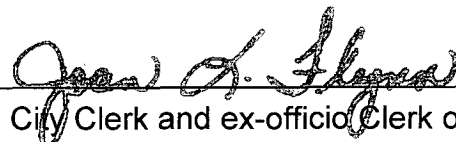
- 13) All amplified entertainment conducted by a performer shall be confined indoors at all times.
- 14) If outdoor entertainment is allowed, it shall be limited to:
 - a) Non-amplified entertainment with no more than two performers.
 - b) Amplified entertainment limited to ambient music only.
- 15) Any outdoor entertainment shall not be audible beyond 50 feet of the source of the entertainment.
- 16) No entertainment shall be audible beyond 50 feet of the business in any direction.
- 17) All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business.
- 18) All provisions of the entertainment permit required by section 5.44 of the Huntington Beach Municipal Code shall continue to apply.

REST OF PAGE NOT USED

STATE OF CALIFORNIA
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, JOAN L. FLYNN the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a **regular** meeting thereof held on **January 19, 2010** by the following vote:

AYES: Hardy, Green, Bohr, Dwyer, Hansen
NOES: None
ABSENT: Coerper
ABSTAIN: Carchio



City Clerk and ex-officio Clerk of the
City Council of the City of
Huntington Beach, California

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF HUNTINGTON BEACH ESTABLISHING CONDITIONS OF
APPROVAL FOR EATING AND DRINKING ESTABLISHMENTS WITH
ALCOHOLIC BEVERAGE SALES AND LIVE ENTERTAINMENT

WHEREAS, the City of Huntington Beach desires to maintain a vibrant and safe downtown commercial area to be enjoyed by visitors, residents and families; and

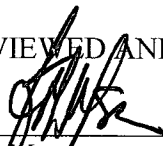
Toward that end, the City Council has established standardized Conditions of Approval for Conditional Use Permits in the Downtown Specific Plan District 1 area with alcoholic beverage sales and/or an entertainment permit,

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

1. That the Conditions of Approval set forth in Exhibit A attached hereto and incorporated by this reference shall apply to all eating and drinking establishments located in the designated area with alcoholic beverage sales.
2. That the Conditions of Approval set forth in Exhibit B attached hereto and incorporated by this reference shall apply to all eating and drinking establishments located in the designated area with alcoholic beverage sales and live entertainment.
3. These proposed conditions shall apply to conditional use permit applications applied for subsequent to adoption of this Resolution only when the application is a new request for either the service of alcoholic beverages or entertainment, and shall remain in effect unless modified by the reviewing body as part of the Conditional Use Permit via a public hearing.
4. Resolution No. 2010-05 is hereby repealed.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 7th day of March, 2011.

REVIEWED AND APPROVED:

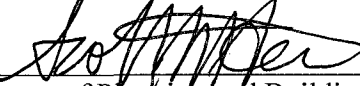


City Manager



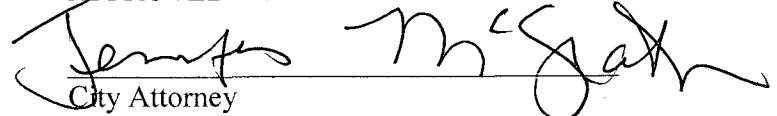
Mayor

INITIATED AND APPROVED:



Director of Planning and Building

APPROVED AS TO FORM:



City Attorney

EXHIBIT AEATING AND DRINKING ESTABLISHMENTS WITH ALCOHOLIC BEVERAGE SALES:

The following standard Conditions of Approval shall be part of any Conditional Use Permit from the Zoning Administrator or Planning Commission for the establishment of any eating and drinking establishment with alcohol beverage sales located within the Downtown Specific Plan area, District 1:

- 1) Hours of alcohol sales shall be limited to between 7:00 a.m. to 12:00 a.m. midnight except for a business proposed in the following locations:
 - a. West side of 5th Street between Walnut Avenue and Orange Avenue the hours of operation shall be limited to between 7:00 a.m. to 10:00 p.m.
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- 4) Alcoholic drinks shall not be included in the price of admission to any establishment.
- 5) There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
- 6) All alcohol shall remain on the establishment's premises, including within outdoor dining areas.
- 7) An employee of the establishment must be present at all times in areas within the establishment where alcohol is served.
- 8) All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business.
- 9) Dancing and/or dance floor and/or live entertainment shall be prohibited unless a Conditional Use Permit and Entertainment Permit are approved by the City.
- 10) Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
- 11) The establishment shall follow all conditions of the alcohol license issued by the California Department of Alcoholic Beverage Control, as well as all other relevant portions of the Huntington Beach Zoning and Subdivision Ordinance and Huntington Beach Municipal Code.

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- 7) All alcohol shall remain on the establishment's premises, including within outdoor dining areas.
- 8) An employee of the establishment must be present at all times in areas within the establishment where alcohol is served.
- 9) If dancing is allowed, the activity must be specifically identified as part of the Entertainment Permit and only in a pre-approved designated area.
- 10) Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
- 11) No outside promoters can be used under any circumstances.

- 12) All exterior doors and windows shall be closed at all times during live entertainment, unless the Chief of Police believes the nature of the entertainment will not interfere with people outside the business or create a public safety concern.
- 13) All amplified entertainment conducted by a performer shall be confined indoors at all times.
- 14) If outdoor entertainment is allowed, it shall be limited to:
 - a) Non-amplified entertainment with no more than two performers.
 - b) Amplified entertainment limited to ambient music only.
- 15) Any outdoor entertainment shall not be audible beyond 50 feet of the source of the entertainment.
- 16) No entertainment shall be audible beyond 50 feet of the business in any direction.
- 17) All areas of the business that are accessible to patrons shall be illuminated to make easily discernible the appearance and conduct of all people in the business.
- 18) All provisions of the entertainment permit required by section 5.44 of the Huntington Beach Municipal Code shall continue to apply.

REST OF PAGE NOT USED

STATE OF CALIFORNIA
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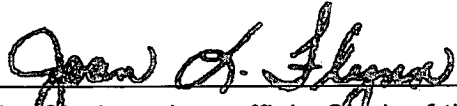
I, JOAN L. FLYNN the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a **regular** meeting thereof held on **March 07, 2011** by the following vote:

AYES: Harper, Hansen, Carchio, Bohr, Dwyer

NOES: Shaw, Boardman

ABSENT: None

ABSTAIN: None



City Clerk and ex-officio Clerk of the
City Council of the City of
Huntington Beach, California