

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF EL CAJON REPEALING CHAPTER 17.210
OF TITLE 17 OF THE EL CAJON MUNICIPAL CODE AND
ADDING A NEW CHAPTER 17.210 OF TITLE 17 OF THE
EL CAJON MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF EL CAJON DOES ORDAIN AS
FOLLOWS:

SECTION 1. Based upon the record as a whole, the City Council hereby finds that the proposed Zoning Code amendment is exempt from CEQA pursuant to the “General Rule” that CEQA only applies to projects that have the potential for causing a significant physical effect on the environment, (CEQA Guidelines, Section 15061 (b) (3)). The proposed amendment is designed to address unlawful alcohol sales and related nuisances of alcohol sales establishments with specific standards for compliance. Furthermore, it encourages new establishments to locate in specific developed commercial areas thereby reducing development potential and intensity, and therefore does not raise this project to a level of significance that warrants CEQA analysis because the intensity of allowable development is not increased and there are no potentially significant environmental effects.

SECTION 2. Chapter 17.210 of Title 17 of the El Cajon Municipal Code is hereby repealed.

SECTION 3. A new Chapter 17.210 of Title 17 of the El Cajon Municipal Code is hereby added to read as follows:

**Chapter 17.210 ALCOHOL SALES AND DEEMED APPROVED ALCOHOL
SALES REGULATIONS.**

17.210.010 Short title.

This chapter shall be known as the “Alcohol Sales and Deemed Approved Alcohol Sales Regulations Ordinance.”

17.210.020 Purpose.

The purpose of this chapter is to list regulations pertaining to the establishment and conduct of alcohol sales in the city under simplified headings.

This chapter requires land use permits for newly established alcoholic beverage sales activities, confers deemed approved status for all existing permitted, conditionally permitted and legal nonconforming off-sale alcoholic beverage sales activities, provides standards for the continued operation of alcoholic beverage sales establishments, sets forth grounds for the modification, revocation and termination of conditional use permits and deemed approved status for establishments violating this chapter, and provides a hearing process to review violations of the standards contained in this chapter in order

to protect the general health, safety, and welfare of the residents of the city of El Cajon and to prevent nuisance activities where alcoholic beverage sales occur.

Specific purposes for enacting this chapter are as follows:

- A. To protect residential, commercial, industrial and civic areas from the harmful effects attributable to the sale of alcoholic beverages and minimize the adverse impacts of nonconforming and incompatible uses;
- B. To provide opportunities for alcoholic beverage sales establishments to operate in a mutually beneficial relationship to each other and to other commercial and civic services;
- C. To provide mechanisms to address problems associated with the public consumption of alcoholic beverages such as litter, loitering, graffiti, unruly behavior, violence, vandalism, and escalated noise levels;
- D. To provide that alcoholic beverage sales establishments are not to become the source of undue public nuisances in the community;
- E. To provide for properly maintained alcoholic beverage sales establishments so that the secondary effects of negative impacts generated by these activities on the surrounding environment are mitigated;
- F. To monitor deemed approved establishments to ensure they do not substantially change in mode or character of operation; and
- G. To promote a healthy and safe business environment in the city of El Cajon through appropriate and consistent land use regulations and to encourage the establishment of businesses that will benefit both the local economy and residents while not placing an undue strain on city resources or surrounding businesses.

This chapter alone does not allow or permit alcoholic beverage sales activities, but only applies to these activities where otherwise allowed or permitted within an involved applicable zoning district. The provisions of this ordinance are intended to complement the state of California alcohol-related laws. The city does not intend to replace or usurp any powers vested in the California Department of Alcoholic Beverage Control.

17.210.030 Applicability.

- A. The provisions of this chapter shall apply to the extent permissible under other laws to all alcoholic beverage sales establishments, as defined in Section 17.210.040, located in the city of El Cajon that sell alcoholic beverages for on- or off-site consumption.

- B. Whenever any provision of the alcohol sales and deemed approved alcoholic beverage sales regulations, and any other provision of law, whether set forth in these regulations, in an existing conditional use permit, or in any other law, ordinance, or regulations of any kind, imposes overlapping or contradictory regulations, or contain restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in the alcohol sales and deemed approved alcohol sales regulations.

17.210.040 Definitions.

The meaning and construction of these words and phrases, as set forth below, shall apply throughout, except where the context clearly indicates a different meaning or construction.

- A. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits, wine, or beer, that contains one-half of one percent or more of alcohol by volume and that is fit for beverage purposes either alone or when diluted, mixed or combined with other substances, the sale of which requires an ABC license.
- B. "Alcoholic beverage sales activity" means the retail sale of alcoholic beverages for on-site or off-site consumption.
- C. "Alcoholic beverage sales establishment" means an establishment where an alcoholic beverage sales activity occurs. Alcoholic beverage sales establishments include but are not limited to the following recognized types of establishments: liquor stores, beer and wine stores, convenience markets, markets, neighborhood specialty food markets, retail sales establishments, wine shops, service stations, taverns, clubs, cocktail lounges, ballrooms, cabarets, dance bars, piano bars, billiard or game parlors, bowling alleys, nightclubs, dance halls, cafes, bars, restaurants with bars, full-service restaurants, fast food establishments, and breweries. For purposes of this chapter, an "alcoholic beverage sales establishment" also includes a general retail store, a grocery store and a retail pharmacy that devotes any percentage of its gross floor area to the sale and display of alcoholic beverages.
- D. "California Department of Alcoholic Beverage Control" or "ABC" refers to the department of the state of California empowered to act pursuant to Article 20, section 22, of the California Constitution and authorized to administer the provisions of the Alcoholic Beverage Control Act.
- E. "Conditions of approval" means all requirements that must be carried out by the owners engaged in the activity of: (1) a new alcoholic beverage

sales activity to exercise a land use permit; or (2) an existing permitted, conditionally permitted, or legal nonconforming alcoholic beverage sales activity in order to comply with deemed approved performance standards and to retain its deemed approved status.

- F. “Deemed approved activity” means any existing permitted or conditionally permitted alcoholic beverage sales activity (as defined in subsection (P), below), or any legal nonconforming alcoholic beverage sales commercial activity (as defined in subsection (J), below). Such activity shall be considered a deemed approved activity effective November 1, 2013 as long as it complies with the deemed approved performance standards set forth in Section 17.210.230.
- G. “Deemed approved status” means the permitted use of land for a deemed approved activity. Deemed approved status replaces permitted and conditionally permitted status (to the extent the establishment is not already required to meet all of the operational standards established in this chapter), and legal nonconforming status for off-sale alcohol establishments with respect to alcoholic beverage sales commercial activity and remains in effect as long as it complies with the deemed approved provisions and performance standards.
- H. “Enforcement officer” means the city manager or designee, and chief of police or designee.
- I. “Illegal activity” means an activity, which has been finally determined to be in noncompliance with local, state or federal laws, the conditions of any applicable permits, or the deemed approved provisions and performance standards in this chapter. Such an activity may lose its deemed approved status and if it does it shall no longer be considered a deemed approved activity.
- J. “Legal nonconforming alcoholic beverage sales commercial activity” or “legal nonconforming activity” means an off-sale alcoholic beverage sales commercial activity which was a nonconforming use pursuant to Chapter 17.120, and for which a valid state of California Alcoholic Beverage Control license had been issued and used in the exercise of the rights and privileges conferred by the license at a time immediately prior to November 1, 2013. A “legal nonconforming alcoholic beverage sales commercial activity” or “legal nonconforming activity” includes all beverage sales activities of existing off-sale alcoholic beverage establishments that are not in conformance with the regulations applicable to new off-sale alcoholic beverage establishments contained in this chapter, regardless of whether such activities were allowed as part of a conditional use permit granted prior to November 1, 2013. Such an activity shall be considered a deemed approved activity and shall no longer be considered a legal nonconforming activity.

- K. “Modify” or “modified” as used in sections 17.210.070, 17.210.100 and 17.210.130 of this chapter, means the expansion or increase in intensity or substantial change of a use, as these terms are used in Chapter 17.120 of this title.
- L. “Off-sale alcoholic beverage establishment” means an establishment that conducts retail sales of alcoholic beverages for consumption off the premises where sold. For purposes of this chapter, an “off-sale alcoholic beverage establishment” does not include a lawfully established winery, brewery or micro-brewery that sells beer for off-site consumption as an ancillary use to a restaurant.
- M. “On-sale alcoholic beverage establishment” means an establishment that conducts retail sales of alcoholic beverages for consumption on the premises where sold.
- N. “Operational standards” means regulations for the business practice activities and land use for locations with a conditional use permit issued in conformance with the regulations in this chapter on or after November 1, 2013 or those further requirements imposed on off-sale alcoholic beverage establishments to achieve the purposes of this chapter. Operational standards constitute requirements which must be complied with by an establishment in order to maintain its conditional use permit or deemed approved status.
- O. “Performance standards” means regulations for the business practice activities and land use for locations with deemed approved status, in whole or in part, or those further requirements imposed to achieve the purposes of this chapter. Performance standards constitute requirements which must be complied with by an off-sale alcoholic beverage establishment in order to retain its deemed approved status.
- P. “Permitted or conditionally permitted alcoholic beverage sales commercial activity” or “permitted or conditionally permitted activity” means an off-sale alcoholic beverage sales commercial activity which is a permitted or conditionally permitted activity pursuant to Chapter 17.210 and other applicable provisions of the El Cajon Municipal Code prior to November 1, 2013, and for which a valid state of California Alcoholic Beverage Control license has been issued and was used in the exercise of the rights and privileges conferred by the license at a time immediately prior to November 1, 2013. A “permitted or conditionally permitted alcoholic beverage sales commercial activity” or “permitted or conditionally permitted activity” includes all alcoholic beverage sales activities of any existing off-sale alcoholic beverage establishment that are not in conformance with the regulations applicable to new off-sale alcoholic beverage establishments contained in this chapter, regardless of whether such activities were allowed as part of a conditional use permit granted by the planning commission or otherwise allowed as permissible activities

associated with the establishment's permitted use, prior to November 1, 2013. To the extent that the activity is not in conformance with this chapter it shall be considered a deemed approved activity.

- Q. "Premises" means the actual space in a building devoted to alcoholic beverage sales.
- R. "Redeveloped" means the demolition of an existing off-sale alcoholic beverage establishment (whether conducting permitted or conditionally permitted activities or deemed approved activities) followed by the immediate reconstruction and operation of a replacement off-sale alcoholic beverage establishment.
- S. "Restaurant" means a bona fide eating place whose predominant function is the service of food and where on-sale of alcoholic beverages is incidental or secondary.

17.210.050 Public hearing by planning commission.

The planning commission may conduct public hearings and make determinations on whether alcoholic beverage sale establishments are in compliance with conditions of approval, operational standards, or deemed approved performance standards prescribed in these regulations, and may modify, suspend or revoke an establishment's conditional use permit or deemed approved status in order to obtain the compliance of the particular establishment with the provisions of this chapter. This section is not intended to restrict the powers and duties otherwise pertaining to other city officers or bodies in the field of monitoring and ensuring the harmony of alcoholic beverage sale activities in the city. The planning commission shall have the powers and duties assigned to them by the El Cajon Municipal Code and by this chapter.

17.210.060 Inspection and right of entry.

The sale of alcoholic beverages is a closely regulated industry. The officials responsible for enforcement of the El Cajon Municipal Code or other ordinances of the city or their duly authorized representatives may enter on any site or into any structure open to the public for the purpose of investigation provided they shall do so in a reasonable manner whenever they have cause to suspect a violation of any provision of this ordinance or whenever necessary to the investigation of violations to the conditions of approval, operational standards, or deemed approved performance standards prescribed in these regulations. If an owner, occupant or agent refuses permission to enter, inspect or investigate, premises which are not open to the public, the officials or their representatives may seek an inspection warrant under the provisions of California Code of Civil Procedure section 1822.50 et seq. All such inspections shall be conducted in compliance with the Fourth Amendment to the United States Constitution.

17.210.070 New, modified, or redeveloped off-sale alcohol establishment standards.

Except as otherwise provided in this chapter, no person shall establish a new off-sale alcoholic beverage establishment, nor shall any person modify or redevelop an existing off-sale alcoholic beverage establishment, in violation of Section 17.120.030 of this title or an applicable conditional use permit without first obtaining a conditional use permit in the manner provided by this chapter. Furthermore, the standards contained in Sections 17.210.080 through 17.210.120 require new off-sale alcoholic beverage establishments, as defined in this chapter, to secure a conditional use permit in the manner provided in this chapter in order to lawfully engage in the sale of alcoholic beverages from premises located in the city of El Cajon; and require such establishments to manage such premises in accordance with the requirements of such permit, including operational standards and any conditions of approval incorporated as conditions of the permit.

17.210.080 Conditional use permit required.

- A. Except as provided in subsection B, below, all alcoholic beverage establishments to which this chapter is applicable shall obtain a conditional use permit pursuant to Chapter 17.50 of this title and satisfy all pertinent conditions prior to engaging in any alcoholic beverage sales activity.
- B. Unless otherwise required by this chapter, a conditional use permit shall not be required of an alcoholic beverage establishment consisting of a general retail store, a grocery store, or a retail pharmacy, which has (1) at least 10,000 square feet of gross floor space, and (2) a maximum of 10 percent of the gross floor area devoted to the sales and display of alcoholic beverages. An alcoholic beverage establishment exempt from the requirement of a conditional use permit pursuant to this subsection is deemed to have been approved to conduct alcoholic beverage sales commercial activity subject to the terms and conditions of a conditional use permit required under this chapter provided, however, that if it is found to be in violation of this chapter such an exempt establishment may lose its exemption and be required to obtain a conditional use permit as set forth in section 17.210.260.

17.210.090 Distance requirements – applicable to new off-sale alcoholic beverage sales activities.

- A. No new off-sale alcoholic beverage establishment shall be located within 600 feet of residentially zoned property, public or private schools, health care facilities, religious facilities, and parks or playgrounds, except:
 - 1. A general retail store, or grocery store, or retail pharmacy with greater than 10,000 square feet of gross floor area and a maximum

of 10 percent of the gross floor area devoted to the sale and display of off-sale alcoholic beverages; or

2. A convenience market with a maximum of 10 percent of the retail display area devoted to the sale and display of alcoholic beverages, limited to off-sale beer and wine, non-fortified products only. Retail display area includes all floor area within the establishment that is accessible and within view of customers, including aisles, and floor area occupied by shelves, counters, and refrigerator coolers.

- B. For purposes of this section, distances shall be measured between the closest property lines of the affected locations.

17.210.100 Operational standards – applicable to new, modified, or redeveloped off-sale alcoholic beverage sales activities.

- A. All new, modified, or redeveloped off-sale alcoholic beverage sales activities shall be designed, constructed, and operated to conform to all of the following operational standards:

1. That it does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area.
2. That it does not jeopardize or endanger the public health or safety of persons residing or working in the surrounding area.
3. That it does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.
4. That it complies with all provisions of local, state or federal laws, regulations or orders, including but not limited to those of the ABC, California Business and Professions Code sections 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual city business license fees.
5. That its upkeep and operating characteristics are compatible with, and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.

6. That it complies with the following alcohol sale limitations:
 - a. No wine shall be displayed, sold or given away in containers of less than 750 milliliters, except multipack containers of wine, and multipack wine coolers containing no more than six percent alcohol by volume.
 - b. No wine shall be displayed, sold or given away with an alcoholic content greater than 15 percent by volume unless in corked bottles and aged at least two years.
 - c. No distilled spirits shall be displayed, sold or given away in containers of less than 375 milliliters, except pre-mixed cocktails.
 - d. The display, sale or distribution of 50 milliliters "airline bottles" and 375 milliliters "hip flask" containers is prohibited.
 - e. No beer, ale or malt liquor shall be offered for sale in a container with a volume greater than 32 ounces. This restriction is not intended to prohibit the sale of such beverages in kegs or other types of containers, with a volume of two or more gallons, which are clearly designed to dispense multiple servings.
 - f. No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.
 - g. No display, sale or distribution of beer or wine, wine coolers or similar alcoholic beverages shall be made from an ice tub, barrel or similar container.
 - h. All display of alcoholic beverages shall be no closer than five feet from the store entrance.
7. That it complies with the following public nuisance prevention measures:
 - a. Lighting: Exterior areas of the premises and adjacent parking lots shall be provided with sufficient lighting in a manner that provides adequate illumination for alcohol establishment patrons while not spilling onto surrounding residential and commercial properties. A photometric study may be required to demonstrate compliance.
 - b. Litter: Adequate litter receptacles shall be provided on site and in the building. The premises shall be kept free of the

accumulation of litter and shall be removed no less frequently than once each day the business is open.

- c. Loitering: The following measures may be required:
 - i. No fixtures or furnishings that encourage loitering and nuisance behavior are permitted on the premises. This includes, but is not limited to chairs, seats, stools, benches, tables, crates, etc.
 - ii. The establishment's operators or employees shall be required to discourage loiterers and to ask persons loitering longer than fifteen minutes to leave the area and contact local law enforcement officials for enforcement of applicable trespassing and loitering laws if persons requested to leave fail to do so.
 - iii. No video or other electronic games shall be located in an off-sale alcoholic beverage establishment.
 - iv. No pay phones are permitted outside of the off-sale establishment.
- d. Cups: The sale or distribution to the customer of paper or plastic cups in quantities less than their usual and customary packaging is prohibited.
- e. Signage: There shall be no exterior advertising of alcoholic products, or tobacco and paraphernalia or similarly controlled products.
- f. Signs: The following signs shall be required to be prominently posted in a readily visible manner on an interior wall or fixture, and not on windows, in English, Spanish, Arabic and the predominant language of the patrons:
 - i. "California State Law prohibits the sale of alcoholic beverages to persons younger than 21 years of age."
 - ii. "No Loitering or Public Drinking."
 - iii. "It is illegal to possess an open container of alcohol in the vicinity of this establishment."
- g. Presentation of Documents: A copy of the conditions of approval and the California Department of Alcoholic Beverage Control license shall be required to be kept on the

premises and presented to any enforcement officer or authorized state or county official upon request.

- h. Mitigating Alcohol Related Problems: The establishment shall be required to operate in a manner appropriate with mitigating alcohol related problems that negatively impact those individuals living or working in the neighborhood including but not limited to sales to minors, the congregation of individuals, violence on or near the premises, drunkenness, public urination, solicitation, drug-dealing, drug use, loud noise and litter.
- i. Drug Paraphernalia: An off-sale alcohol establishment shall be prohibited from selling drug/tobacco paraphernalia products as defined in Health and Safety Code sections 11014.5 and 11364.5. "Drug paraphernalia" means all equipment products and materials of any kind that are used intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the California Uniform Controlled Substances Act commencing with California Health and Safety Code section 11000.
- j. Prohibited Vegetation: Exterior vegetation shall not be planted or maintained that could be used as a hiding place for persons on the premises. Exterior vegetation may be planted and maintained in a manner that minimizes its use as a hiding place.
- k. Window Obstructions: To ensure a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance, no more than 15% of windows and entry doors shall be blocked by signs, vending machines, shelves, racks, storage, etc.
- l. Training: Each off-sale operator and their employees shall complete the Responsible Beverage Service (RBS) Training component. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board or other certifying/licensing body designated by the state of California. Proof of completion shall be submitted to the El Cajon police department.

- m. Posting of Documents: A copy of these operational standards, any applicable ABC or city operating conditions, and any training requirements shall be posted in at least one prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment.
- B. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit.

17.210.110 Required findings – new off-sale alcoholic beverage sales activities.

In addition to the findings listed in Section 17.50.060, the planning commission shall approve issuance of a conditional use permit to allow a new off-sale alcoholic beverage sales activity upon making the following findings:

- A. The proposed establishment meets the locational requirements of Section 17.210.090.
- B. The proposed alcoholic beverage sales activity will not aggravate existing problems in the neighborhood created by the sale of alcohol such as loitering, public drunkenness, alcoholic beverage sales to minors, noise and littering.
- C. The proposed establishment will not detrimentally affect nearby neighborhoods considering the distance of the alcohol establishment to residential buildings, schools, parks, playgrounds or recreational areas, nonprofit youth facilities, places of worship, hospitals, alcohol or other drug abuse recovery or treatment facilities, county social service offices, or other alcoholic beverages sales activity establishments.
- D. The proposed establishment is located in a census tract with capacity for additional off-sale licenses, as defined by the California Department of Alcohol Beverage Control, with low to average crime rates, as defined by the police department annually, subject to the condition that an additional off-sale establishment will not be contradictory to a moratorium.

17.210.120 Conditions of approval – new off-sale alcoholic beverage sales activities.

- A. In order to make required findings the applicant must acquire an existing off-sale license issued by the ABC from an off-sale alcohol sales establishment located in an over-concentrated census tract in the city of El Cajon and transfer the license to an approved location or otherwise extinguish such license.
- B. Conditions of approval that may be imposed as necessary to make required findings include but are not limited to the following:

1. *Program:* A “complaint response community relations” program adopted and maintained by the establishment conducting the alcoholic beverage sales activity may be required. The program may include the following:
 - a. Posting at the entry of the establishment providing the telephone number for the watch commander of the police department to any requesting individual.
 - b. Coordinating efforts with the police department to monitor community complaints about the establishment activities.
 - c. Having a representative of the establishment meet with neighbors or the applicable neighborhood association on a regular basis and at their request attempt to resolve any neighborhood complaints regarding the establishment.
2. *Hours of Operation:* In an off-sale alcohol establishment, the sale of alcoholic beverages may be restricted to certain hours of each day of the week unless limited further by the State of California Department of Alcoholic Beverage Control.
3. *Security Cameras:* At least two high definition 24-hour time lapse security cameras may be required to be installed and properly maintained on the exterior of the building at locations recommended by the police department capable of color recording and storing a minimum of 30 days of continuous video. All criminal and suspicious activities recorded on this surveillance equipment must be reported to local law enforcement. To the extent allowed by law, the establishment operators may be required to provide any tapes or other recording media from the security cameras to the police department.
4. *Security Guards:* An establishment may be required to retain a specified number of security guards. The number of security guards shall vary based upon the specific facts and circumstances of each establishment site and operation. All security guards shall have all required state and city permits and licenses.

17.210.130 New and modified on-sale alcohol establishment standards.

Except as otherwise provided in this chapter, no person shall establish a new on-sale alcoholic beverage establishment or modify an existing on-sale alcoholic beverage establishment in violation of Section 17.120.030 of this title or an applicable conditional use permit without first obtaining a conditional use permit in the manner provided by this chapter. Furthermore, the standards contained in Sections 17.210.140 through 17.210.160 require on-sale alcoholic beverage establishments to secure a conditional use permit in the manner provided in this chapter in order to lawfully engage in the sale

of alcoholic beverages from premises located in the city of El Cajon; and require such establishments to manage such premises in accordance with the requirements of such permit, including operational standards and any conditions of approval incorporated as conditions of the permit.

17.210.140 Distance requirements – applicable to new on-sale alcoholic beverage establishments.

- A. No new on-sale alcoholic beverage establishment shall be located within 1,000 feet of an existing on-sale alcoholic beverage establishment and/or within 600 feet of residentially zoned property, public or private schools, health care facilities, religious facilities, parks or playgrounds, and off-sale alcoholic beverage establishments, except:
 - 1. A restaurant with an ancillary bar with less total square footage than the restaurant eating area; or
 - 2. On-sale alcoholic beverage establishment with alcohol sales secondary and incidental to an approved, complementary, principal use within the boundaries of Specific Plan No. 182; or
 - 3. A craft brewery with an ancillary full service restaurant.
- B. For purposes of this section, distances shall be measured between the closest property lines of the affected locations.
- C. For the purposes of this section, “secondary and incidental,” shall mean that the sales of alcoholic beverage shall be limited to not more than 25 percent of the gross annual retail receipts generated by the use on the site, which shall be calculated on a quarterly basis, for the prior 12-month period ending on the last day of the then concluding quarter of year, and shall further mean that sales of alcoholic beverages are not promoted or advertised in any signs, or the name of the business establishment.
- D. For the purposes of this section, “principal use,” may include, but is not limited to, live entertainment, participatory sporting activities, museums, theaters, performing arts center owned by a public agency, hotels, or other, similar uses approved by the city council, so long as the location of the sales of alcoholic beverages occurs on the same premises as the principal use, and the owner of the principal use is the owner of the liquor license.

17.210.150 Operational standards – applicable to new on-sale alcoholic beverage sales activities.

- A. That it does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area.
- B. That it does not jeopardize or endanger the public health or safety of persons residing or working in the surrounding area.
- C. That it does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.
- D. That it complies with all provisions of local, state or federal laws, regulations or orders, including but not limited to those of the ABC, California Business and Professions Code §§ 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual city business license fees.
- E. That its upkeep and operating characteristics are compatible with, and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.

17.210.160 Required findings – new on-sale alcoholic beverage sales activities.

In addition to the findings listed in Section 17.50.060, the planning commission shall approve issuance of a conditional use permit to allow a new on-sale alcoholic beverage sales activity upon making the following findings:

- A. The proposed alcoholic beverage sales activity will not exacerbate existing problems in the neighborhood created by the sale of alcohol such as loitering, public drunkenness, alcoholic beverage sales to minors, noise and littering.
- B. The proposed alcoholic beverage sales establishment will not detrimentally affect nearby neighborhoods considering the distance of the alcohol establishment to residential buildings, schools, parks, playgrounds or recreational areas, nonprofit youth facilities, places of worship, hospitals, alcohol or other drug abuse recovery or treatment facilities, county social service offices, or other alcoholic beverages sales activity establishments.

- C. The proposed alcoholic beverage sales establishment is not located in what has been determined to be a high-crime area or where a disproportionate number of police service calls occur. In the alternative, if the proposed alcoholic beverage sales establishment is proposed to be located in a high-crime area or where a disproportionate number of police service calls occur, the establishment has or will adopt appropriate safeguards, to be set forth in conditions of approval, reasonably intended to prevent any increase in criminal activities and calls for service.

17.210.170 Grounds for conditional use permit suspension, revocation or termination.

- A. In addition to the grounds for revocation or modification of a conditional use permit contained in Section 17.35.030 of this title, an alcoholic beverage sales establishment's conditional use permit may be suspended for up to one year, modified or revoked by the planning commission after holding a public hearing in the manner prescribed in Chapter 17.25, for failure to comply with operational standards, training requirements or conditions of approval imposed through their conditional use permit. Notice of such hearing by the planning commission at which it will consider the modification, suspension or revocation of an establishment's conditional use permit shall be in writing and shall state the grounds therefore. Notice shall be mailed by first-class mail and certified mail return receipt requested at least 10 days before the date of the hearing.
- B. Any conditional use permit issued pursuant to the provisions of this chapter shall be subject to the condition, in addition to any and all other conditions, that it shall terminate and cease to apply to any establishment which:
 - 1. Shall have ceased its operation for a period of 180 or more calendar days, and
 - a. If there is thereafter filed any application or requested transaction with the California Department of Alcoholic Beverage Control, whereby the laws of the state of California require notice thereof to be filed with the city, and allow the filing of a protest thereon by the city (including person-to-person transfer of existing licenses); or
 - b. Where after such 180-calendar-day period, the existing license shall have ceased to apply to such establishment; or
 - 2. Where the existing license shall have been surrendered to the California Department of Alcoholic Beverage Control for a period exceeding 180 calendar days.

17.210.180 Investigative procedures of potential violation of conditions of approval and operational standards.

Upon the city's receipt of a complaint from the public, police department, city official or any other interested person that a conditional use permit activity is in violation of the operational standards and/or conditions of approval set forth in this chapter, the following procedure shall be followed:

- A. An enforcement officer shall assess the nature of the complaint and its validity by conducting an on-site observation and inspection of the premises to assess the activity's compliance with operational standards and/or conditions of approval.
- B. If the enforcement officer determines that the activity is in violation of the operational standards and/or conditions of approval, the enforcement officer shall give written notice of the violation to the owner and/or operator of the establishment and seek to remedy the violation under the city's administrative citation procedures contained in Chapter 1.14 of this code. The first notice of violation shall be given in accordance with Section 1.14.040 of this code. If, however, the enforcement officer, in his or her sole discretion, determines that the violation is not capable of correction, presents a serious threat to public health or safety, or otherwise warrants expedited action, he or she may in lieu of following the administrative citation procedure, refer the matter directly to the planning commission for a hearing at which the establishment's conditional use permit may be suspended, modified or revoked.
- C. Any administrative citation issued under this section shall be issued, processed, and enforced in compliance with all of the provisions of Chapter 1.14 of this code, unless otherwise expressly provided by this chapter. If the owner or operator receiving an administrative citation contests the citation and a hearing is held pursuant to Chapter 1.14, the hearing officer may, in addition to exercising all powers designated in Chapter 1.14, make a recommendation to the planning commission to suspend, modify or revoke the establishment's conditional use permit if in the judgment of the hearing officer, based upon information then before him or her, such action is necessary to ensure compliance with this chapter. Such recommendation may include the suggestion of additional or amended reasonable conditions on the use, including but not limited to, the conditions listed in Section 17.210.120, and the operational standards listed in Section 17.210.100 of this chapter.
- D. If a hearing before the planning commission is conducted on a potential violation in the manner prescribed in Chapter 17.25, it shall determine whether the activity is in compliance with the operational standards and/or conditions of approval. Based on this determination, the planning commission may suspend, modify or revoke the activity's conditional use permit or impose additional or amended conditions on the use, including

but not limited to the conditions listed in Section 17.210.120, and the operational standards listed in Section 17.210.100, of this chapter, based upon the information then before it. In reaching a determination as to whether a use has violated the operational standards or conditions of approval, or as to the appropriateness of suspending, modifying, or revoking of a conditional use permit, or the imposition of additional or amended conditions on a use, the planning commission may consider the following:

1. The length of time the activity has been out of compliance with the operational standards and/or conditions of approval.
2. The impact of the violation of the operational standards and/or conditions of approval on the community.
3. Any information regarding the owner of the activity's efforts to remedy the violation of the operational standards and/or conditions of approval.

E. "Efforts to Remedy" shall include, but are not limited to:

1. Timely calls to the police department that are placed by the owner and/or operator of the establishment, his or her employees, or agents.
2. Requesting that those persons engaging in activities causing violations of the operational standards and or conditions of approval cease those activities, unless the owner or operator of the activity, or his or her employees or agents feels that their personal safety would be threatened in making that request.
3. Making improvements to the establishment's property or operations, including but not limited to the installation of lighting sufficient to illuminate the area within the use's property line, the installation of security cameras, the clearing of window obstructions, the cleaning of sidewalks and the abatement of graffiti within three days.

F. If in the judgment of the planning commission, the operations of the owner or operator of the establishment constitute a nuisance, the owner or operator is unable or unwilling to abate the nuisance and the nuisance is shown to be a threat to the public health and safety of the surrounding neighborhood, the planning commission may suspend, modify or revoke the activity's conditional use permit. All determinations, decisions, and conditions made or imposed regarding the use of an activity shall run with the land.

- G. The decision of the planning commission shall be final and conclusive, unless appealed in writing to the city council within 10 days of planning commission action.

17.210.190 Appeal from suspension, modification or revocation of conditional use permit.

Any applicant or other person aggrieved by a decision of the planning commission from a suspension, modification or revocation of a conditional use permit pursuant to this chapter may appeal the decision to the city council pursuant to Chapter 17.30 of this code.

17.210.200 Deemed approved alcoholic beverage sales regulations.

Except as otherwise provided in this chapter, any permitted or conditionally permitted off-sale alcoholic beverage establishment, and legal nonconforming off-sale alcoholic beverage establishment lawfully operating prior to November 1, 2013 pursuant to an ABC license that authorizes the retail sale of alcoholic beverages for off-site consumption shall thereafter be an establishment with deemed approved status in accordance with Section 17.210.220. In addition, any alcoholic beverage establishment exempt from the requirement to obtain a conditional use permit pursuant to subsection (B) of Section 17.210.080 that lawfully commences operations on or after November 1, 2013 shall be an establishment with deemed approved status for purposes of this chapter. Such establishment may continue to lawfully operate provided the operation is conducted in compliance with the performance standards contained in Section 17.210.230, has satisfied the applicable training requirement and paid the annual permit fee required by this chapter.

17.210.210 Applicability of deemed approved alcoholic beverage sales regulations.

The deemed approved alcoholic beverage sales regulations shall apply to all permitted or conditionally permitted off-sale alcoholic beverage sales activities and legal nonconforming alcoholic beverage sales activities for off-site consumption existing and operating within the City on November 1, 2013 and to all alcoholic beverage sales establishments exempt from the requirement to obtain a conditional use permit pursuant to subsection (B) of Section 17.210.080 that lawfully commence operations on or after November 1, 2013.

17.210.220 Automatic deemed approved status.

All alcoholic beverage sales commercial activities not consistent with the standards and regulations set forth in this chapter that were conducted by permitted or conditionally permitted activities, and all legal nonconforming activities for off-sale alcohol establishments, on November 1, 2013, shall automatically become deemed approved activities as of November 1, 2013, and shall no longer be considered permitted, conditionally permitted or legal nonconforming activities. In addition, all alcoholic beverage sales commercial activities of an alcoholic beverage sales

establishment exempt from the requirement to obtain a conditional use permit pursuant to subsection (B) of Section 17.210.080 that lawfully commence operations on or after November 1, 2013 that are not consistent with the standards and regulations set forth in this chapter are deemed approved activities. Each deemed approved activity shall retain its deemed approved status as long as it complies with the performance standards of this ordinance.

17.210.230 Deemed approved performance standards for off-sale alcohol establishments.

The provisions of this section shall be known as the deemed approved performance standards. The purpose of these standards is to control dangerous or objectionable environmental effects of alcoholic beverage sales activities. These standards shall apply to all deemed approved alcoholic beverage sales activities that hold deemed approved status pursuant to this chapter. An off-sale alcoholic beverage sales activity shall retain its deemed approved status only if it conforms to all of the following deemed approved performance standards:

- A. The off-sale alcohol establishment shall not cause adverse effects to the health, peace or safety of persons residing or working in the surrounding area.
- B. The off-sale alcohol establishment shall not jeopardize or endanger the public health or safety of persons residing or working in the surrounding area.
- C. The off-sale alcohol establishment shall not allow repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, or lewd conduct.
- D. The off-sale alcohol establishment shall comply with all provisions of local, state or federal laws, regulations or orders, including but not limited to those of the ABC, California Business and Professions Code sections 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual city business license fees.
- E. The off-sale alcohol establishment's upkeep and operating characteristics shall be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.

- F. A copy of these performance standards, any applicable ABC or city operating conditions, and any training requirements shall be posted in at least one prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment.
- G. The owners and all employees of the alcohol beverage sales establishment involved in the sale of alcoholic beverages shall complete an approved course in "Responsible Beverage Sales" (RBS) within 60 days of hire for employees hired after the passage of this ordinance or within six months of the passage of this ordinance for existing employees. To satisfy this requirement, a certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service (CCC/RBS) or other certifying/licensing body designated by the state of California.

17.210.240 Notification to owners of off-sale establishments conducting deemed approved activities.

The city's community development department shall notify the owner and/or operator of an off-sale alcohol establishment of each deemed approved activity as shown on their city business license, and also, if not the same, any property owner at the address shown on the county assessor's property tax assessment records, of the activity's deemed approved status. The notice shall be sent by first-class mail and certified mail return receipt requested and shall include a copy of the performance standards in this chapter with the requirement that they be posted in a conspicuous and unobstructed place visible from the entrance of the establishment for public review. This notice shall also provide that the activity is required to comply with all performance standards, and that the activity is required to comply with all other aspects of the deemed approved regulations. Should the notice be returned, then the notice shall be sent via regular mail. Failure of any person to receive notice given pursuant to this chapter shall not affect the deemed approved status of the activity.

17.210.250 Grounds for deemed approved status suspension, revocation or termination.

- A. An alcoholic beverage sales establishment's deemed approved status may be suspended for up to one year, modified or revoked by the planning commission after holding a public hearing in the manner prescribed in Chapter 17.25, for failure to comply with the performance standards set forth in Section 17.210.230. Notice of such hearing by the planning commission at which it will consider the modification, suspension or revocation of an establishment's deemed approved status shall be in writing and shall state the grounds therefore. Notice shall be mailed by first-class mail and certified mail return receipt requested at least 10 days before the date of the hearing.

- B. The occurrence of any of the following shall terminate the deemed approved status of the alcoholic beverage sales activity after notice and a hearing in front of the planning commission in accordance with Chapter 17.25, and require the issuance of a conditional use permit in order to continue the alcoholic beverage sales activity:
1. An existing alcoholic beverage sales activity changes its activity so that ABC requires a different type of license.
 2. There is a substantial modification to the mode or character of operation.
 3. As used herein, the phrase “substantial modification to the mode or character of operation” includes but is not be limited to the following:
 - a. The off-sale alcoholic beverage sales activity establishment increases the floor or land area or shelf space devoted to the display or sales of any alcoholic beverage.
 - b. The off-sale alcoholic beverage sales activity establishment extends the hours of operation.
 - c. The off-sale alcoholic beverage sales activity establishment proposes to reinstate alcohol sales after the ABC license has been either revoked or suspended for a period 180 days or greater by ABC.
 - d. The off-sale alcoholic beverage sales activity voluntarily discontinues active operation for more than 180 consecutive days or ceases to be licensed by the ABC.
 4. A “substantial change in the mode of character of operation” shall not include:
 - a. Re-establishment, restoration or repair of an existing off-sale alcoholic beverage sales activity on the same premises after the premises have been rendered totally or partially inaccessible by a riot, insurrection, toxic accident or act of God, provided that the re-establishment, restoration or repair does not extend the hours of operation of any establishment or add to the capacity, floor or land area or shelf space devoted to alcoholic beverages of any establishment that sells any alcoholic beverages for off-site consumption.
 - b. Temporary closure for not more than 180 days in cases of vacation or illness or for purposes of repair, renovation, or remodeling if that repair, renovation, or remodeling does not

change the nature of the premises and does not extend the hours of operation of any establishment, or add to the capacity, floor or land area, or shelf space devoted to alcoholic beverages of any establishment that sells any alcoholic beverages for off-site consumption, provided notice is provided to the City. The planning commission may, upon request of an owner of an alcoholic beverage sales establishment made prior to the expiration of 180 days, grant one or more extensions to the period of temporary closure, none of which may exceed 60 days, and together not to exceed 180 days.

5. Once it is determined by the City that there has been a discontinuance of active operation for 180 consecutive days or a cessation of ABC licensing, it may be resumed only upon the granting of a conditional use permit as provided in Sections 17.210.070 to 17.210.120 of this chapter. In the event that any active operation is discontinued on a property for a period of 180 consecutive days, such discontinuance shall be presumed to be abandonment of the use by the property owner. At any time after any active operation is discontinued for a period of 180 consecutive days or more, the City Manager's designee shall notify the property owner in writing of the determination of presumed abandonment of the active operation. Pursuant to Chapter 17.30 of this title, the property owner may appeal the determination to the planning commission, which may overturn the determination only upon making a finding that the evidence supports the property owner's position that the nonconforming use was not discontinued for a period of 180 consecutive days or more. The property owner shall be notified by the city of the termination of the deemed approved status and shall be informed of the property owner's right to appeal the City's decision to the planning commission.

17.210.260 Investigative procedures of potential violation of performance standards by establishment with deemed approved status.

Upon the City's receipt of a complaint from the public, police department, city official or any other interested person that a deemed approved use is in violation of the performance standards set forth in this chapter, the following procedure shall be followed:

- A. An enforcement officer shall assess the nature of the complaint and its validity by conducting an on-site observation and inspection of the premises to assess the activity's compliance with performance standards.
- B. If the enforcement officer determines that the deemed approved activity is in violation of the performance standards, the enforcement officer shall give written notice of the violation to the owner and/or operator of the

establishment and seek to remedy the violation under the city's administrative citation procedures contained in Chapter 1.14 of this code. The first notice of violation shall be given in accordance with Section 1.14.040 of this code. If, however, the enforcement officer, in his or her sole discretion, determines that the violation is not capable of correction, presents a serious threat to public health or safety, or otherwise warrants expedited action, he or she may in lieu of following the administrative citation procedure, refer the matter directly to the planning commission for a hearing at which the deemed approved activity's deemed approved status may be suspended, modified or revoked.

- C. Any administrative citation issued under this section shall be issued, processed, and enforced in compliance with all of the provisions of Chapter 1.14 of this code, unless otherwise expressly provided by this chapter. If, the owner or operator receiving an administrative citation contests the citation and a hearing is held pursuant to Chapter 1.14, the hearing officer may, in addition to exercising all powers designated in Chapter 1.14, make a recommendation to the planning commission to suspend, modify or revoke the deemed approved activity's deemed approved status if in the judgment of the hearing officer, based upon information then before him or her, such action is necessary to ensure compliance with this chapter. Such recommendation may include the suggestion of additional or amended reasonable conditions on the use, including but not limited to, the conditions listed in Section 17.210.120 and the operational standards listed in Section 17.210.100, of this chapter.

- D. If a hearing is conducted on a potential violation in the manner prescribed in Chapter 17.25, the planning commission shall determine whether the deemed approved activity is in compliance with the performance standards. Based on this determination, the planning commission may suspend, modify or revoke the deemed approved activity's deemed approved status or impose additional or amended conditions on the use, including but not limited to the conditions listed in Section 17.210.120, and the operational standards listed in Section 17.210.100, of this chapter, based on information then before it. In reaching a determination as to whether a use has violated the performance standards, or as to the appropriateness of suspending, modifying or revoking a deemed approved activity's deemed approved status, or imposing additional or amended conditions on the use, the planning commission may consider:
 - 1. The length of time the deemed approved activity has been out of compliance with the performance standards.
 - 2. The impact of the violation of the performance standard(s) on the community.

3. Any information regarding the owner of the deemed approved activity's efforts to remedy the violation of the performance standard(s).
- E. "Efforts to Remedy" shall include, but are not limited to:
1. Timely calls to the police department that are placed by the owner and/or operator of the deemed approved activity, his or her employees, or agents.
 2. Requesting that those persons engaging in activities causing violations of the performance standard(s) cease those activities, unless the owner of the deemed approved activity, or his or her employees or agents feels that their personal safety would be threatened in making that request.
 3. Making improvements to the deemed approved activity's property or operations, including but not limited to the installation of lighting sufficient to illuminate the area within the use's property line, the installation of security cameras, clear unobstructed windows, clean sidewalks and graffiti abated within three days.
- F. If in the judgment of the planning commission, the operations of the owner or operator of the deemed approved activity constitute a nuisance, the owner is unable or unwilling to abate the nuisance and the nuisance is shown to be a threat to the public health and safety of the surrounding neighborhood, the planning commission may suspend, modify or revoke the activity's deemed approved status. If suspended, any continued operation of the business shall require a conditional use permit approved by the planning commission. All determinations, decisions, and conditions made or imposed regarding the use of a deemed approved activity shall run with the land.
- G. The decision of the planning commission shall be final and conclusive, unless appealed in accordance with the provisions of Chapter 17.30 of this title.
- H. All hearings held pursuant to this section shall be conducted in the manner set forth in Chapter 1.36.

17.210.270 Appeal from suspension, modification or revocation of deemed approved status.

Any applicant or other person aggrieved by a decision of the planning commission from a suspension, modification or revocation of an establishment's deemed approved status pursuant to this chapter may appeal the decision to the city council pursuant to Chapter 17.30 of this code. All hearings held pursuant to this section shall be conducted in the manner set forth in Chapter 1.36.

17.210.280 Alcoholic beverage sales activity penalties.

- A. Any person violating any of the provisions of this chapter or who causes or permits another person to violate any provision of this chapter may be charged with either an infraction or a misdemeanor, and shall be subject to the provisions of the general penalty clause as set forth in Section 1.24.010 of this code.
- B. In addition to the penalties provided in this section, any use or condition caused or permitted to exist in violation of any of the provisions of these regulations shall be and is declared to be a public nuisance and may be abated as such by the City.
- C. Nothing in this chapter shall be construed to prevent the city of El Cajon from pursuing any and all other legal remedies that may be available, including but not limited to civil actions filed by the city attorney seeking any and all appropriate relief such as civil injunctions and penalties.
- D. Notwithstanding Chapter 1.24 General Penalty, Chapter 1.16 Nuisance, Chapter 1.14 Administrative Citation Procedures, or any other section of this code to the contrary, any person, entity, or organization that violates the provisions of this chapter may be subject to civil penalties up to \$1,000 for each day said violation is in existence.
- E. Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of these regulations is committed, continued, permitted, or caused by such violator and shall be punishable accordingly.
- G. In addition to the punishment provided by law a violator is liable for such costs expenses and disbursements paid or incurred by the City or any of its contractors in correction, abatement and prosecution of the violation. Re-inspection fees to ascertain compliance with previously noticed or cited violations may be charged against the owner of the establishment conducting the deemed approved activity or owner of the property where the establishment is located. The enforcement officer shall give the owner or other responsible party of such affected premises a written notice showing the itemized cost of such chargeable service and requesting payment thereof. Should the bill not be paid in the required time, the charges shall be placed as a lien against the property.

17.210.290 Annual alcohol sales regulatory fee.

- A. The intent and purpose of this section is to impose a regulatory fee upon all off-sale alcohol establishments that either hold deemed approved status pursuant to this chapter or obtained a conditional use permit after November 1, 2013. This fee shall provide for the enforcement and regulation of the conditions of approval, operational standards,

performance standards and other applicable regulations set forth in this chapter with regard to off-sale alcohol establishments.

- B. The annual alcohol sales regulatory fee shall be established by resolution of the city council. The fee shall be calculated so as to recover the total cost of both administration and enforcement of the performance standards and other applicable regulations set forth under this chapter upon all off-sale alcohol establishments that either hold deemed approved status pursuant to this chapter or obtained a conditional use permit after the November 1, 2013, including, for example, notifying establishments of their deemed approved status, administering the program, establishment inspection and compliance checks, documentation of violations, conducting hearings and prosecution of violators, but shall not exceed the cost of the total program. All fees shall be used to fund the program. Fees are nonrefundable except as may be required by law.

17.210.300 Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be 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 the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections subsections, sentences, clauses or phrases may be declared invalid.

SECTION 4. This ordinance shall become effective thirty (30) days following its passage and adoption.