

**“EXHIBIT A”**  
**Amendment to Title 17 (Zoning) of the Lancaster Municipal Code**  
**Relating to Alcoholic Beverage Establishments**

**MIXED-USE ZONE**

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**17.10.050 Uses and permit requirements.**

A. Ratio of uses.

1. When a development is located on a project site that is located within 660 feet of an intersection of two major arterial streets, a minimum of 25 percent of the development shall be non-residential uses, as measured by ground floor area.
2. When a development is located on a project site that is located within 660 feet of an intersection of two secondary arterial streets, or an intersection of a major arterial with a secondary arterial, a minimum of 10 percent of the development shall be non-residential uses, as measured by ground floor area.
3. Single-family structures shall not face arterial streets.

B. Uses and permit requirements.

Mixed Use - Uses Matrix			
USES	MU-N	MU-C	MU-E
P = permitted use/D = director's review/C = conditional use			
N/A = not allowed			
<b>Retail/Service:</b>			
Retail store	P	P	P
Convenience market/neighborhood market*	P	P	P
Grocery store/Supermarket/Drugstore*	P	P	P
Personal services	P	P	P
Tattoo/body piercing	N/A	D	D
Pawn shops	N/A	D	D
Restaurants/café/bakery/deli*	P	P	P
Bar/nightclub/dance club*	N/A	C	C
Art gallery	P	P	P
Bank/credit union	P	P	P
Entertainment (theater, live music, karaoke, comedy, etc.)*	D	D	D
Health and fitness services	D	D	D
Automotive sales and services	N/A	C	C
Automotive repair	N/A	D	P
Gas station*	D	D	P

Car wash	C	C	C
Nightclub without alcohol	[C]	[C]	[C]
<b>Office/Professional:</b>			
Professional office	P	P	P
Medical/dental office	P	P	P
Light industrial uses	N/A	N/A	P
<b>Lodging:</b>			
Hotel/motel*	C	P	D
Bed and breakfast*	D	P	D
Conference/meeting room space	D	P	D
<b>Public/Semi-Public:</b>			
Government office	P	P	P
Day care center	P	P	P
Church/religious institution	C	P	D
Post office	P	P	P
Private school, trade and vocational schools	C	P	P
Recreation/museum/cultural	D	P	P
<b>Residential:</b>			
Detached single-family unit (4 or fewer subdivision)	P	N/A	N/A
Detached single-family unit (5 or more subdivision)	P	P	N/A
Condominium/apartment/studio/loft units (15 or fewer units)	P	P	P
Condominium/apartment/studio/loft units (16 or more units)	C	C	C
Assisted living facility (15 or fewer units)	P	P	P
Assisted living facility (16 or more units)	C	C	C
Live/Work units (new structure)	P	P	P
Live/Work units (conversion of existing structure)	D	D	D
<b>Temporary/Accessory/Other uses:</b>			
Home occupation/artist studio/home office	P	P	P
Day care as residential accessory use	D	D	D
Carriage unit (studio) located above detached garage	P	P	N/A
Outdoor sales and promotional activities	D	D	D
Carnivals and circuses <sup>1</sup>	D	D	D
Christmas tree lots	D	D	D
Automated banking, movie rental, food vending machines	P	P	P
Stealth wireless telecommunications facilities	N/A	D	D
<b>Prohibited uses:</b>			
Outdoor storage on private property			

Manufacturing/heavy industrial			
Adult only/sexually-oriented businesses			
Check cashing/payday loans/bail bonds			
Mini-storage			

\*Alcohol uses are subject to Chapter 17.42

<sup>1</sup> Subject to the provisions of Chapter 9.46.

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**COMMERCIAL ZONE**

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**17.12.040 Permitted uses.**

The permitted uses of the C zone are grouped into categories of similar uses rather than an exhaustive list of single uses. Extensive examples are given for purposes of clarifying the types of uses allowed by each category. In addition, specific exceptions and development requirements have been applied to certain categories of uses where concerns may arise as to their impact on neighboring properties and the visual attractiveness of the city as a whole. The following categories of uses are permitted in the C zone subject to any stated exceptions, development requirements, and approval of the site plan as follows:

- A. Existing Residential Uses. This category may continue to be used as a permitted use. Expansion of existing residential uses shall be limited to a cumulative total of no more than 500 square feet of floor area.
- B. Automobile, Motorcycle, Truck, Tractor and Boat Sales, Service, Repair, Accessories and Parts. This category includes but is not limited to motor vehicle dealerships; auto parts stores; tires, batteries and accessories stores; brake shops; muffler shops; radiator shops; repair shops, service stations, and similar uses. All repair activities shall be conducted within an enclosed building. Note: Auto repair uses and tire sales on lots within 300 feet of residentially zoned property shall be required to obtain a conditional use permit. (See Section 17.12.080A.)

This category does not include car washes; establishments engaged in the sale, rental, service or repair of heavy equipment; auto body and paint shops; auto upholstery shops; automobile impound yards; and similar uses.

- C. Churches, Religious, Fraternal or Social Organizations. This category includes but is not limited to churches, temples, convents, monasteries, and other places used exclusively for religious worship, and the customary incidental educational and social activities therewith; temporary tent revival meetings (operated at one particular location and provided such location is not within 300 feet of any public park, school or residential zone, and not longer than 7 days in any 6-month period); fraternities; lodge halls; societies, and sororities.

This category does not include any use which could be construed as a privately owned business.

- D. Communication Facilities and Services, Public and Private. This category includes but is not limited to communications equipment, duplicating, faxing services, lithographers, microwave stations, photocopying, photo engravers, printers or publishers, radio and television broadcast studios, telegraph offices, telecommunication/telecommuting offices and similar computer communications

network services, telephone repeater stations, and tourist information centers. Ground or roof mounted satellite antennae shall be screened from view.

This category does not include radio and television transmission towers or wireless telecommunication facilities. (See Section 17.40.640.)

- E. Eating and Drinking Establishments. This category includes but is not limited to restaurants, cafes, delicatessens, fast food operations, ice cream shops, and take-out food operations; any of which may include outdoor dining.
- F. Financial Institutions and Services. This category includes but is not limited to banks, credit unions, finance companies, savings and loans, and similar uses.

This category does not include pawnshops, establishments which conduct check cashing services for a fee or donation, or establishments which do not loan money as part of their business operations.

- G. Offices—Business, Government or Professional. This category includes but is not limited to general business offices; federal, state, county, city or special district offices, libraries and court facilities; associations; unions; and offices conducting accounting, dental, engineering, escrow, insurance, legal, medical, mortgage brokerage, real estate, security, and commodity brokerage, or similar professional services.

This category does not include bail bond services.

- H. Public Safety Facilities and Services. This category includes but is not limited to ambulance services, fire stations, highway patrol stations, police stations, and similar uses.

- I. Public Utilities. This category is limited to the following uses:

1. Publicly owned uses necessary to the maintenance of the public health, safety, convenience and welfare;
2. Water reservoirs, dams, treatment plants, gauging stations, pumping stations, tanks, wells, and any uses normal and appurtenant to the storage and distribution of water. Exception: This use is not subject to site plan review (Section 17.12.120).

- J. Recycling Facilities. This category is limited to reverse vending machines and is subject to the criteria and standards of Section 17.40.300.

- K. Rental Establishments. This category includes but is not limited to auto, clothing, equipment, furniture, hospital equipment, mini-storage, recreational vehicles, and similar rental uses.

This category does not include the rental of heavy equipment.

- L. Repair Services. This category includes but is not limited to appliance repair, gunsmiths, jewelry repair, locksmiths, shoe repair, watch repair, and similar repair services. All repairs shall be conducted within an enclosed building.

This category does not include the repair of automobiles or heavy equipment.

- M. Retail Sales Establishments. This category includes but is not limited to bona fide antique stores, apparel stores, appliance stores, bookstores (including used books),

convenience market (without alcohol sales), craft stores, computer stores, department stores, grocery store/supermarket/drugstores (without alcohol sales), gift shops, hardware stores, jewelry stores, telephone stores, discounted and wholesale/warehouse type stores, and similar retail sales operations.

This category does not include adult-oriented businesses, , pawnshops, secondhand stores (does not include bona fide antique stores), surplus stores, and establishments engaged in the sale of heavy equipment, or establishments engaged in the sale of any item otherwise prohibited by law.

- N. Schools—Business and Professional. This category includes but is not limited to art, barber, beauty, dance, music, real estate, and similar schools.

This category does not include any school specializing in gymnastics, health and fitness services, manual training,\* martial arts, shop work,\* or training in the repair and maintenance of machinery or mechanical equipment.\* (\*See Section 17.16.040P.)

- O. Services—Business or Personal. This category includes but is not limited to adult day care, adult day health care, answering service, bail bond services, barber and beauty shops, check cashing, credit bureaus, family day care home (large and small), day care center, dry cleaners and laundries, mortuaries, moving and storage, parcel delivery terminals, tailors, and other similar services.

This category does not include services which are industrial in nature such as pest control, industrial gases and chemicals, and similar services.

- P. Other Uses. This category includes those uses which do not fall into any other C zone category, provided such uses are neither temporary, subject to director's review, nor uses subject to conditional use permit in this zone, and provided such uses are, in the opinion of the director, consistent with the purpose and intent of this zone and similar to other uses permitted herein.

#### **17.12.070 Uses subject to director's review and approval.**

If site plans or other pertinent information for the proposed use are first submitted to and approved by the director in accordance with Article VI of Chapter 17.32, premises in the C zone may be used for the following uses:

- A. Access to property lawfully used for a purpose not permitted in the C zone provided no other practical access to such property is available and such access will not alter the character of the premises in respect to permitted uses in the C zone;
- B. Alcohol Beverage Establishments. This category is limited to the following uses below and shall be subject to the provisions in Chapter 17.42:
  - a. Alcohol Production with a minimum 25% and maximum up to 40% retail. A full menu shall be available at all times that alcoholic beverages are offered;
  - b. Bona Fide Restaurant;
  - c. Convenience Market/Neighborhood Market (Beer and Wine only) with a Minor Use Permit subject to Section 17.42.060; and
  - d. Grocery Store/Supermarket/Drugstore.

- C. Body piercing establishments;
- D. Carnivals, subject to the provisions of Chapter 9.46;
- E. Christmas Trees and Wreaths. This use is limited to the seasonal sale of such items, between November 1st and December 25th, both dates inclusive, to the extent permitted by other statutory and ordinance provisions. Any structures, facilities and materials used in connection with the sale of Christmas trees and wreaths shall be removed from the premises by December 31st of the same calendar year, and the property restored to a clean condition;
- F. Consignment store;
- G. Crops, field, tree, bush, berry and row, including nursery stock, flowers and vines, provided that no sludge or biosolid material shall be applied to any land as a soil amendment, roadside stands, retail sale of crops grown on the premises, and signs advertising products produced on the premises;
- H. Day care center;
- I. Health and Fitness Services. This category includes but is not limited to exercise/aerobic centers, figure salons, gymnasiums, health and fitness centers, health spas, martial arts schools, and similar uses;
- J. Outdoor Sales and Promotional Activities. Outdoor sales and promotional activities in private parking lots, on private pedestrian ways, and on public sidewalks, incidental to a use conducted primarily within a building located on the premises as follows:
  - 1. Parking lot sales may be allowed only where:
    - a. The use on the site complies with current parking standards, and
    - b. No more than 10% of the provided parking spaces are to be used for this purpose, and
    - c. Placement of the activity in the parking lot shall not significantly disrupt the circulation pattern on the site, and
    - d. Such sales are scheduled between January 15th and November 15th and shall not exceed a total of 12 days in any calendar year.
  - 2. Private pedestrian way sales may be allowed where:
    - a. Placement of the activity on the pedestrian way allows for a clear aisle for pedestrian traffic of not less than 5 feet in width, and
    - b. Such sales are scheduled between January 15th and November 15th and shall not exceed a total of 12 days in any calendar year.
  - 3. Sidewalk sales may be allowed where:
    - a. Placement of the activity allows for a clear aisle of not less than 5 feet in width, and
    - b. Such sales are scheduled between January 15th and November 15th and shall not exceed a total of 12 days in any calendar year, and

- c. Insurance has been obtained by type and in an amount specified by the city attorney, and
  - d. An encroachment permit has been obtained from the department of building and engineering services;
- K. Reserved;
- L. Pawnshops;
- M. Pumpkins and Other Seasonal Agricultural Products. This use is limited to the sale of such items from October 1st through Thanksgiving Day, to the extent permitted by other statutory and ordinance provisions. Any structures, facilities and materials used for the sale of pumpkins and other seasonal agricultural products shall be removed from the premises not later than 7 days following the closure of the sales operation. No other outdoor sales shall be permitted until property has been restored to a clean condition;
- N. Recycling Facilities. The following recycling facilities may be allowed:
  - 1. Small Collection Facility. Subject to the criteria and standards of Section 17.40.310,
  - 2. Large Collection Facility. Subject to the criteria and standards of Section 17.40.320;
- O. Residential Uses. This category is limited to the following uses:
  - 1. Congregate living health facility,
  - 2. Mobilehome or other residence for use by caretaker and his immediate family in accordance with Article VIII of Chapter 17.40,
  - 3. Residential care facility for the elderly,
  - 4. Rooming and boarding houses,
  - 5. State authorized, certified or licensed family care home, foster home or group home serving 6 or fewer mentally disordered or otherwise handicapped persons or dependent and neglected children, if such homes provide care on a 24 hour a day basis. (Required by Section 5116 of the Welfare and Institutions Code);
- P. Secondhand stores;
- Q. Shopping centers and other commercial centers of more than 2 net acres but no greater than 10 net acres. (See definition in Section 17.04.240.) This category may include many of the categories listed for this zone;
- R. Storage containers for goods and merchandise during the holidays or for special events. Placement shall be within loading areas or utilize nonessential parking areas behind the buildings so as not to restrict the use of heavily used parking areas during such holidays or special events. The use of such containers shall not exceed 3 months in any calendar year;
- S. Surplus stores;
- T. Tattoo parlors;



- U. Minor, Co-located and Stealth Wireless Telecommunication Facilities. This category includes all minor wireless telecommunication facilities, as defined by this chapter, subject to Section 17.40.640 and the height limits of the C zone. Co-located telecommunication facilities within 100 feet of property with a residential zoning designation may be constructed over the required 35 foot height limit subject to review by the director of community development. Stealth telecommunications facilities located more than 100 feet from residentially zoned property may be constructed over the 50 foot height limit, subject to review by the director of community development. See Section 17.40.640 for submittal requirements and design standards;
- V. Small wind energy systems (co-located), subject to the requirements of section 17.40.690.

#### **17.12.080 Uses subject to conditional use permits.**

The uses subject to permit in the C zone are grouped into categories of similar uses rather than exhaustive lists of single uses. Extensive examples are given for purposes of clarifying the types of uses included in each category. The following categories of uses may be permitted in the C zone, provided that a conditional use permit has first been obtained as provided in Article I of Chapter 17.32, that such permit is in full force and effect, and that the uses are in conformity with conditions of such permit for:

- A. Those uses identified in Section 17.12.040, Permitted uses, as requiring a conditional use permit. This category includes but is not limited to automobile repair and tire sales.
- B. Activity node (development of) subject to the requirements of Section 17.08.365.
- C. Entertainment and Recreation. This category includes but is not limited to amusement rides; bingo, billiard, dance, or pool halls; bowling alleys; card rooms; carnivals and circuses for longer than 10 days; golf driving ranges; miniature golf courses; night clubs; shooting ranges; skating rinks; all types of theaters; video game arcades, and similar uses.
- D. General Uses. This category includes only the following uses:
  - 1. Automobile body shop;
  - 2. Automobile upholstery shop;
  - 3. Alcohol beverage establishments. This category is limited to the following uses below and shall be subject to the provisions in Chapter 17.42 :
    - a. Bar,
    - b. Convenience Market/Neighborhood Market (Beer, Wine and Spirits)
    - c. Liquor store,
    - d. Nightclub with alcohol sales;
  - 4. Butane and propane service stations;
  - 5. Car wash;
  - 6. Dry cleaning plant—Wholesale;

7. Earth stations;
  8. Fortunetelling;
  9. Heliports or helistops;
  10. Laundry plants—Wholesale;
  11. Nightclub without alcohol;
  12. Model studio;
  13. Radio or television transmission towers;
  14. Revivals or tent meetings, of more than 7 days' duration;
  15. Textile products manufactured from previously prepared materials.
- E. Long-Term Health Care Facility.
1. Intermediate care facility;
  2. Intermediate care facility/developmentally disabled;
  3. Intermediate care facility/developmentally disabled—Habilitation;
  4. Intermediate care facility/developmentally disabled—Nursing;
  5. Nursing facility;
  6. Skilled nursing facility.
- F. Public Utilities. This category includes only the following uses:
1. Electric transmission substations and generating plants including microwave facilities used in conjunction therewith;
  2. Gas distribution depots;
  3. Publicly owned uses necessary to the maintenance of the public health, convenience or general welfare;
  4. Public utility service yards.
- G. Residential Uses. This category includes only the following uses:
1. Multiple-family project, as a separate development in the C zone (subject to the provisions of the HDR-1 zone except where specifically modified by the conditional use permit);
  2. Multiple-family project, combined with commercial development as a mixed use where said apartments are attached to the commercial building (for example, as the second story of a commercial retail center), subject to the provisions of Section 17.12.230, Design requirements;
  3. Transitional homeless shelters.
- H. Shopping Centers and Other Commercial Centers of Greater Than 10 Net Acres. This category may include many of the categories listed for this zone.
- I. Transient Residential. This category is limited to only the following uses:

1. Hotels;
    - a. Alcohol sales in conjunction and incidental to the hotel shall be subject to a director's review and subject to Section 17.42.
  2. Motels;
  3. Recreational trailer parks in accordance with Section 17.40.540;
  4. Travel trailer parks in accordance with Section 17.40.550.
- J. Structures over 50 feet or 3 stories in height.
- K. Major Wireless Telecommunication Facilities. This category includes all major wireless telecommunication facilities subject to the requirements of Section 17.40.640. Co-located and stealth communication facilities are subject to director's review.

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**INDUSTRIAL ZONE**

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**17.16.040 Permitted uses—I zones.**

The permitted uses of the I zones are grouped into categories of similar uses rather than exhaustive lists of single uses. Extensive examples are given for purposes of clarifying the types of uses allowed by each category. The following categories of uses are permitted in all of the I zones except where specific references limiting certain uses to the LI, or HI zones are made. All uses are subject to any stated exceptions, development requirements, and approval of a site plan as follows:

- A. Existing Residential Uses. Such uses may continue to be used as a permitted use provided that such uses may not be expanded by a cumulative total of more than 500 square feet of floor area and comply with Article VII of Chapter 17.32.
- B. Commercial Uses.
  - 1. Existing Nonconforming Commercial Uses. Such uses may continue to be used as a permitted use provided that such uses may not be expanded beyond their ability to meet current parking requirements, and design and performance standards related to the expansion, on their existing site.
  - 2. Existing Conforming and New Commercial Uses. Such uses shall include, but not be limited to permitted uses within the Commercial zone under Section 17.12.040, unless specifically addressed within the I zones..
- C. Aircraft-Related Uses. This category includes but is not limited to the manufacture, storage, maintenance, repair or overhaul of aircraft or missile components, parts, accessories, equipment and power plants and is permitted only in the HI zone.
- D. Automobile, Boat, Equipment, Motorcycle, Truck, Tractor, Sales, Service, Repair, Accessories and Parts. This category includes but is not limited to motor vehicle dealerships including recreational vehicles, auto parts stores: tires, batteries and accessory stores; body and frame shops, auto upholstery shops, brake shops, car wash, muffler shops, radiator shops, repair shops, service stations, and similar uses. All repair activities within the LI zone shall be conducted within an enclosed building. Auto service and repair uses, body and frame shops, heavy equipment repair and tire sales on lots within 300 feet of residentially zoned property shall be required to mitigate any conditions which are detrimental, or potentially detrimental, to the reasonable use of the residentially zoned property to the satisfaction of the Director.

This category does not include automobile impound yards (See Section 17.16.060), automobile wrecking yards, or salvage operations, (See subsection E of this section.)
- E. Automobile Dismantling Yards, Scrap Metal Processing Yards, and Similar Metal Salvage Operations. This category includes but is not limited to automobile impound yards,

automobile wrecking, metal salvage operations, and junk and salvage operations. All uses in this category shall be permitted only in the HI zone. Any such use in this category on lots within 300 feet of residentially zoned property shall be conducted within an enclosed building and required to mitigate any conditions which are detrimental, or potentially detrimental, to the reasonable use of the residentially zoned property to the satisfaction of the Director. (See subsection A.10. or 15. of Section 17.16.220, as applicable.)

This category does not include recycling facilities as defined in this title or the smelting of metals. (See Section 17.16.070.)

- F. Building Trades and Related Uses. This category includes, but is not limited to appliance sales, blueprint services, building supplies, cabinet making, carpenter shop, contractor equipment yard, electricians and electrical supply, engineers and surveyors, fence contractors, glass stores, janitorial service and supply, landscape materials (including nurseries), lumber yards, pool contractors, plumbing sales, spa sales, truss manufacturing, wood stove sales and similar uses. Batch plants and concrete transit mix uses shall be permitted only in the HI zone provided that batch plants and concrete transit mix uses within 300 feet of residentially zoned property shall be required to mitigate any conditions which are detrimental, or potentially detrimental, to the reasonable use of the residentially zoned property to the satisfaction of the Director. (See Section 17.16.220.A.10. and Section 17.16.220.B)

- G. Communication Facilities and Services, Public and Private. This category includes but is not limited to communications equipment, duplicating, lithographers, microwave stations, photocopying, photo engravers, printers or publishers, radio and television broadcast studios, telegraph offices, telephone repeater stations, tourist information centers, and similar uses.

This category does not include radio and television transmission towers or wireless telecommunication facilities. (See Section 17.40.640).

- H. Food Manufacturing, Processing, Wholesale Sales and Storage. This category includes but is not limited to bottling plants, breweries, coffee roasting, dairy products, dextrine manufacturing, fruit and produce, malt products, meat processing, oleomargarine, sodium glutamate, soft drinks, vitamin tablets, and similar uses. All such uses within the LI zone shall be conducted within an enclosed building.

This category does not include dairies, lard manufacturing, pickles, sausage, sauerkraut, slaughter houses, distillation of vinegar, or the canning of other fish or meats and similar uses. (See Section 17.16.070.)

- I. Manufacturing—General. This category includes but is not limited to assembly plants, automotive, beds and bedding manufacturing, billboards, bone products, building materials, brushes, ceramics, clay and cement products, doors, drugs, dry goods, electric and electronic products, felt, fiberglass, fur products, furniture, glass, hair products, heating equipment, jewelry, leather products, machine shops, mobilehomes and factory-built housing, paper products, plastic products, recreational vehicles, springs, starch, stone products, textiles, tobacco products, tools, uses which manufacture products from recycled materials, welding, wood products, wool and woolen products, wrought iron and similar manufacturing uses. All such uses within the LI zone shall be conducted within an enclosed

building. Any such use in this category on lots within 300 feet of residentially zoned property shall be required to mitigate any conditions which are detrimental, or potentially detrimental, to the reasonable use of the residentially zoned property to the satisfaction of the Director. (See Section 17.16.220A.10. and Section 17.16.220.B)

This category does not include cement manufacturing, explosives, foundries, paper manufacturing, manufacturing of plastics, or tanning of animal hides. (See Section 17.16.070.)

- J. Public Safety Facilities and Services. This category includes but is not limited to ambulance service, fire stations, highway patrol stations, municipal maintenance yards, police stations, and similar uses.
- K. Public Services and Utilities. This category includes but is not limited to the following uses:
  - 1. Electric transmission substations including microwave facilities used in conjunction therewith;
  - 2. Gas Distribution Depots. This use is permitted in the HI zone only;
  - 3. Publicly owned uses necessary to the maintenance of the public health, convenience or general welfare, including federal, state, county, city, or special district offices, libraries and court facilities;
  - 4. Public utility service yards;
  - 5. Water reservoirs, dams, treatment plants, gauging stations, pumping stations, tanks, wells, and any use normal and appurtenant to the storage and distribution of water. Exception: This use is not subject to site plan review (Section 17.16.120).
- L. Recycling Facilities. This category includes but is not limited to reverse vending machines, small and large collection facilities and light processing facilities. Heavy processing facilities shall be permitted in the HI zone only. All uses in this category are subject to the criteria and standards of Section 17.40.290. (See definitions in Section 17.04.240.) This category also includes uses which reuse recyclable materials.
- M. Rental Establishments. This category includes, but is not limited to, automobile, clothing, equipment (including heavy equipment in the HI zones), furniture, hospital equipment, recreational vehicles, and similar rentals.
- N. Repair Services. This category includes but is not limited to appliance repair, gunsmiths; heating, refrigeration, and air conditioning repair; jewelry repair, locksmiths, shoe repair, watch repair, and similar repair services.
- O. Research and Development. This category includes but is not limited to laboratories and facilities for scientific research, development and testing including administrative offices.

This category does not include the development and testing of hazardous materials, biological or chemical warfare agents, or explosives (See Section 17.16.070.)
- P. Schools—Specialized Training. This category includes but is not limited to manual training, shop work, or the repair and maintenance of machinery or mechanical equipment.

This category does not include business and professional schools see Section 17.16.060

- Q. Sexually Oriented Businesses. This category includes but is not limited to adult bookstores, adult motels, adult motion picture theaters, adult theaters, adult cabarets, escort agencies, massage parlors, semi-nude model studios, and similar uses subject to the requirements of Ordinance No. 619 and is permitted only in the HI zone. (See Article IV of Chapter 17.16.)
- R. Warehousing, Wholesaling and Storage. This category includes but is not limited to cold storage distributors, ministorage warehouse, moving van and storage, truck terminals, and warehouses. (See Section 17.16.220.A.10.)
- S. Water reservoirs, dams, treatment plants, gauging stations, pumping stations, tanks, wells, and any use normal and appurtenant to the storage and distribution of water. Exception: This use is not subject to site plan review. (Section 17.16.120.)
- T. Other Uses. This category includes those uses which do not fall into any other category, and are not temporary uses, uses subject to Director's Review, or uses subject to permit in this zone, which the Director deems the use consistent with the purpose and intent of this zone and similar to other uses permitted herein.

**17.16.060 Uses subject to director's review and approval.**

If site plans and/or other pertinent information required by the Director for the proposed use are first submitted to and approved by the Director in accordance with Article VI of Chapter 17.32, premises in the I zones may be used for the following uses:

- A. Uses subject to Director's Review in all I zones:
  - 1. Auctions and swap meets,
  - 2. Alcohol Beverage Establishments. This category is limited to the following uses below and shall be subject to the provisions in Chapter 17.42:
    - a. Alcohol Production;
    - b. Bona Fide Restaurant;
    - c. Convenience Market/Neighborhood Market (Beer and Wine only) with a Minor Use Permit subject to Section 17.42.060; and
    - d. Grocery Store/Supermarket/Drugstore.
  - 3. Boarding kennels,
  - 4. Carnivals, subject to the provisions of Chapter 9.46,
  - 5. Schools—Business and Professional. This category includes but is not limited to art, barber, dance, music, real estate, and similar schools.
  - 6. Christmas trees and wreaths, the sale of, between November 1st and December 25th, both dates inclusive, to the extent permitted by other statutory and ordinance provisions. Any structures, facilities and materials used for the sale of trees and wreaths shall be removed from the premises by December 31st of the same calendar year, and the property restored to a clean condition,
  - 7. Crops, field, tree, bush, berry and row, including nursery stock, flowers and vines, provided that no sludge or biosolid material shall be applied to any land as a soil

- amendment. Roadside stands, retail sale of crops grown on the premises, and signs advertising products produced on the premises,
8. Day nursery, children,
  9. Dwelling units, as follows:
    - a. One dwelling unit within a building on the same lot or parcel of land which is legally being used so as to require the continuous supervision of a caretaker and his immediate family, or
    - b. Dwelling units within a building or premises used for agricultural purposes, which dwelling units are occupied only by persons employed on the same premises, and their immediate families, or
    - c. Where subsection A.7.a. of this section permits the use of a dwelling unit for a caretaker, a mobilehome containing one dwelling unit may be used in lieu of such dwelling unit for a period not to exceed 6 consecutive months in any 12 month period. Or, if intended for a residence for up to the maximum limit of 5 years, the mobilehome shall comply with the provisions of Section 17.08.370.C for foundation systems,
  10. Parking. Joint usage or leased (see Section 17.16.210.B),
  11. Wild Animals. Wild animals may be temporarily used, kept or maintained for a period not to exceed:
    - a. Ten days in conjunction with the lawful operation of a circus or animal exhibition, or
    - b. Sixty days where used in motion picture and television production, except that the Director may, where he finds that such extension is consistent with the intent of this section and neither detrimental to the public welfare or to the property of other persons located in the vicinity thereof, extend such time period for not to exceed 30 additional days, and
    - c. Provided said animals are used, kept, or maintained pursuant to and in compliance with, all regulations of the city of Lancaster and the Los Angeles County department of animal control,
  12. Minor co-located and stealth wireless telecommunication facilities subject to the requirements of Section 17.60.640,
  13. Solar electrical generating plants only, in the HI zone. (Note: All other electrical generating plants require a conditional use permit in the HI zone; see Section 17.16.070C.1);
  14. Small wind energy systems (co-located), subject to the requirements of section 17.40.690;
  15. Emergency shelters, only in the LI zone.
  16. Entertainment and Recreation. This category includes, but is not limited to bowling alleys, golf driving ranges, shooting ranges, video game arcades, and similar uses. This shall not include dance halls, pool halls and night clubs (see section 17.16.070.A.5)



- B. Uses subject to Director's Review only in the HI zone:
  - 1. Crushing of used asphalt or concrete, rock, or other materials for use as an aggregate.
  - 2. Major wireless telecommunication facilities located more than 1,000 feet from residentially zoned property, subject to the requirements of Section 17.40.640. Facilities located within 1,000 feet of residentially zoned property shall be subject to a conditional use permit (see Section 17.16.070.A.4).
- C. Other Uses. Uses which do not fall into any other category, and are not temporary uses, uses subject to Director's Review, or uses subject to permit in these zones shall be subject to interpretation of the Director.

#### **17.16.070 Uses subject to conditional use permits.**

The uses subject to permit in the I zones are grouped into categories of similar uses rather than exhaustive lists of single uses. Extensive examples are given for purposes of clarifying the types of uses in each category. The following categories of uses may be permitted in the I zones provided a conditional use permit has first been obtained as provided in Article I of Chapter 17.16, and while such permit is in full force and effect in conformity with conditions of such permit for:

- A. Uses subject to permits in all I zones:
  - 1. Alcohol beverage establishments. This category is limited to the following uses below and shall be subject to the provisions in Chapter 17.42:
    - a. Bar,
    - b. Convenience Market/Neighborhood Market (Beer, Wine and Spirits)
    - c. Liquor store,
    - d. Nightclub with alcohol sales;
  - 2. Radio and television transmission towers,
  - 3. Research and Development. This category includes but is not limited to laboratories and facilities for scientific research, development and testing including administrative offices involving the use of hazardous materials. Agricultural and biological research involving sludge or biosolid material shall be conducted only within an enclosed building or suitable containment vessel.

This category does not include the development and testing of biological or chemical warfare agents or explosives;
  - 4. Major Wireless Telecommunication Facilities. This category includes all major wireless telecommunication facilities in the LI zone and major wireless telecommunication facilities in the HI zone within 1,000 feet of residentially zoned property subject to the requirements of Section 17.40.640. Co-located and stealth communication facilities are subject only to Director's Review and shall not require a conditional use permit;
  - 5. Pool Halls, Dance Halls, and Nightclubs without alcohol.

6. Churches
- B. Uses subject to permits in the HI zone:
  1. Electrical generating plants, all types except solar (see Section 17.16.060A.13),
  2. Storage. This category is limited to the following:
    - a. Gas, above ground storage in excess of 500,000 cubic feet,
    - b. Storage of oil, gasoline or petroleum products in any quantity exceeding 100,000 gallons,
  3. Waste Disposal. This category is limited to waste disposal facilities as defined in Section 17.04.240;
- C. Uses subject to permits only in the HI zone:
  1. Agricultural Related Uses. This category includes but is not limited to cattle sales yards, dairies, hog ranches and livestock feed yards; provided that, no sludge or biosolid material shall be applied to any land as a soil amendment,
  2. Chemical Manufacturing. This category includes but is not limited to the manufacture of: ammonia, asphalt, caustic soda, celluloid, cellulose, chlorine gas, coal tar products, creosote, fertilizers, glue, guncotton, gypsum, hydrocyanic acid products, lime, phenol, plastics, potash, pyroxylin products, size, soda ash, synthetic ammonia, and similar uses. All uses in this category will be subjected to close scrutiny in terms of the relative safety of such uses and their potential effects on the community with emphasis on their impact on odor and air quality in general; specifically their handling of hazardous materials and waste.

This category does not include the manufacturing of food,
  3. Food Manufacturing, Processing, Sale and Storage. This category is limited to the following food products: canning of fish or meat, fat rendering, gelatin, lard, meat packing, pickles, sausage, sauerkraut, slaughterhouses, tallow and vinegar,
  4. Hazardous Waste Facility. This category is subject to the provisions of Article VII of Chapter 17.40,
  5. Manufacturing—General. This category is limited to the following: explosives, smelting and casting of metals, paper manufacturing, plastic manufacturing or tanning of animal hides,
  6. Pest control;
- D. Uses subject permits to the LI and HI zones: College or university campuses.
- E. Other Uses. Uses which do not fall into any other category, and are not temporary uses, uses subject to Director's Review, or uses subject to permit in these zones shall be subject to interpretation of the Director.

**“EXHIBIT A”**  
**Amendment to Title 17 (Zoning) of the Lancaster Municipal Code**  
**Relating to Alcoholic Beverage Establishments**

**Chapter 17.42 ALCOHOLIC BEVERAGE ESTABLISHMENTS**

**17.42.010 Purpose and intent.**

The purpose of adopting regulations for the sale of alcoholic beverages is to ensure that such sales will not adversely affect surrounding residents, businesses, and institutions; and to ensure that any such use operates in a manner compatible with existing and future adjacent uses.

This chapter alone does not allow or permit alcoholic beverage establishments, but only applies to such establishments where otherwise allowed or permitted within an involved applicable land use zoning district. This chapter does not authorize the operation of alcoholic beverage establishments in any land use district where they are not otherwise allowed or permitted by the applicable involved zoning district's regulations.

**17.42.020 Definitions.**

For the purpose of this chapter, the following words or terms shall be defined as follows:

"Alcoholic beverage" means a fermented or distilled beverage including alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer which contains one-half of one percent or more of alcohol by volume which is fit for beverage purposes, either alone or when diluted with other substances, and sale of which require a license from the state ABC.

"Alcoholic beverage control (ABC)" means the California State Department of Alcoholic Beverage Control.

"Alcoholic beverage establishment" means any establishment involving the sale of alcohol.

“Alcohol Production” means an establishment where beer, wine and other spirits are prepared bottled, stored and sold for on- or off-site consumption. Tasting rooms or seating areas may be provided on site. Alcohol production is permitted in the commercial zones (C, CPD, MU zones) if there is a minimum of 25% and maximum up to 40% square footage of total floor area dedicated to retail and a full menu available at all times that alcoholic beverages are offered. Alcohol production shall be permitted in the industrial zones.

“Bar” includes establishments used primarily for the sale or dispensing of alcoholic beverages for on-site consumption and that are not part of a restaurant.

"Bona fide restaurant" includes establishments primarily engaged in the preparation and retail of food and/or beverage for on-site consumption. A full menu shall be available at all times that alcoholic beverages are offered.

"Convenience market/neighborhood market" means a retail establishment up to 5,000 square feet utilized for the sale of prepackaged food products, household items, and soft drinks. Alcohol sales shall be limited to 5% maximum square footage of the sales floor area for sale and display

of alcohol. The sale of spirits shall be subject to a conditional use permit and distance requirements. Convenience markets/neighborhood markets may be in conjunction with a fueling station.

"Enforcing officer" includes any city public safety officer, city community services officer, county sheriff's deputy, and any other public officer or employee designated by the city manager to issue administrative citations in accordance with Section 17.42.160.

"Entertainment" means any form of entertainment, whether live, televised audio or video taped, including, but not limited to, any type of performance for the purpose of amusing the audience, such as: dancing, singing, playing a musical instrument or acting.

"Existing deemed approved alcoholic beverage establishment" means any establishment lawfully engaged in the sale of alcoholic beverages for on- or off-sale consumption which is in existence prior to the effective date of this chapter, retains the same type of alcoholic beverage license and continues to legally operate without substantial change in the mode or character of operation.

"Grocery store/Supermarket/Drugstore" means any retail establishment larger than 5,000 square feet primarily selling food product, household merchandise and pharmaceutical drugs. Alcohol sales shall be limited to 10% maximum square footage of the sales floor area for sale and display of alcohol. This is not in conjunction with a fueling station.

"Liquor store" includes any establishment which primarily sells beer, wine, and/or other spirits for off-site consumption. The display sales floor area of alcohol exceeds 5% square footage of the sales floor area. .

"Mixed-use development" means a building or combination of buildings intentionally designed as a single development to accommodate a combination of residential and commercial uses.

"Mixed-use district" means any physical location designated by the city of Lancaster general plan or zoning map as a mixed-use district.

"Nightclub" means a place of entertainment, typically open at night, usually serving food and/or alcoholic beverages, which may have a floor show and/or offer live or recorded entertainment or music and/or space for dancing.

"Operator" means any person who has an ownership interest, in any manner, in an alcoholic beverage establishment, including, without limitation, a corporation and each of its officers, directors and stockholders; a partnership and each of its partners; a limited liability company and each of its managing members.

"Owner" means and includes any person with a recorded ownership interest in, or a right of possession, control or use of the premises on which an alcoholic beverage establishment is located, including all persons shown as owners on the last equalized assessment roll of the county assessor's office. Owners include property managers and persons with powers of attorney, executors of estates, trustees, or who are court appointed administrators, conservators, guardians or receivers.

"Planning commission" means the planning commission of the city of Lancaster.

"Responsible person" means an operator of an alcoholic beverage establishment, an operator's on-site manager(s), an operator's employees and/or a property owner, as defined herein.

"Sales floor area" means the calculation of area for the sale and display of specified products, including but not limited to alcoholic beverages, fresh meat and fresh produce. The calculation of sales floor area percentage shall be based on the gross floor area of the premises, including any warehousing or storage areas and shall include actual product display areas and reasonable public access aisles within or adjacent to said display area.

"Substantial change in mode or character of operation" means and includes, but is not limited to, the following situations:

1. The alcoholic beverage establishment has changed, or proposes to change, its type of retail liquor license with the department of alcoholic beverage control;
2. An alcoholic beverage establishment increases floor area by more than 20%;
3. The alcoholic beverage establishment proposes to reinstate alcohol sales after the retail liquor license has been revoked or suspended for a period greater than 90 days by the department of alcoholic beverage control; or
4. The establishment is a bona fide restaurant that adds entertainment, except for non-amplified solo or similar entertainment on an occasional basis, which does not occupy more than 50 square feet or substantially change the character of the restaurant operation.

#### **17.42.030 Uses and Permit Requirements**

<b>Type of Establishment</b>	<b>Alcohol Sales</b>	<b>Permitted Zones</b>	<b>Permit Required</b>	<b>Review Authority</b>
Alcohol Production	Beer, Wine and Spirits	LI and HI	DR	Development Services Director
Alcohol Production with minimum 25% and maximum up to 40% retail and a food menu	Beer, Wine and Spirits	MU, C, and CPD	DR	Development Services Director
Bar	Beer, Wine and Spirits	MU, C, CPD, LI and HI	CUP	Planning Commission
Bona Fide Restaurant	Beer, Wine and Spirits	MU, C, CPD, LI and HI	DR	Development Services Director
Convenience Market/ Neighborhood Market	Beer and Wine	MU, C, CPD, LI and HI	MUP	Development Services Director
	Beer, Wine and Spirits	MU, C, CPD, LI and HI	CUP	Planning Commission
Grocery Store/Supermarket/Drugstore	Beer, Wine and Spirits	MU, C, CPD, LI and HI	DR	Development Services Director
Alcohol Sales in Conjunction and Incidental to a Hotel	Beer, Wine and Spirits	MU, C, and CPD,	DR	Planning Commission

Liquor Store	Beer, Wine and Spirits	MU, C, CPD, LI and HI	CUP	Planning Commission
DR: Director's Review CUP: Conditional Use Permit MUP: Minor Use Permit				

#### **17.42.040 Conditional use permit—Distance requirements.**

- A. Alcoholic beverage establishments that require a conditional use permit shall adhere to the distance requirements as specified below:

##### **Alcoholic Beverage Establishments**

Type of Establishment	Distance Requirement
Religious Assembly	300'
Public/Private School (K-12)	1,000'
Day Care Center	300'
Residential Use or Residentially Designated Property	300'
Existing Alcoholic Beverage Establishment	500'
Public Park	500'
Hospital	500'

- B. Measurement of Distance. The distance requirement shall be measured in a straight line from the closest property line to the closest property line.

#### **17.42.050 Findings.**

The approving authority shall approve an application only after the applicant substantiates required findings below. If the application requires a conditional use permit then it shall make the following findings as well as the findings required by Section 17.32.090.

- A. That the proposed use will be located within a zone which permits alcoholic beverages to be sold, served, or given away for on-sale or off-sale consumption, as the case may be, upon obtaining a conditional use permit;
- B. That the proposed use will not adversely affect nearby residents and facilities primarily devoted to use by children, families, and the general public, after giving consideration to the distance or proximity of the proposed alcoholic beverage establishment to residential districts, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches or other places of religious worship, hospitals, clinics or other health care facilities; and
- C. That the proposed use serves the public convenience and necessity.

#### **17.42.060 Minor use permit**

- A. Applicability. A minor use permit shall be filed subject to the uses and requirements table in Section 17.42.030.

- B. **Project Notice.** A notice for a minor use permit shall be mailed ten (10) calendar days before the scheduled action to the following, unless stated otherwise in this code
1. Owner(s) and applicant;
  2. All owners of property located within a 500-foot radius of the exterior boundaries of the subject site, as shown on the County's last equalized assessment roll. If the project site is located within a multiple tenant commercial or industrial center, all tenants or property owners, if different, within the center shall be mailed the notice;
  3. **Persons Requesting Notice.** A person who has filed a written request for notice with the director of development services within one year prior to the action
  4. The development services director may require additional notification requirements such as site posting and increased notification radius based upon the possible impacts of the project.
- C. **Reviewing Authority.** The development services director is the decision maker that approves or denies an application. The development services director may refer an application to Planning Commission and/or City Council for a decision on the application.
- D. **Conditions of approval.** In approving a minor use permit, the approving authority may impose such conditions as deemed necessary to ensure that the minor use permit will accordance with the findings.

#### **17.42.090 Exceptions—Specific plan areas.**

The requirements of this chapter shall not apply to areas of the city for which a specific plan has been adopted pursuant to Section 65450 of the Government Code of the state of California if the adopted specific plan contains regulations regarding alcoholic beverage establishments.

#### **17.42.100 Existing deemed approved establishments selling alcoholic beverages.**

Any establishment lawfully existing prior to the effective date of this chapter and licensed by the state for the retail sale of alcoholic beverages for on-sale or off-sale consumption shall be considered to have a "deemed approved" status and shall only be required to obtain the necessary permits for a "substantial change in mode or character of operation" as described in Section 17.42.020, or for a revocation or expiration of "deemed approved" status as set forth in Section 17.42.130. The distance requirements set forth in Section 17.42.040 shall not apply to any existing deemed approved alcoholic beverage establishment.

#### **17.42.110 Performance standards; public nuisance.**

- A. The operator of an alcoholic beverage establishment, whether operating with a "deemed approved" status or pursuant to a conditional use permit, minor use permit or director's review shall use and maintain the premises and conduct the business in a manner that comports with all applicable local, state and federal law, including but not limited to, the California Business & Professions Code, the Lancaster Property Maintenance ordinance (codified at Chapter 8.28), and the Lancaster Zoning ordinance (codified at Title 17).

Lawful property maintenance and business operations shall include, but are not limited to, the following:

1. The premises shall be maintained without the presence of garbage, junk, trash, debris or other miscellaneous items in exterior areas except in approved trash collection containers/enclosures.
2. The premises, including any surface of a structure, sidewalk, curb, ground surface, vehicle, tree, shrub, rock or other tangible item that is visible from publicly or privately owned real or personal property, shall be maintained free of graffiti. All graffiti shall be removed within 72 hours from the operator's first observation of graffiti or receipt of verbal or written notification of such graffiti by any enforcing officer as defined in this chapter.
3. The premises shall be maintained with all signage required by applicable state and local law, including but not limited to signs prohibiting loitering, public drinking and/or the presence of open alcoholic beverage containers on the premises.
4. The establishment shall be maintained in such a manner that signs, refrigerator cases, promotional displays, equipment and/or any other items do not obstruct the view of the interior of the establishment from the parking lot and public street or other right-of-way.
5. The premises shall be maintained without the presence of exterior public telephones. Any existing public telephone shall be removed within 30 calendar days from the effective date of the ordinance from which this chapter is derived.
6. The operator of the establishment shall maintain a current and valid city business license and shall conduct business in full accordance with any and all conditions imposed thereon.
7. The operator shall not sell, furnish, give or permit the sale, furnishing or giving of an alcoholic beverage to an obviously intoxicated person or to a habitual or common drunkard.
8. The operator shall not sell, furnish, give or permit the sale, furnishing or giving of an alcoholic beverage to any person under 21 years of age, or knowingly allow such person to consume alcoholic beverages on the premises.
9. The operator shall not cause, allow or permit nuisance and other unlawful activities on the premises, including, but not limited to:
  - a. Loitering;
  - b. Drinking alcoholic beverages and/or possessing open alcoholic beverage containers in exterior portions of the premises, other than in a designated patio or other area approved by the department of alcoholic beverage control and/or the city in conjunction with an on-sale establishment;
  - c. Littering;
  - d. Creating excessive noise;
  - e. Disturbing the peace;



- f. Engaging in illegal drug activity or prostitution;
  - g. Trafficking in stolen goods;
  - h. Harassing passersby or business patrons;
  - i. Panhandling;
  - j. Engaging in acts of vandalism;
  - k. Otherwise engaging in conduct that is unlawful and/or constitutes a nuisance.
10. The operator shall take all reasonable steps to ensure the conditions and activities on the property on which the alcoholic beverage establishment is located do not constitute a public nuisance. For purposes of this chapter, "reasonable steps" includes, without limitation, the following:
- a. Requesting those persons engaging in conduct that constitutes a nuisance to cease that conduct, unless the operator has reasonable cause to believe such request may jeopardize his or her personal safety.
  - b. Calling the city's law enforcement and/or public safety personnel if the operator's attempts to abate the nuisance conduct have been unavailing or if the operator has reasonable cause to believe such attempts may jeopardize his or her personal safety.
  - c. Timely undertaking actions to address conditions that facilitate loitering and other nuisance activity on the premises, such as removing furniture from areas adjacent to the entry of the establishment, prohibiting persons from using any portion of the premises for the installation and/or operation of a temporary business or other use, and/or other preventive actions.
- B. The city council finds and declares that it is unlawful and a public nuisance for a person to use or maintain, or to permit the use or maintenance of, property on which an alcoholic beverage establishment is located, or to conduct the business or permit the business to be conducted in a manner that is contrary to the requirements set forth in this Section 17.42.110, any city or state permits, licenses and/or approvals, and/or all other applicable sections of this Code, state or federal law or regulation, or that otherwise poses a threat to public health, safety and welfare.
- C. An operator shall be deemed responsible for the act or omission of any on-site manager and/or employee who uses or maintains, or permits the use or maintenance of, property on which an alcoholic beverage establishment is located, or who conducts the business or permit the business to be conducted, in violation of this chapter.
- D. Upon the sale or transfer of ownership of an alcoholic beverage establishment to a bona fide third party, previous findings of public nuisance uses, conditions and activities before such sale or transfer of ownership shall not be imputed to the new owner, unless the city determines that the sale or transfer of ownership is not to a bona fide third party.

**17.42.120 Conditional use permit, minor use permit and director's review: Expiration, modification, revocation.**

- A. A conditional use permit, minor use permit, director's review for an alcoholic beverage establishment shall lapse if the use is discontinued for 90 consecutive days, or if the establishment's alcoholic beverage control license has been revoked or transferred to another location.
- B. A conditional use permit, minor use permit, or director's review is subject to modification at any time if the appropriate approving authority makes a determination that changed circumstances or unanticipated effects concerning the operation of the business establishment necessitate that conditions be added, amended or deleted.
- C. A conditional use permit, minor use permit or director's review for an alcoholic beverage establishment is subject to revocation if the operator has used or maintained, or permitted the use or maintenance of, the premises on which the establishment is located and/or has operated or permitted the operation of the business in violation of any condition imposed pursuant to the permit, or in violation of the performance standards set forth in Section 17.42.110, or otherwise in a manner that constitutes a public nuisance and/or a threat to public health, safety and welfare. The appropriate approving authority shall set a public hearing to consider such revocation of said permit in accordance with the applicable provisions of this Code. A decision of approving authority pursuant to this section shall be appealable to the city council in accordance with Chapter 17.36.
  - 1. An administrative citation issued pursuant to Section 17.42.160 that has been deemed final and binding may be used as prima facie evidence of unlawful public nuisance activities and/or conditions in any subsequent revocation proceeding.

**17.42.130 Deemed approved status: Expiration, revocation.**

- A. The "deemed approved" status of an alcoholic beverage establishment shall expire if the use is discontinued for 90 consecutive days.
- B. The "deemed approved" status of an alcoholic beverage establishment is subject to revocation if the operator has used or maintained, or permitted the use or maintenance of, the premises on which the establishment is located and/or has operated or permitted the operation of the business in violation of the performance standards set forth in Section 17.42.110 or otherwise in a manner that constitutes a public nuisance and/or a threat to public health, safety and welfare. The approving authority shall set a public hearing to consider such revocation of said deemed approved status in accordance with the applicable provisions of this Code. A decision of the approving authority decision pursuant to this section shall be appealable to the city council in accordance with Chapter 17.36.
  - 1. An administrative citation issued pursuant to Section 17.42.160 that has been deemed final and binding may be used as prima facie evidence of unlawful public nuisance activities and/or conditions in any subsequent revocation proceeding.
- C. An alcoholic beverage establishment whose "deemed approved" status has expired or been revoked shall be prohibited from engaging in the sales of alcoholic beverages without first obtaining a permit. In the event the planning commission or city council makes the

determination that a permit shall be granted, said alcoholic beverage establishment shall be subject to the conditions of approval

**17.42.150 Violation, penalty, remedies.**

- A. Violations of this chapter shall constitute a misdemeanor and shall be punishable in the manner provided in Section 1.12.020A.
- B. In addition to or in lieu of prosecution in a criminal action, the city attorney may initiate civil proceedings for the abatement, removal and enjoinder of any public nuisance as set forth in this chapter, in any manner provided by law, and shall take such other steps, and shall apply to such other court or courts as may have jurisdiction to grant such relief as will abate or remove such alcoholic beverage establishments, and restrain and enjoin any person from using property contrary to the provisions of this chapter.
- C. In addition to or in lieu of any administrative, civil or criminal remedies set forth in this chapter, the administrative citation provisions of Section 17.42.160 may be utilized to abate or cause the abatement of uses, conditions and/or activities that constitute a nuisance pursuant to Section 17.42.110.
- D. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

**17.42.160 Administrative citations.**

- A. Any enforcing officer may issue an administrative citation to a responsible person when the officer has determined, through personal observation or after undertaking standard law enforcement investigatory actions, that the person has used or maintained, or permitted the use or maintenance of property on which an alcoholic beverage establishment is located, and/or who has operation or permitted the operation of the business, in a manner that constitutes a public nuisance pursuant to Section 17.42.110. An officer shall not issue an administrative citation to a responsible person when the officer has determined, based on the totality of the circumstances, that said person has taken all reasonable steps to attempt to prevent the nuisance.
  - 1. A responsible person who is present at the property at the time an officer determines the existence of a public nuisance shall be deemed to have actual or constructive knowledge of such nuisance.
  - 2. An owner of the property on which the alcoholic beverage establishment is located, who is not also an operator of the business, may be deemed by an enforcing officer to have actual or constructive knowledge of the nuisance use, condition or activity:
    - a. If such person has previously been given verbal warning and/or an administrative citation or other written notice concerning the violations; or
    - b. Based on the totality of the circumstances as determined by the enforcing officer.
- B. Within 5 days after issuance of a citation, an officer shall submit a copy of the citation and a written statement of facts to the city manager. Alternatively, the officer may elect to submit the written statement of facts to the city manager, who may then issue the citation.

- C. An administrative citation may be personally given to the responsible person, or the responsible person may be served by first class mail to an address which is either:
  - a. Indicated on any form of identification presented to the officer, or
  - b. Discovered by the officer during the course of his or her standard law enforcement investigatory actions.

The date a citation is placed in a U.S. Postal Service mail receptacle shall be the date of service. A declaration of service shall be made by the person mailing the administrative citation showing the date and manner of service by mail and reciting the name and address of the citation addressee. Failure of any responsible person to receive an administrative citation by mail shall not invalidate any citation issued pursuant to this chapter.

- D. The citation shall be in a city-approved format, and shall include the following information:
  - 1. The date, location and approximate time of the condition and/or activity that constituted a public nuisance pursuant to Section 17.42.110;
  - 2. A brief description of the condition and/or activity that constituted a public nuisance;
  - 3. A statement describing the right to appeal the citation;
  - 4. A statement advising that the fine shall be paid to the city within 30 days from the date of the administrative citation, procedure for payment, and the consequences of failure to pay.
- E. The penalty amounts of administrative citations issued pursuant to this chapter shall be as follows:
  - 1. For the first administrative citation, the penalty shall be \$500.00;
  - 2. For the second and any subsequent administrative citation, the penalty shall be \$1,000.00.
- F. The failure of any person to pay a penalty assessed by administrative citation within the time specified on the citation constitutes a debt to the city, which may be collected in accordance with Chapter 1.16 or in any other manner allowable by law.

#### **17.42.170 Initial review of administrative citation or ability to pay.**

- A. Request for initial review of administrative citation.
  - 1. A person who has been issued an administrative citation pursuant to this chapter may request an initial review of the citation by the city. The request shall be made in writing and shall state the reason(s) that the citation should be dismissed. The requestor shall include a copy of all pertinent evidence. The request must include a mailing address and, if available, an email address to which correspondence related to the request may be sent. The written request for an initial review must be received by the city clerk's office within fourteen (14) calendar days from the date of the citation's issuance. No fee shall be required for filing the request for an initial review. Failure of the city clerk to receive a timely request for an initial review constitutes a waiver of the right to contest the administrative citation; in this event, the citation is final and binding, and

payment shall be due within thirty (30) calendar days from the date of the citation's issuance.

2. Upon timely receipt of a written request for an initial review of the administrative citation, the public services director, development services director, or person designated by either director to act as reviewing officer, shall conduct an initial review of the administrative citation, the written incident report or statement of facts, and the request for review and all evidence submitted with the request. The reviewing officer shall assess whether the evidence shows that the violation occurred and if any extenuating circumstances exist that warrant dismissal, and shall make a decision to preliminarily uphold or dismiss the citation. The reviewing officer shall notify the cited person of the decision in writing by mail and/or email within ninety (90) calendar days from the date of receipt of the request for initial review; provided, however, that the public safety director or development services director may extend the ninety (90) day deadline upon a finding of good cause.

B. Initial review of ability to pay.

1. A cited person, regardless of whether he/she wishes to challenge the citation who believes he/she is unable to pay, may request an initial review of the person's ability to pay. In addition to the written request for review based on ability to pay, a statement of financial worth shall be submitted. The request must include a mailing address and, if available, an email address to which correspondence related to the request may be sent. The written request for an initial review must be received by the city clerk's office within fourteen (14) calendar days from the date of the citation's issuance. No fee shall be required for filing the request for an initial review. Failure of the city clerk to receive a timely request for an initial review constitutes a waiver of the right to challenge the ability to pay. In this event, the citation is final and binding, and payment shall be due within thirty (30) calendar days from the date of the citation's issuance; provided, however, that if the cited person timely filed a request for review of the administrative citation, the payment of the citation will be due in accordance with the outcome of that initial review and any subsequent proceedings.
2. The statement of financial worth form shall include information relating to the cited person's employer, real and tangible personal property, monthly income including federal and/or state benefits, and all monthly financial obligations. The cited person shall certify the content of the statement as to its truth and correctness under penalty of perjury. The cited person shall also sign a release form of that person's most recent federal income tax report.
3. The reviewer, in conference with the director, shall make a determination of whether or not the cited person has the ability to pay the full deposit to appeal an administrative citation based on the information provided in the statement of financial worth, and shall notify the cited person in writing by mail and/or email within ninety (90) calendar days from the date of receipt of the request for initial review; provided, however, that the public safety director or development services director may extend the ninety (90) day deadline upon a finding of good cause.
4. A person who requested an initial review solely on the basis of ability to pay, for whom the determination has been made that the person has the financial ability to pay

the full amount of the citation in one (1) payment, shall submit payment of the full amount of the citation within thirty (30) calendar days from the date of the notice of determination of ability to pay.

5. A person for whom the determination has been made that the person does not have the ability to pay the full amount of the citation in one (1) payment, shall, no later than fourteen (14) calendar days from the date of the determination, coordinate with the department to establish a payment plan whereby the cited person shall make timely monthly payments until the citation has been paid in full.

#### **17.42.180 Administrative hearing.**

- A. A person whose initial review of an administrative citation has resulted in the citation being upheld pursuant to this chapter may contest the citation by filing a written appeal on a city-approved form to the city clerk within fourteen (14) calendar days from the date of the issuance of the written statement of the results of the initial review. The basis for the appeal must be specified in detail on the appeal form. The appeal form must include a mailing address and, if available, an email address to which correspondence related to the request may be sent. Failure of the city clerk to receive a timely appeal constitutes a waiver of the right to contest a citation; in this event, the citation is final and binding.
- B. A deposit in the amount of the citation must be paid at the time the appeal is filed. A person for whom a determination has been made that the person is unable to pay the full amount of the citation in one (1) payment as set forth in section 17.42.170 B.(5) of this chapter shall tender the first payment of the payment plan established pursuant to that subsection.
- C. As soon as practicable after a timely appeal is filed, the city manager or his/her designee shall fix a date, time and place for a hearing. The hearing shall be conducted by an independent and impartial hearing officer. Written notice of the time and place for the hearing shall be served by first class mail and/or email at least ten (10) calendar days prior to the date of the hearing.
- D. An appellant may request, in writing, that the director reschedule the hearing if the request is made at least twenty-four (24) hours prior to the hearing. The director shall grant one (1) continuance of the hearing date.
- E. Failure of an appellant to appear at the scheduled hearing shall constitute the appellant's waiver of the right to appeal and a forfeiture of the citation amount deposited at the time the appeal was filed.
- F. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. The city bears the burden of proof to establish, by a preponderance of evidence, that the appellant committed the offense that was the basis for the citation. The officer issuing the administrative citation and/or submitting the written incident report or statement of facts shall not be required to appear at the hearing. The hearing officer shall accept testimony by declaration under penalty of perjury relating to the commission of the offense, as set forth in the issuing officer's incident report or statement of facts, and shall consider any other relevant evidence concerning the commission of the offense that the public safety director or development services director or his/her designee may present at the hearing. The hearing officer shall also take the testimony of the appellant, and/or his or her witnesses, will

consider any other credible relevant rebuttal evidence the appellant may wish to present. The appellant may represent himself or herself or be represented by anyone of his or her choice, including counsel, at his or her sole expense. The appellant may bring an interpreter to the hearing at his or her sole expense.

- G. The hearing officer shall make findings based on the record of the hearing, and shall prepare a written decision, based on those findings, to uphold or dismiss the citation. A hearing officer may uphold the citation but modify the penalty amount if extenuating circumstances warrant a modification in the interest of justice. A copy of the written decision shall be served on the appellant by first class mail within fourteen (14) days after the hearing. If the citation is dismissed, the city shall refund the amount of the citation deposit to the appellant within thirty (30) days from the date of the decision.
- H. The decision of the hearing officer is final and conclusive, subject only to review by the superior court in accordance with the time limits set forth in Code of Civil Procedure Section 1094.6.

#### **17.42.190 Community service in lieu of payment of penalty.**

- A. As an alternative to paying the amount of the administrative citation, a cited person may elect to enroll in and perform community service. The amount of the citation shall be reduced for each hour of community service at a rate in accordance with the state's minimum wage in effect at the time the community service is performed.
- B. In the event a person who has enrolled in community service fails or refuses to perform the community service in a timely and appropriate manner, as provided in any applicable rules, regulations, policies and procedures, the city may cancel the community service agreement and collect any unpaid balance of the administrative citation in any manner authorized by law.

#### **17.42.200 Severability.**

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this chapter. The city council declares that it would have adopted this chapter, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.