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ORDINANCE No. 11624 C. M. S.**AN ORDINANCE ESTABLISHING AN EDUCATION,
MONITORING AND ENFORCEMENT PROGRAM FOR
ALCOHOLIC BEVERAGE RETAILERS CITYWIDE; AND
ADDING TO THE OAKLAND PLANNING CODE THE DEEMED
APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS***WJ*

WHEREAS, in 1977, the City began requiring Conditional Use Permits for Alcoholic Beverage Sales Commercial Activities citywide, as well as imposing a distance requirement of 1,000 feet or more between such activities on particular streets; and

WHEREAS, the City adopted more restrictive land use controls for these activities in 1979 and 1992 because of adverse land use impacts associated with these types of activities, including traffic problems, blight, escalated noise levels and high rates of crime; and

WHEREAS, the City has also determined that public nuisance problems, such as litter, loitering, prostitution, drug transactions, public urination and public drunkenness, are strongly associated with the operation of alcoholic beverage sale establishments; and

WHEREAS, all aforementioned negative impacts have resulted in requests for revocation hearings of planning permits before the City Planning Commission and City Council and revocation of such planning permits have occurred; and

WHEREAS, the City believes that an education, monitoring and enforcement program, aimed specifically at Alcoholic Beverage Sales Commercial Activities, both activities with land use permits and legal nonconforming activities, is necessary to effectively address the aforementioned land use and public nuisance problems of these activities; and

WHEREAS, on June 9 and July 7, 1993, the City Planning Commission duly held a public hearing and voted to amend the Zoning Regulations to cross-reference the proposed Deemed Approved Alcoholic Beverage Sale Regulations of the Planning Code; and

WHEREAS, the Health, Human Services and The Family Committee of the City Council has held numerous public hearings on methods to better address problematic alcoholic beverage retail establishments in the City; and

WHEREAS, Resolution No. 69813 was adopted by the City Council on March 16, 1993 directing that a review program specifically for

Alcoholic Beverage Sales Commercial Activities be created; and

WHEREAS, the City Council, as the legislative body of the City, has an obligation pursuant to the City Charter and the Oakland Policy Plan to protect Oakland's physical environment and conserve existing neighborhoods and other areas; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. That the City Council finds and determines the foregoing recitals to be true and correct and hereby make them a part of this Ordinance.

SECTION 2. The Oakland Planning Code is amended to add Sections 15000 - 15999 to read:

"

DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

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GENERAL PROVISIONS

TITLE AND SCOPE

15000 TITLE, PURPOSE, AND APPLICABILITY

The provisions of Section 15000 through Section 15099, inclusive, shall be known as the TITLE AND SCOPE of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS. The purpose of these provisions is to specify the title, purposes, and applicability of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS and to require conformity to said regulations.

15001 TITLE OF DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

The provisions of Section 15000 through Section 15999 shall be known as the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS.

15002 PURPOSE OF DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

The general purposes of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS are to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare by requiring that Alcoholic Beverage Sales Commercial Activities that were Legal Nonconforming Activities immediately prior to the effective date of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS comply with the Deemed Approved Performance Standards at Section 15200 and to achieve the following objectives:

- (a) To protect residential, commercial, industrial, and civic areas and minimize the adverse impacts of nonconforming and incompatible uses.
- (b) To provide opportunities for Alcoholic Beverage Sale Activities to operate in a mutually beneficial relationship to each other and to other commercial and civic services.
- (c) To provide mechanisms to address problems often associated with the public consumption of alcoholic beverages, such as litter, loitering, graffiti, unruly behavior and escalated noise levels.
- (d) To provide that Alcoholic Beverage Sale Commercial Activities are not the source of undue public nuisances in the community.
- (e) To provide for properly maintained Alcoholic Beverage Sale establishments so that negative impacts generated by these activities are not harmful to the surrounding environment in any way.
- (f) To monitor that Deemed Approved Activities do not substantially change in mode or character of operation.

15003 APPLICABILITY OF DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

(a) *To Which Property Applicable.* The DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS shall apply, to the extent permissible under other laws, to all Legal Nonconforming Alcoholic Beverage Sale Commercial Activities within the City of Oakland.

(b) *Duplicated Regulation.* Whenever any provision of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS and any other provision of law, whether set forth in this Code, or in any other law, ordinance, or resolution 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 DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS.

(c) *Relationship to the Zoning Regulations.* The Nonconforming Use provisions of the ZONING REGULATIONS including, but not limited to, Sections 7401, 7420(a), 7422(a)(4), 7423(a)(1) and 7423(a)(2), shall apply to the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS.

15010 ADMINISTRATIVE HEARING OFFICER

There is hereby created an Alcoholic Beverage Sales Administrative Hearing Officer. The Alcoholic Beverage Sales Administrative Hearing Officer shall be a City staff person and shall conduct public hearings and make recommendations intended to encourage and achieve the compliance of particular sites as appropriate. 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 Commercial Activities in the City of Oakland. These parties shall have the powers and duties assigned to them by the PLANNING CODE, by the ZONING REGULATIONS, by other Codes and ordinances, by the City Charter, or by valid administrative authority.

DEFINITIONS**15100 TITLE, PURPOSE, AND APPLICABILITY**

The provisions of Section 15100 through Section 15199, inclusive, shall be known as the DEFINITIONS. The purpose of these provisions is to promote consistency and precision in the interpretation of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS. The meaning and construction of words and phrases as hereinafter set forth shall apply throughout the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS, except where the context of such words or phrases clearly indicates a different meaning or construction.

15105

(a) *Alcoholic Beverage.* 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 and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances, and sales of which requires a State Department of Alcoholic Beverage Control license.

(b) *Alcoholic Beverage Sales Commercial Activity.* The retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, excluding Full-Service Restaurants.

(c) *Condition of Approval.* A requirement which must be carried out by the Activity in order to retain its Deemed Approved Status.

15110

(a) *Deemed Approved Activity.* Any Legal Nonconforming Alcoholic Beverage Sales Commercial Activity, or Full-Service Restaurant selling alcoholic beverages on a Restricted Street as defined in Section 15120(c), in existence immediately prior to the effective date of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS shall be considered a Deemed Approved Activity as long as it complies with the Deemed Approved Performance Standards as set forth in Section 15210, and shall no longer be considered a Legal Nonconforming Activity.

(b) *Deemed Approved Status.* The status conferred upon a Deemed Approved Activity. Deemed Approved Status replaces legal nonconforming status.

(c) *Full-Service Restaurant.* A place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant.

15115

(a) *Illegal Activity.* An Activity which has been finally determined to be in noncompliance with the Deemed Approved Performance

Standards at Section 15200. Such an Activity shall lose its Deemed Approved Status and shall no longer be considered a Deemed Approved Activity.

(b) **Legal Nonconforming Alcoholic Beverage Sales Commercial Activity or Legal Nonconforming Activity.** An Alcoholic Beverage Sales Commercial Activity which was a nonconforming use pursuant to the Nonconforming Use Regulations at Section 7400 of the Zoning Regulations, 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 the effective date of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS. Such an Activity shall be considered a Deemed Approved Activity, and shall no longer be considered a Legal Nonconforming Activity, except such activity shall be subject to those Zoning Regulations relating to Nonconforming Uses as specified in Section 15003(c), as of the effective date of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS.

(c) **Officer.** Administrative Hearing Officer, as provided for at Section 15010.

15120

(a) **Performance Standards.** Regulations prescribed in the DEEMED APPROVED PERFORMANCE STANDARDS at Section 15200.

(b) **Premises.** The actual space within a building devoted to alcoholic beverage sales.

(c) **Restricted Street.** That area applied to a depth of 200 feet on each side of and including the following streets and portions of streets, as measured perpendicularly from the right-of-way line thereof: E. 14th Street; Foothill Boulevard; MacArthur Boulevard and West MacArthur Boulevard; that portion of San Pablo Avenue lying north of 16th Street; that portion of Edes Avenue lying between Clara Street and Bergedo Drive.

DEEMED APPROVED PERFORMANCE STANDARDS

15200 TITLE, PURPOSE, AND APPLICABILITY

The provisions of Section 15200 through Section 15299, inclusive, 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 Commercial Activities. These standards shall apply to all Alcoholic Beverage Sales Commercial Activities that were Legal Nonconforming Activities immediately prior to the effective date of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS.

15210 PERFORMANCE STANDARDS AND DEEMED APPROVED ACTIVITIES

An Activity shall retain its Deemed Approved Status only if it conforms with all of the following Deemed Approved Performance Standards:

(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 result in jeopardizing or endangering 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, excessive 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 does not result in violations to any applicable

provision of any other city, state, or federal regulation, ordinance or statute.

(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.

PROCEDURE AND ADMINISTRATION

DEEMED APPROVED STATUS PROCEDURE

15300 TITLE, PURPOSE, AND APPLICABILITY

The provisions of Section 15300 through Section 15499, inclusive, shall be known as the DEEMED APPROVED STATUS PROCEDURE. The purpose of these provisions is to: (1) Provide notice of Deemed Approved Status upon Alcoholic Beverage Sales Commercial Activities that were Legal Nonconforming Activities immediately prior to the effective date of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS, (2) Prescribe the procedure for the imposition of Conditions of Approval upon these activities, and (3) Prescribe the procedure for appealing Conditions of Approval or the revocation of a Deemed Approved Status.

15310 AUTOMATIC DEEMED APPROVED STATUS

All Alcoholic Beverage Sales Commercial Activities or Full-Service Restaurants selling alcoholic beverages on a Restricted Street as defined in Section 15120(c) and that were Legal Nonconforming Activities immediately prior to the effective date of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS shall automatically become Deemed Approved Activities as of the effective date of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS and shall no longer be considered Legal Nonconforming Activities. Each such Deemed Approved Activity shall retain its Deemed Approved Status as long as it complies with the Deemed Approved Performance Standards at Section 15210.

15320 NOTIFICATION TO OWNERS OF DEEMED APPROVED ACTIVITIES

The Officer shall notify the owner of each Deemed Approved Activity, and also the property owner if not the same, of the activity's Deemed Approved Status. Such notice shall be sent via certified return receipt mail; shall include a copy of the PERFORMANCE STANDARDS of Section 15200 with the requirement that these be posted in a conspicuous and unobstructed place visible from the entrance of the establishment for public review; notification that the activity is required to comply with all these same PERFORMANCE STANDARDS; that a review fee is required, and the amount of such fee provided in the Master Fee Schedule; and that the activity is required to comply with all other aspects of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS. Should the notice be returned, then the notice shall be sent via regular U.S. Mail.

PROCEDURE FOR CONSIDERATION

15330 INTENT

The provisions of Section 15330 through 15400, inclusive, shall outline the process by which DEEMED APPROVED ACTIVITIES are required to be reviewed.

15340 PROCEDURE FOR CONSIDERATION OF VIOLATIONS TO PERFORMANCE STANDARDS

Upon receiving a complaint from the public, Police Department, or any other interested party that a Deemed Approved Activity is in violation of the Performance Standards at Section 15210, and once it is determined by the City that violations appear to be occurring, then the Deemed Approved Status of the Deemed Approved Activity in question shall be reviewed by the Administrative Hearing Officer at a public hearing. Notification of the public hearing shall be in accordance with Section 15380.

The purpose of the public hearing is to receive testimony on whether the operating methods of the Deemed Approved Activity are causing undue negative impacts in the surrounding area. At the public hearing, the Administrative Hearing Officer shall determine whether the Deemed Approved Activity conforms to the Deemed Approved Performance Standards set forth in Section 15210 and to any other applicable criteria, and may continue the Deemed Approved Status for the activity in question or require such changes or impose such reasonable Conditions of Approval as are in the judgment of the Administrative Hearing Officer necessary to ensure conformity to said criteria and such conditions shall be based on the evidence before the Officer. The decision of the Officer shall be based upon information compiled by staff and testimony from the business owner and all other interested parties. New Conditions of Approval shall be made a part of the Deemed Approved Status and the Deemed Approved Activity shall be required to comply with these conditions. The determination of the Officer shall become final 10 calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 15360.

15350 PROCEDURE FOR CONSIDERATION OF VIOLATIONS TO CONDITIONS OF APPROVAL

In the event of a violation of any of the provisions set forth in Sections 15000 through 15349 of these regulations, or upon evidence that there has been a failure to comply with any prescribed Condition of Approval, the Officer may hold a public hearing. Notification of the public hearing shall be in accordance with Section 15380.

The purpose of this public hearing is to receive testimony and determine whether violations to any Conditions of Approval attached to the site have occurred. The Officer may add to or amend the existing Conditions of Approval based upon the evidence presented; or alternatively may revoke the Deemed Approved Activity's Deemed Approved Status. The determination of the Administrative Hearing Officer shall become final 10 calendar days after the date of decision unless appealed to the City Planning Commission in accordance with Section 15360. The decision of the Planning Commission shall be final unless appealed to the City Council in accordance with Section 15370.

15360 APPEAL TO PLANNING COMMISSION

Within ten calendar days after imposition of Conditions of Approval on a Deemed Approved Activity or the revocation of Deemed Approved Status, an appeal may be taken to the City Planning Commission by the Deemed Approved Activity owner or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Officer or wherein its decision is not supported by the evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review. Upon receipt of the appeal and the required appeal fee in accordance with Section 15400, the Secretary to the Planning Commission shall set the date for consideration thereof. The Administrative Hearing Officer shall, not less than ten days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; the adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as appropriate, of the date and place of the hearing on the appeal.

In considering the appeal, the Planning Commission shall determine whether the established use conforms to the applicable Deemed Approved Performance Standards and/or Conditions of Approval, and may continue or revoke a Deemed Approved Status; or require such changes in the existing

use or impose such reasonable Conditions of Approval as are, in its judgment, necessary to ensure conformity to said Performance Standards.

The Planning Commission shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Commission is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Commission thereafter until decided. The decision of the Planning Commission on the appeal to the Conditions of Approval imposed by the Administrative Hearing Officer shall be final.

15370 APPEAL ON THE REVOCATION OF A DEEMED APPROVED STATUS TO THE CITY COUNCIL

Within ten calendar days after the date of a decision by the City Planning Commission to revoke a Deemed Approved Status, an appeal from said decision may be taken to the City Council by any interested party. In event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Planning Commission and shall be filed with the City Clerk. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal and an appeal fee in accordance with Section 15400, the Council shall set the date for consideration thereof. The City Clerk shall notify the Secretary of the City Planning Commission of the receipt of said appeal and of the date set for consideration thereof; and said Secretary shall, not less than ten days prior thereto, give written notice to: the owner of the Deemed Approved Activity; the property owner; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the Secretary deems appropriate, of the time, date and place of the hearing on the appeal. In considering the appeal, the Council shall determine whether the Deemed Approved Activity conforms to the applicable Deemed Approved Performance Standards, and may approve or disapprove the revocation or require such changes therein or impose such reasonable Conditions of Approval as are in its judgment necessary to ensure conformity to said Standards.

The decision of the City Council shall be made by resolution and shall be final. The City Council shall vote on the appeal within thirty (30) days after its first hearing of the appeal. If the Council is unable to decide the appeal at that meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided.

15380 NOTIFICATION OF PUBLIC HEARING

The Officer shall notify the owner of each Deemed Approved Activity, and also the property owner if not the same, of the time and place of the public hearing. Such notice shall be sent via certified return receipt mail, and shall include notification that the Deemed Approved Status of the Deemed Approved Activity will be considered before the Officer. The public hearing shall be noticed by posting notices within 300 feet of the subject property; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the City of Oakland within 300 feet of the subject property. All such notices shall be given not less than ten days prior to the date set for the hearing, if such is to be held. Fees for notification shall be in accordance with Section 15400 and paid for by the Deemed Approved Activity in question.

(a) NOTICE ON SITE

A City-provided notice of 20"x30" in dimension shall also be posted on the premises of the subject activity, placed in the window of the activity (if a window facing the street is not present, then the placard will be required to be posted onto the exterior of the building). All notices shall advertise the time, date, purpose and location of the public hearing for each particular site. All notices shall be given not less than 10 days prior to the date set for the hearing.

(b) NOTICE BY MAIL

Notice by mail is deemed given on the date the notice is placed into the U.S. Mail system.

15400 FEE SCHEDULE

Fee, and regulations pertaining to fees, including the review, notification, appeal, and reinspection of Deemed Approved Activities shall be in accordance with the City Master Fee Schedule.

ENFORCEMENT PROCEDURE

The provisions of this section shall apply to the enforcement of the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS.

15500 OFFICIAL ACTION

All officials, departments, and employees of the City of Oakland vested with the authority to issue permits, certificates, or licenses shall adhere to, and require conformance with, the DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS.

15510 VIOLATIONS AND PENALTIES

(a) *Infractions.* Any person who violates, causes, or permits another person to violate any provision of these Regulations is guilty of an infraction unless otherwise provided.

(b) *Separate Offenses for Each Day.* 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.

(c) *Any Violation a Public Nuisance.* 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 this chapter shall be and is hereby declared to be a public nuisance and may be summarily abated as such by the City of Oakland.

(d) *Injunction as Additional Remedy.* Any violation of any provision of these Regulations shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City of Oakland, create a cause of action for injunctive relief.

(e) *Penalties.* Any person convicted of an infraction under the provisions of this section shall be punishable by a fine to the maximum permitted under state law. Any violation beyond the second conviction within a one (1) year period may be charged by the City Attorney or District Attorney as a misdemeanor, and the penalty for conviction shall be punishable by a fine or imprisonment to the maximum permitted under state law.

(f) *Liability for Expenses.* 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. Reinspection fees to ascertain compliance with previously noticed or cited violations shall be charged against the owner of the Deemed Approved Activity. Fees shall be in the amount described in Section 15400 for charged reinspections. The inspection official 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.

15520 ENFORCEMENT

The City shall designate the appropriate personnel to enforce the provisions of these Regulations.

15530 INSPECTION AND RIGHT OF ENTRY

The officials responsible for enforcement of the PLANNING CODE, or their duly authorized representatives, may enter on any site or into any structure 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 these Regulations, or whenever necessary to the investigation of violations to the Deemed Approved Performance Standards or Conditions of Approval prescribed in these Regulations. An owner or occupant or agent thereof who refuses to permit such entry and investigation shall be guilty of infringing upon the VIOLATIONS AND PENALTIES as outlined in Section 15510 and subject to related penalties thereof."

SECTION 3. The requirements of the California Environmental Quality Act (CEQA) of 1970, as amended, the Guidelines, as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act, City of Oakland, have been satisfied and the Review Officer has determined that this action on the part of the City Council is, pursuant to Section 15061(b)(3) of the CEQA Guidelines, exempt. The City Council approves the categorical exemption granted this action by the Review Officer, determines that the Ordinance complies with CEQA and directs the Review Officer to file a Notice of Exemption.

SECTION 4. The term "Alcoholic Beverage Sales Commercial Activity", as cited in the Ordinance, shall be defined as set forth in Section 2363 of the Oakland Planning Code.

SECTION 5. This Ordinance is necessary for preserving the public safety, health, peace, comfort, prosperity and general welfare of the City due to the poor operating characteristics as well as proliferation of Alcoholic Beverage Sales Commercial Activities and the aforementioned negative impacts of such activities upon the community.

SECTION 6. This Ordinance shall be effective September 1, 1993 and shall apply to all Alcoholic Beverage Sales Commercial Activities and all Full-Service Restaurants selling alcoholic beverages located on any of the following streets: MacArthur and

West MacArthur Boulevards; San Pablo Avenue north of 16th Street; E. 14th Street; Foothill Boulevard; and Edes Avenue between Clara Street and Bergedo Drive.

SECTION 7. All Alcoholic Beverage Sales Commercial Activities and all Full-Service Restaurants selling alcoholic beverages on any of the streets cited in Section 6 and operating with valid land use permits shall pay a review fee in accordance with the City Master Fee Schedule.

SECTION 8. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Section 106 of the Charter of the City of Oakland, Article XI of the California Constitution, and the State Business and Professions Code §23790 and §23791.

SECTION 9. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

JUL 27 1993

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 19 _____

PASSED BY THE FOLLOWING VOTE:

AYES— BAYTON, DE LA FUENTE, JORDAN, MILEY, MOORE, OGAWA, SPEES, WOODS-JONES, and PRESIDENT , - 9
HARRIS

NOES— NONE

ABSENT— NONE

ABSTENTION— NONE

ATTEST: *Ceda Floyd*
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California