

ORDINANCE NO. 1360 N.C. (2d)

AN ORDINANCE OF THE CITY OF VALLEJO AMENDING SECTION 2 (PART) OF ORDINANCE NO. 558 N.C. (2d), AS AMENDED, AND CHAPTER 16.04, DEFINITIONS AND CHAPTER 16.82, CONDITIONAL USE PERMIT PROCEDURES, OF THE VALLEJO MUNICIPAL CODE CONCERNING WHEN A USE PERMIT TO SELL ALCOHOL SHOULD BE GRANTED.

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

SECTION 1. Ordinance No. 558 N.C. (2d), as amended, and Chapter 16.04, DEFINITIONS, of the Vallejo Municipal Code is amended to add or amend the following definitions:

16.04.055 BONA FIDE EATING PLACE: a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation which has: 1) suitable kitchen facilities; 2) a primary use of sit down service to patrons; 3) adequate seating arrangements for patrons provided on the premises; 4) alcoholic beverages served for consumption on the premises only when served at tables or counters. A bona fide public eating place, which includes, but is not limited to, any facility which has obtained a State Department of Alcoholic Beverage Control license Type 41, On-Sale Beer and Wine Eating Place or Type 47, On-sale General Eating Place, does not include any billiard or pool hall, video arcade, bowling alley or adult entertainment business. (Adapted in part from the California ABC Control Act, Business and Professions Code, s 23038) and 5) a minimum of 67% (sixty seven percent) of the bona fide's eating place's gross receipts shall be from the sale of meals and other non-alcoholic products. The owner/operator shall submit at the time of city business license renewal certified evidence of total meal and other non-alcoholic products sales upon request by city officials, for the purpose of verifying compliance.

16.04.131 CONVENIENCE MARKET: a market serving neighborhood needs, of less than five thousand square feet in size, offering a broad selection of goods, but with less than twenty percent {20%} of the sales floor area devoted to the display of alcoholic beverages.

16.04.285 LIQUOR STORE: a specialty store where the predominant products sold, twenty percent or more (>20%) of the sales floor area, are alcoholic beverages, including beer and wine, and related items.

16.04.315 MARKET: a market serving neighborhood and community needs, greater than five thousand square feet in size, and offering a broad selection of goods, but with less than twenty percent (20%) of the sales floor area devoted to the display of alcoholic beverages.

SECTION 2. Ordinance No. 558 N.C. (2d), as amended, and Chapter 16.82, CONDITIONAL USE PERMIT PROCEDURE, of the Vallejo Municipal Code is amended to add the following:

16.82.060 Standards and criteria for certain conditionally permitted uses.

Whenever a use which is listed below requires a major or minor conditional use permit, the use permit application must demonstrate and the appropriate permit issuing authority shall certify that the use meets the following pertinent standards and criteria:

Q. On-Site Liquor Establishments shall comply with the following restrictions:

Subsections I through and including 9 - No Change.

10. All servers shall within ninety (90) days of employment, complete an approved course in "responsible beverage service training". The outlet shall within ten (10) days provide evidence of the employee's completion of this training to the Planning Division.

11. Whenever any of the situations identified in Section 16.82.140 occurs, a use permit issued for on-site alcohol sales in accordance with this chapter shall become null or void, and a new use permit shall be required prior to resuming the sale of alcoholic products.

12. All new on-site alcohol sales establishments, except bona fide eating establishments, shall be located at least one thousand (1,000) feet from all existing onsite and off-site alcohol sales outlets located on commercially zoned property, except that this separation shall not be measured from any establishment that is not normally available to the general public such as private clubs and lodges.

SECTION 3. Ordinance No. 558 N.C. (2d), as amended, and Chapter 16.82, CONDITIONAL USE PERMIT PROCEDURE, of the Vallejo Municipal Code is amended to add the following:

16.82.060 Standards and criteria for certain conditionally permitted uses.

Whenever a use which is listed below requires a major or minor conditional use permit, the use permit application must demonstrate and the appropriate permit issuing authority shall

certify that the use meets the following pertinent standards and criteria:

R. Off-Site Liquor Establishments shall comply with the following restrictions:

Subsections I through and including 12 - No Change.

13. All sales clerks in off-site outlets less than 5,000 feet in total area shall within ninety (90) days of employment, complete an approved course in "responsible beverage service training". The outlet shall within ten (10) days provide evidence of the employee's completion of this training to the Planning Division.

14. All off-site outlets which also sell motor vehicle fuels shall comply with the restrictions contained in Section 23790.5 of the Business and Professions Code, to wit:

- a. No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler as of January 1, 1988;
- b. No advertisement of alcoholic beverages shall be displayed at motor fuel islands;
- c. No sale of alcoholic beverages shall be made from a drive-in window;
- d. No display of beer or wine shall be made from an ice tub;
- e. No beer or wine advertising shall be located on motor fuel islands, and no self-illuminated advertising for beer or wine shall be located on building or windows; and
- f. Employees on duty between 10:00 pm and 2:00 am who sell beer or wine shall be at least 21 years of age.

15. Whenever any of the situations identified in Section 16.82.140 occurs, a use permit issued for off-site alcohol sales in accordance with this chapter shall become null or void, and a new use permit shall be required prior to resuming the sale of alcoholic products.

16. All new off-site alcohol establishments, except retail establishments with a sales display area of at least eleven thousand (11,000) square feet, shall be located at least one thousand (1,000) feet from all existing on-site and off-site alcohol sales outlets located on commercially zoned land, except that this separation shall not be measured from from any establishment that is not normally available to the general public such as private clubs and lodges.

SECTION 4. Ordinance No. 558 N.C. (2d), as amended, and Chapter 16.82, CONDITIONAL USE PERMIT PROCEDURE, of the Vallejo Municipal Code is amended to add the following:

16.82.120 Additional grounds for revocation, suspension or modification.

Subsection A & B- no change.

C. In addition to the grounds stated in Section 16.82.110, the planning commission may suspend, revoke, or modify the use permit authorizing the sale of alcoholic beverages, pursuant to the procedures set out in this chapter, whenever the ABC suspends an outlet's license more than twice in a 12-month period. (In this case, the Planning Division and Police Department shall review the operation of the outlet and determine if a new use permit shall be required.)

SECTION 5. Ordinance No. 558 N.C. (2d), as amended, and Chapter 16.82, CONDITIONAL USE PERMIT PROCEDURE, of the Vallejo Municipal Code is amended to add the following:

16.82.140 New or amended use permit required.

A new or amended use permit shall be required prior to any of the following situations apply:

1. There is a change in type of license issued by the State of California Department of Alcoholic Beverage Control (ABC) ;
2. The floor area devoted to the display and/or sales of alcoholic beverages is to be expanded by more than 20 percent (this requirement does not include expansion of reception, eating, kitchen, service, or storage areas of onsite outlets or expansion of service, storage, or sales areas for items other than alcoholic beverages in off-site outlets);

SECTION 6. Ordinance No. 558 N.C. (2d), as amended, and Chapter 16.82, **CONDITIONAL USE PERMIT PROCEDURE**, of the Vallejo Municipal Code is amended to add the following:

16.82.150 Use permit abandoned.

A use permit, or portion of a use permit, authorizing the sale of alcoholic beverages shall be deemed to be abandoned if the sale of alcoholic beverages ceases for twelve consecutive months. A new use permit shall be secured prior to the resumption of the sale of alcoholic beverages.

SECTION 7. **Effective Date.** This ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage.

FIRST READ at a regular meeting of the Council of the City of Vallejo held the 16th day of April, 1996, and finally passed and adopted at a regular meeting of the Council held the 23rd day of April, 1996, by the following vote:

AYES: Mayor Exiine, Councilmembers Donahue, Hicks, Martin, Patchell, Stafford and Villanueva **NOES:** None **ABSENT:** None

GLORIA EXLINE~MAY/QR

ATTEST:

CTA9406A.ORD