

RESOLUTION NO. 2017-42

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

WHEREAS, the City of Huntington Beach desires to maintain a vibrant and safe downtown commercial area, specifically the Downtown Specific Plan District 1, to be enjoyed by visitors, residents and families; and

The City Council desires to establish standardized Conditions of Approval that will apply to new businesses requesting a Conditional Use Permit for alcohol beverage sales and/or an entertainment permit in the Downtown Specific Plan District 1 area in order to minimize the secondary effects of selling, serving and consuming alcohol,

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

1. For new or amended Conditional Use Permits applied to eating and drinking establishments in the Downtown Specific Plan District 1 that propose to serve and/or sell alcohol, the Conditions of Approval set forth in **Exhibit A** - Standard Conditions (attached hereto and incorporated herein by this reference) shall apply. All of these Standard Conditions shall apply unless the reviewing body makes findings supported by evidence that one or more of the standardized conditions should not apply. Findings for deviations from these Conditions may include, but not be limited to, operational and business characteristics, business location, distance from residential land uses, available on-site parking, presence of on-site security, established alcohol and noise controls, floor layout design, or other features/practices which otherwise conform to maintaining a vibrant and safe downtown commercial area to be enjoyed by visitors, residents, and families.

2. For new or amended Conditional Use Permits applied to eating and drinking establishments in the Downtown Specific Plan District 1 that propose to serve and/or sell alcohol and/or include live entertainment, the Conditions of Approval set forth in **Exhibit B** - Standard Conditions (attached hereto and incorporated herein by this reference) shall apply. All of these Standard Conditions shall apply unless the reviewing body makes findings supported by evidence that one or more of the standardized conditions should not apply. Findings for deviations from these Conditions may include, but not be limited to, operational and business characteristics, business location, distance from residential land uses, available on-site parking, presence of on-site security, established alcohol and noise controls, floor layout design, or other features/practices which otherwise conform to maintaining a vibrant and safe downtown commercial area to be enjoyed by visitors, residents, and families.

3. The Standard Conditions shall not apply to amendments to existing Conditional Use Permits unless the amendment is to establish new alcohol, expand existing alcohol service, establish new live entertainment, or expand existing live entertainment. For example, the Standard Conditions shall not apply to the remodel or expansion of a business that does not also include expansion of alcohol service and/or live entertainment.

4. By this Resolution, City Council directs that in the event the business or operator has received substantiated violations of their Conditional Use Permit including citations for violation of any City, State, or Federal law, a Conditional Use Permit revocation hearing shall be scheduled as soon as practical.

5. Resolution No. 2013-24 is hereby repealed.


PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 7TH day of AUGUST, 2017.


Mayor

REVIEWED AND APPROVED:


City Manager

INITIATED AND APPROVED:


Director of Community Development

APPROVED AS TO FORM:


City Attorney

MV

EXHIBIT A – STANDARD CONDITIONS
EATING AND DRINKING ESTABLISHMENTS WITH
ALCOHOLIC BEVERAGE SALES:

The following Standard Conditions of Approval shall apply to any new or amended Conditional Use Permit for any restaurant, bar or tavern (alcohol business) proposing to serve and/or sell alcoholic beverages in the Downtown Specific Plan District 1:

- 1) Generally, hours of operation shall be limited to between 7:00 a.m. to 12:00 a.m. midnight. The hours of operation shall be limited to between 7:00 a.m. to 10:00 p.m. for any alcohol business proposed in the following locations:
 - a. West side of 5th Street between Walnut Avenue and Orange Avenue;
and
 - b. East side of 3rd Street between Walnut Avenue and Orange Avenue.
- 2) No new customers shall be permitted to enter the alcohol business 30 minutes before closing.
- 3) A minimum of 70 percent of the net floor area of the alcohol business shall be designated for dining. The dining area excludes areas used for cooking, kitchen preparation, office, storage, and restrooms and also excluding outdoor dining areas.
- 4) All areas of the alcohol business that are accessible to patrons shall be illuminated such that the appearance and conduct of all people in the alcohol business are visible from inside the alcohol business.
- 5) Alcohol businesses must provide food service until one (1) hour before closing including a cook and food servers shall be on duty.
- 6) The CUP shall not be effective until an ABC license has been issued and provided to the City.
- 7) The CUP shall be for the type of issued ABC License; any change to the type of liquor license shall require an amendment to the CUP.
- 8) In addition to any ABC requirements, the following alcohol related conditions shall be required:
 - a. An employee of the alcohol business must monitor areas where alcohol is served.
 - b. Alcoholic drinks shall not be included in the price of admission to any alcohol business.

- c. All alcohol shall remain within alcohol business premises, including outdoor dining areas.
 - d. Service of alcoholic beverages for consumption off-site shall not be permitted.
 - e. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
 - f. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
 - g. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00 p.m.
 - h. Final announcements that inform patrons the kitchen and/or bar will stop accepting orders of alcoholic beverage (i.e., last call for alcohol) shall be at least 15 minutes prior to closing.
 - i. Each individual patron shall only be served one standard single-sized alcoholic beverage at a time after midnight (*if the business is permitted to operate after midnight*).
 - j. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is not permitted.
 - k. Mandatory Responsible Beverage Service (RBS) training and certification shall be required for new employees within 90 days of being hired and for existing employees every 12 months. Training shall be provided by ABC or an ABC approved RBS trainer and records of the training must be maintained on-site for review.
- 9) All owners, employees, representatives, and agents must obey all federal, state, and local laws. In addition, all conditions of the Conditional Use Permit, Alcoholic Beverage Control License and any other regulations, provisions, or restrictions prescribed by an agency with jurisdiction over the premise are required as part of the CUP to be followed.
 - 10) No patrons shall be permitted to loiter within the vicinity of any entrances and exits at any time.
 - 11) Alcohol businesses shall install and maintain a video surveillance system to monitor all doors, eating areas, parking areas, and public area of premises and shall make the video available to the Police Department. Electronic copies of

video must be made available to the Huntington Beach Police Department within 48 hours of request. Digital recordings shall be made available for viewing on-scene upon request by a Police Officer. The business shall retain video surveillance for one-month. All video surveillance cameras must record in color, with digital recording to DVR and able to record in low light.

- 12) In addition to the Downtown Specific Plan and Huntington Beach Zoning and Subdivision ordinance, all signs shall comply with the following:
 - a. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. No interior displays of alcoholic beverages or signs which are clearly visible to the exterior.
 - b. There shall be no window coverings or advertisements that reduce the visibility inside of the business.
 - c. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business.
 - d. Signs shall be posted in a conspicuous space at the entrance/exit of the restaurant which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT."
- 13) Dancing and/or dance floor and/or live entertainment is prohibited. (Note: a new or amended Conditional Use Permit and an Entertainment Permit issued by the City is required for these additional activities).
- 14) If there is an outdoor patio/dining area where alcohol is served and/or sold as part of the business, the following shall apply:
 - a. A sign shall be posted in a conspicuous space at the entrance/exit point of the patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT."
 - b. The patio shall have a physical barrier minimum 36 inches in height surrounding the outdoor dining area and designed in a manner that will prohibit passing of alcohol through the barrier.
- 15) If approved to be open past midnight, there shall be a minimum of two identifiable security employees on the premises every Thursday, Friday, and Saturday from 8:00 pm to 2:30 am to control crowds, monitor customers, and ensure doors remain closed.

EXHIBIT B – STANDARD CONDITIONS
EATING AND DRINKING ESTABLISHMENTS WITH
ALCOHOLIC BEVERAGE SALES AND LIVE ENTERTAINMENT:

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

- 1) Generally, hours of operation shall be limited to between 7:00 a.m. to 12:00 a.m. midnight. The hours of operation shall be limited to between 7:00 a.m. to 10:00 p.m. for any alcohol business proposed in the following locations:
 - a. West side of 5th Street between Walnut Avenue and Orange Avenue; and
 - b. East side of 3rd Street between Walnut Avenue and Orange Avenue.
- 2) No new customers shall be permitted to enter the alcohol business 30 minutes before closing.
- 3) A minimum of 70 percent of the net floor area of the alcohol business shall be designated for dining. The dining area excludes areas used for cooking, kitchen preparation, office, storage, and restrooms and also excluding outdoor dining areas.
- 4) All areas of the alcohol business that are accessible to patrons shall be illuminated such that the appearance and conduct of all people in the alcohol business are visible from inside the alcohol business.
- 5) Alcohol businesses must provide food service until one (1) hour before closing including a cook and food servers shall be on duty.
- 6) The CUP shall not be effective until an ABC license has been issued and provided to the City.
- 7) The CUP shall be for the type of issued ABC License; any change to the type of liquor license shall require an amendment to the CUP.
- 8) In addition to any ABC requirements, the following alcohol related conditions shall be required:
 - a. An employee of the alcohol business must monitor areas where alcohol is served.
 - b. Alcoholic drinks shall not be included in the price of admission to any alcohol business.

- c. All alcohol shall remain within alcohol business premises, including outdoor dining areas.
 - d. Service of alcoholic beverages for consumption off-site shall not be permitted.
 - e. There shall be no requirement for patrons to purchase a minimum number of alcoholic drinks.
 - f. Games or contests requiring or involving consumption of alcoholic beverages shall be prohibited.
 - g. No reduced price or promotions of alcoholic beverages shall be allowed after 7:00 p.m.
 - h. Final announcements that inform patrons the kitchen and/or bar will stop accepting orders of alcoholic beverage (i.e., last call for alcohol) shall be at least 15 minutes prior to closing.
 - i. Each individual patron shall only be served one standard single-sized alcoholic beverage at a time after midnight (*if the business is permitted to operate after midnight*).
 - j. Consumption of alcoholic beverages by on-duty employees; including servers, bartenders, kitchen staff, management and supervisory personnel is not permitted.
 - k. Mandatory Responsible Beverage Service (RBS) training and certification shall be required for new employees within 90 days of being hired and for existing employees every 12 months. Training shall be provided by ABC or an ABC approved RBS trainer and records of the training must be maintained on-site for review.
- 9) All owners, employees, representatives, and agents must obey all federal, state, and local laws. In addition, all conditions of the Conditional Use Permit, Alcoholic Beverage Control License and any other regulations, provisions, or restrictions prescribed by an agency with jurisdiction over the premise are required as part of the CUP to be followed.
 - 10) No patrons shall be permitted to loiter within the vicinity of any entrances and exits at any time.
 - 11) Alcohol businesses shall install and maintain a video surveillance system to monitor all doors, eating areas, parking areas, and public area of premises and shall make the video available to the Police Department. Electronic copies of video must be made

available to the Huntington Beach Police Department within 48 hours of request. Digital recordings shall be made available for viewing on-scene upon request by a Police Officer. The business shall retain video surveillance for one-month. All video surveillance cameras must record in color, with digital recording to DVR and able to record in low light.


- 12) In addition to the Downtown Specific Plan and Huntington Beach Zoning and Subdivision ordinance, all signs shall comply with the following:
 - a. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. No interior displays of alcoholic beverages or signs which are clearly visible to the exterior.
 - b. There shall be no window coverings or advertisements that reduce the visibility inside of the business.
 - c. Signage, posters, and advertising with "Do Not Drink and Drive" shall be posted in the business.
 - d. Signs shall be posted in a conspicuous space at the entrance/exit of the restaurant which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT."
- 13) An Entertainment Permit from the Huntington Beach Police Department must be obtained prior to commencing any live entertainment activity. In addition to the requirements for entertainment permits set forth in Huntington Beach Municipal Code Section 5.44, the following shall apply:
 - a. The seating capacity within the dining area (excluding outdoor dining areas) shall accommodate a minimum of 100 people.
 - b. No outside promoters can be used under any circumstances.
 - c. All amplified entertainment shall be confined to the indoors.
 - d. All exterior doors and windows shall be closed during live entertainment.
 - e. No entertainment (amplified or otherwise) shall be audible beyond 50 feet of the business in any direction.
 - f. Entertainment is not allowed on the patio/outdoor dining area unless specifically provided by Conditional Use Permit, and said entertainment shall be limited to:
 - i. Non-amplified entertainment with no more than two performers.

- ii. Amplified entertainment is permitted but limited to ambient music only.
- 14) Dancing and/or dance floor shall be prohibited. (Note: a new or amended Conditional Use Permit and Entertainment Permit issued by the City is required for dancing which must be specially identified as part of the Entertainment Permit and only in a pre-approved designated area.)
- 15) If there is an outdoor patio/dining area where alcohol is served and/or sold as part of the business, the following shall apply:
 - a. A sign shall be posted in a conspicuous space at the entrance/exit point of the patio, which shall state, "NO ALCOHOLIC BEVERAGES BEYOND THIS POINT."
 - b. The patio shall have a physical barrier minimum 36 inches in height surrounding the outdoor dining area and designed in a manner that will prohibit passing of alcohol through the barrier.
- 16) If approved to be open past midnight, there shall be a minimum of two identifiable security employees on the premises every Thursday, Friday, and Saturday from 8:00 pm to 2:30 am to control crowds, monitor customers, and ensure doors remain closed.

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

I, ROBIN ESTANISLAU the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a **Regular** meeting thereof held on **August 7, 2017** by the following vote:

AYES: Semeta, Posey, Delgleize, Brenden, Peterson
NOES: Hardy
ABSENT: None
RECUSE: O'Connell



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