

ORDINANCE NO. 2320

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING CODE AMENDMENT NO. 16-07, RELATED TO OFF-SALE ALCOHOL USES

WHEREAS, on the 1st day of November, 2016, the City Council initiated a code amendment to evaluate standards relating to the requirement of discretionary approval for off-sale alcohol uses; and

WHEREAS, the Planning Commission held a study session on the 11th day of April, 2017; and

WHEREAS, the Planning Commission, upon giving required notice, did on the 13th day of June, 2017, conduct a duly advertised public hearing as prescribed by law, at which time the Planning Commission adopted Resolution No. 17-5871 recommending to the City Council approval of Code Amendment No. 16-07; and

WHEREAS, the City Council considered evidence presented by the Planning Commission, Planning Department, and other interested parties at a duly advertised public hearing on the 15th day of August, 2017; and

WHEREAS, studies and investigations made by the Planning Commission and on its behalf reveal the following facts:

1. The Municipal Code currently does not require discretionary review for off-sale alcohol uses, except in areas defined as undue concentration. In West Covina areas of undue concentration include both Plaza West Covina and Eastland. If a proposed off-sale ABC use is proposed in an area that is not defined as undue concentration, the business is allowed by right.
2. Many cities require discretionary review for off-sale alcohol service such as a conditional use permit (CUP). Currently the City requires the approval of an administrative use permit (AUP) for both off-sale (undue concentration) and for on-sale alcohol service (restaurants). An AUP requires notification and can be approved by the Planning Director. A CUP requires notification and a public hearing before the Planning Commission. Some cities also include separation requirements such as providing a required separation from sensitive uses like schools, daycares or religious facilities.
3. The proposed action is considered to be exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the proposed action consists of a code amendment, which does not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION NO. 1: The above recitals are true and correct and are incorporated herein as if set forth herein in full.


SECTION NO. 2: Based on the evidence presented and the findings set forth, Code Amendment No. 16-07 is hereby found to be consistent with the West Covina General Plan and the implementation thereof and that the public necessity, convenience, general welfare, and good zoning practices require Code Amendment No. 16-07.

SECTION NO. 3: The City Council hereby finds that the proposed Code Amendment No. 16-07 is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the proposed action consists of a code amendment, which does not have the potential for causing a significant effect on the environment.

SECTION NO. 4: Based on the evidence presented and the findings set forth, the City Council of the City of West Covina hereby approves Code Amendment No. 16-07 to amend Chapter 26 (Zoning) of the West Covina Municipal Code to read as shown on Exhibit "A."

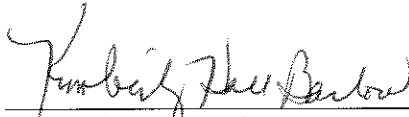
SECTION NO. 5: The City Clerk shall certify to the passage and adoption of this ordinance, causing it to be posted or published as required by law and it shall be effective thirty (30) days after its adoption.

PASSED, APPROVED AND ADOPTED on this 5th day of September, 2017.



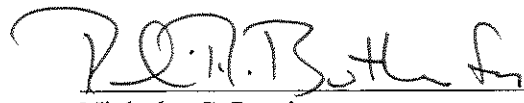
Corey Warshaw
Mayor

APPROVED AS TO FORM:



Kimberly Hall Barlow
City Attorney

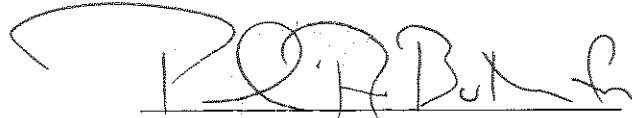
ATTEST:



Nickolas S. Lewis
City Clerk

I, NICKOLAS S. LEWIS, CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 15th day of August, 2017. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 5th day of September, 2017, by the following vote:

AYES: Johnson, Toma, Spence
NOES: None
ABSENT: Wu, Warshaw
ABSTAIN: None

A handwritten signature in black ink, appearing to read "N. S. Lewis", written over a horizontal line.

Nickolas S. Lewis
City Clerk

Exhibit A

CHAPTER 26 ZONING

Chapter 26 – Zoning

Article XI. Nonresidential Uses

Sec. 26-597 – Service, trade, cultural, public, and private uses. Land Uses (except industrial or manufacturing uses).

	R A	R 1	M F8	MF 15	MF 20	MF 45	OP	NC	R C	SC	C2	C3	M1	I P		PB	O S
Aircraft Landing Facilities Nonemergency							c	c	c	c	c	c	c	c	—	c	
Alcohol off-sale (see art. XII, div. 15)								a x	a x	a x	a x	a x	a x		—		
Alcohol off-sale, areas of undue concentration (see art. XII, div. 15)								a	a	a	a	a	a		—		

15)																	
Alcohol on-sale (see art. XII, div. 15; for nonprofit clubs and country clubs, see separate headings)								c	c	c	c	c	c		—		

Chapter 26 – Zoning

Article XII. Special Regulations

DIVISION 15. ~~On-sale Alcohol Licenses~~ Alcoholic Beverage Service

Sec. 26-685.100. - Purpose.

The purpose of this division is to provide conditions for the establishment of commercial uses that serve and/or sell alcohol (retail on-sale and off-sale licenses) and to do so in accordance with certain requirements designed to ensure compatibility of such services with surrounding commercial and residential development, to not create any undue concentration of such licenses, and to not create any adverse effect on the health and welfare of the community.

Sec. 26-685.101. - Reserved.

Sec. 26-685.102. - Definitions.

- (a) *Bona fide eating place* means or is an eating place as defined in Section 23038 of the California Business and Professions Code.
- (b) *Major hotel or major motel* means or is a hotel or motel as defined in section 26-63 of the West Covina Municipal Code that has a minimum of one hundred (100) rooms or suites, and has conference rooms, banquet rooms or ballrooms available for hire by the public.

- (c) *Areas of undue concentration* is a census tract (as defined by the United States Census Bureau) where an undue concentration in the number of alcohol licenses exists as determined by the department of alcoholic beverage control (ABC).

Sec. 26-685.103. - Off-sale alcohol uses.

~~Alcohol sales for off-site consumption may be established as follows:~~

- ~~(1) An administrative use permit is required for businesses that sell alcohol for off-site consumption located in an area defined as an area of undue concentration by the state department of alcoholic beverage control (ABC).~~
- ~~(2) No zoning permit is required for businesses that sell alcohol for off-site consumption which are not located in an area defined as an area of undue concentration by the state department of alcoholic beverage control (ABC).~~

An administrative use permit is required in specified commercial and manufacturing zones for any business that sells alcohol for off-site consumption.

Sec. 26-685.104. - On-sale alcohol uses—Conditional use permit.

Alcohol service (on-sale licenses) may be established in conjunction with the following uses, only in the zones specified in section 26-597, with the approval of a conditional use permit:

- (1) Clubs, lodge halls, and similar facilities as defined in Section 23428.9 of the California Business and Professions Code; or
- (2) Main use billiard parlor with a kitchen and dining area as specified in division 8 of this article; or
- (3) Major motel or a major hotel as defined in this division.

Sec. 26-685.104.5. - On-sale alcohol use—Administrative use permit.

Alcohol service (on-sale licenses) may be established in conjunction with the following uses, only in the zones specified in section 26-597, with the approval of an administrative use permit:

- (1) Bona fide eating place as defined in Section 23038 of the California Business and Professions Code.

Sec. 26-685.105. - Change or intensification of existing on-sale or off-sale alcohol use.

(a) When any of the following is proposed in conjunction with an existing on-sale or off-sale alcohol use, additional permit requirements shall apply as set forth in subsections (b) through (c) below:

- (1) Any increase in gross floor area for businesses that sell alcohol for on-site and off-site consumption; or
- ~~(2) An increase of five hundred (500) square feet or more for business that sell alcohol for off site consumption;~~
- (2) A change in the type of license issued by the state department of alcoholic beverage control (ABC); or
- (3) The license issued by the state department of alcoholic beverage control has lapsed, been suspended or revoked, or has otherwise become null and void and application is made for reinstatement of the license or issuance of a new license.

(b) For a legal nonconforming use (no existing administrative use permit or conditional use permit), an administrative use permit shall be required, provided that the existing use is permitted pursuant to section 26-597. All provisions of article V of this chapter (Nonconforming Buildings and Uses) shall apply and shall not be superseded by this section.

(c) For a conforming use with a valid administrative use permit, an amendment to the existing administrative use permit shall be required pursuant to the procedures set forth in section 16-271 (a). For a nonconforming use with a valid conditional use permit, an amendment to the existing conditional use permit shall be required pursuant to the procedures set forth in section 26-251(a) (Planning commission hearing required).

Sec. 26-685.106. - Additional finding.

The granting of a new or amended conditional use permit or administrative use permit for an on-sale or off-sale alcohol use shall require the following finding in addition to the findings contained in section 26-247 and 26-270:

~~(a) Before a new or amended administrative use permit or a conditional use permit for an on-sale or off-sale alcohol use may be granted, the following finding shall be made. For administrative use permits and conditional use permits, such finding shall be made in addition to the findings contained in section 26-247 and [26]270.~~

(a) The proposed operational characteristics of the use and its proximity to residences, parks, schools, preschools, day care facilities, and churches religious facilities, ~~the use~~ will not create any undue adverse impacts on those uses or otherwise be detrimental to the public health, safety, and welfare.

Sec. 26-685.107. - Conditions of approval for on-sale and off-sale alcoholic uses.

(a) Conditional Use Permit Conditions

- (1) The conditional use permit may be revoked, amended and suspended by the planning commission under the provisions of section 26-253 of the West Covina Municipal Code.
- (2) Licenses and permits as required by Chapter 14 or any other provision of the West Covina municipal Code or applicable law shall be obtained prior to the start of the operation of the use.
- (3) Such other conditions as are deemed necessary by the planning commission to protect the public health, safety, and general welfare of the community, such as but not mandatory or limited to:
 - a. Regulating the hours of operation of the entire business.
 - b. Requiring special security measures, including but not limited to security guards, additional lighting, burglar alarms, video surveillance.
- (4) The Planning Director shall be authorized to send a letter to the State Department of Alcoholic Beverage Control determining that by virtue of approval of a conditional use permit that the finding of public convenience or ~~and~~ necessity has been satisfied.

(b) Administrative Use Permit Conditions

- (1) The Planning Director shall be authorized to send a letter to the State Department of Alcoholic Beverage Control determining that by virtue of approval of an administrative use permit the finding of public convenience or ~~and~~ necessity has been satisfied.
- (2) The administrative use permit may be revoked, amended and suspended by the planning commission under the provisions of section 26-273 of the West Covina Municipal Code.
- (3) All licenses and permits as required by Chapter 14 or any other provision of the West Covina Municipal Code or applicable law shall be obtained prior to the start of the operation of the use.
- (4) Such other conditions as are deemed necessary by the planning director to protect the public health, safety, and general welfare of the community, such as but not mandatory or limited to:
 - a. Regulating the hours of operation of the entire business.

- b. Requiring special security measures, including but not limited to security guards, additional lighting, burglar alarms, and video surveillance.

Sec. 26-685.108. - Specific conditions of approval of a conditional use permit for alcohol service in conjunction with major hotels and major motels.

- (a) The location of the "defined area," shall be the only place in the building for serving alcoholic beverages, as shown on Study Plan "A," shall not be changed without a revision of this conditional use permit. The defined area shall be enclosed by walls or theater-type stanchions and cordons to the point that entry/exit openings are defined well enough to monitor people going in or out.
- (b) No person under twenty-one (21) years shall be permitted in the defined area at any time. The defined area shall have signs posted to that effect.
- (c) Such other conditions as are deemed by the planning commission to reasonably relate to the purpose of this division.

Chapter 26 - Zoning

Article XV – Downtown Code

Part 4, Section 3.1a: Permitted Land Uses

SECTION 3. Table 4.3.1 of Article XV of Chapter 26 of the West Covina Municipal Code, Downtown Code, is amended to read as follows:

	T5-UC	T4-GU	T4-UN
Retail Stores and shops engaged in the sale of goods and merchandise	P	P	X
Alcohol off-sale; areas of undue concentration (see art. XII, div. 15)	AUP	AUP	X
Alcohol off-sale, instructional tasting (see art. XII, div. 15)	CUP	CUP	X
Postal Services	AR	AR	X