



Staff Report

November 14, 2017

TO: Honorable Mayor and Members of the Town Council

FROM: Robert King, Town Planner
Sean Rabe, Town Manager

DATE: November 14, 2017

RE: Second Reading and Adoption of Ordinance 273 of the Town of Loomis Amending Section *13.42.050 Alcoholic Beverage Sales* of the Loomis Municipal Code

Recommendation

Second reading and adoption of Ordinance 273, amending Section 13.42.050 of the Loomis Municipal Code for Alcoholic Beverage Sales.

Issue Statement and Discussion

The Planning Commission conducted a Public Hearing on the proposed amendment at its meeting of October 24, 2017, where by a unanimous vote it recommended the Town Council enact the proposed ordinance with the addition that the Planning Commission could grant exceptions to 300 foot separation from sensitive uses for on-site liquor sales.

Section 13.42.050 Alcoholic Beverage Sales, prohibits both on-site and off-site sale of alcoholic beverages within 500 feet of schools, religious facilities, public parks and playgrounds.

In 2011 the Blue Anchor Park opened within the central portion of the Town Center Commercial Area. This had the unintended consequence of prohibiting all alcoholic sales within 500 feet of it, except for those businesses already operating at that time, which were grandfathered in. This exception expires if the use is discontinued for over a year, such as the former Horseshoe Bar and Grill.

Currently there are a number of landowners within the town center along Taylor Road who are considering opening or reopening restaurants, grills, wine tasting rooms, pubs, and similar venues. As the law now stands, any new establishment within 500 feet of Blue Anchor Park would not be able to serve alcoholic beverages.

The State Alcohol Beverage Control prohibits alcohol sales within 300 feet of a sensitive use, unless the local jurisdiction approves such a use. The Town's Ordinance prohibits sales within 500 feet, but with no exceptions. The proposed amendment would mirror State law by requiring a 300 feet separation from sensitive uses with the exception of Blue Anchor Park where no separation would be required for businesses selling alcohol for on-site consumption. In addition, the Planning Commission recommended it be able to grant exceptions, but only for on-site liquor sales. This will provide consistency so that the 300 foot prohibition limit for on-site sales within Loomis is the same as that imposed by the State. The 500 foot prohibition for off-site sales will remain unchanged.

As to the compatibility of places serving alcohol and children at Blue Anchor Park, the peak use of the park is in the afternoon, which is usually the least active time for these establishments. The peak times for restaurants and the like are in the evenings, when the park is least used.

The Loomis Brew Pub is allowed as a grandfathered use, and is actually adjacent to the Park. The Sheriff's Department has not recorded any incidents, and the Pub has in fact proven to be a popular asset for various community festivals and events held in the plaza. With the exception of it, no other sites would front along the park, and most will usually be at least one block from it.

CEQA Requirements

The proposed amendment is exempt as a General Rule Exemption as per Section 15061 (b) (3) which states, *"where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."* Approval of this amendment does not change the existing requirements that any new facility whether or not it serves alcohol, be first approved by the Town prior to operation, where further environmental review would be undertaken as required.

Financial and/or Policy Implications

Restaurants, pubs, grill, and similar establishments are sources of retail taxes to the Town, in addition to providing jobs. These establishments are essential to restoring and providing vitality to the central core of the Town, and the encouragement of other businesses – a key component of the Downtown Plan section of the Loomis General Plan.

Attachments

- A. Ordinance

TOWN OF LOOMIS

ORDINANCE NO. 273

AN ORDINANCE OF THE TOWN OF LOOMIS AMENDING SECTION 13.42.050 OF THE MUNICIPAL CODE FOR ALCOHOLIC BEVERAGE SALES

The Town Council of the Town of Loomis does ordain as follows:

13.42.050 - Alcoholic Beverage Sales.

A. **Purpose.** The town wishes to pay special attention to establishments that sell alcohol because of their potential to create problems including littering, loitering, public intoxication and disturbances. At the same time, the town wishes to avoid imposing unduly burdensome requirements on local businesses by requiring commission or council approval of these uses.

B. **Permit Requirement.** The owner of an on- or off-sale liquor establishment shall obtain an Alcoholic Beverage permit from the Planning Director prior to commencing operations. This permit requirement shall not apply to liquor establishments in existence or those with all required land use approvals as of August 10, 2001, until such time as these establishments come under new ownership. However, a permit holder who is not grandfathered and is issued a different type of liquor license thereafter, shall file a supplemental land use application, and their permit shall be subject to additional land use conditions at the discretion of the Planning Director.

C. **Location Requirements.**

1. **Off-Sale:** An off-sale liquor establishment shall be separated by a minimum of five hundred feet from all schools, religious facilities, public parks and playgrounds.
2. **On-Sale:** An on-sale liquor establishment shall be separated by a minimum of three hundred feet from all schools, religious facilities, public parks and playgrounds with the exception of Blue Anchor Park where no separation shall be required.

a. The Planning Commission may grant exemptions from the 300 foot separation requirement for on-site sales on a case by case basis, if the Planning Commission finds that granting the exemption would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity. In approving the exemption, the Planning Commission may impose reasonable conditions to ensure compliance with this finding.

b. The procedure for granting exemption shall be the same as in Section 13.64.070, but only approved by the Planning Commission.

3. The distance shall be measured between the nearest point of the grounds, in use as part of a school, religious facility, public park or playground, and the primary public entrance of the liquor establishment, along the shortest route intended and available for public passage.

D. Operating Standards. Each on- or off-sale liquor establishment shall comply with all of the following standards at all times.

1. **Complaints.** The owner shall designate him or herself, or one or more persons responsible for addressing complaints about operations and maintenance, and for responding to concerns of adjacent property owners and other members of the community. Each liquor establishment shall have a phone directory public telephone listing. Written notice of the designated person shall be on file with the town at all times.

2. **Consumption.** No alcoholic beverages shall be consumed on the premises of an off-sale liquor establishment that is not also an on-site liquor establishment.

3. **Employee Training.** All servers should, within ninety days of employment, complete an approved course in responsible beverage service training, including a review of pertinent state laws such as Alcoholic Beverage Control (ABC) and Penal Code provisions dealing with sale to minors; the effects of alcohol on people, including the impairment of driving skills; and methods of dealing with intoxicated customers and recognizing minors.

4. **Graffiti.** The owner or operator shall eliminate graffiti within seventy-two hours of notification by the town.

5. **Laws.** The establishment shall be maintained and operated in a manner that complies with all applicable laws, rules, and regulations.

6. **Noise.** Noise generated by the establishment shall not exceed sixty dBA at the property line if the abutting property is in a residential zoning district or occupied by a residential use, or sixty-five dBA at the property line if the abutting property is in a nonresidential zoning district or is occupied by a nonresidential use.

7. **Nuisance.** The establishment shall be maintained and operated in a manner that does not create or allow a public or private nuisance.

8. **Operation.** The establishment shall be maintained and operated in a manner that minimizes the congregation of individuals, loud noise, violence, on-site drunkenness, public urination, solicitation, loitering, and littering.

9. **Permit Posting.** A copy of the permit for alcohol sales shall be posted on the premises in a conspicuous place where it may be readily viewed by the public.

10. **Telephones.** Each public telephone located on an off-sale premises (or located in an adjacent area under the control of the off-sale licensee) shall be equipped with devices or mechanisms that prevent persons from calling into that public telephone, if requested by the chief of police.

11. **Trash.** Off-sale liquor establishments shall have litter and trash receptacles at convenient locations inside and outside the premises, and the operators shall remove trash and debris on a daily basis to an enclosed trash receptacle.

E. Conditions of Approval. In addition to ensuring compliance with the operating standards in subsection D, the director is assigned the discretion to impose conditions on permits for alcohol sales that are reasonably calculated to mitigate adverse land use impacts that may otherwise occur as a result of operating a particular liquor establishment.

F. Permit Issuance. The director shall either approve or disapprove a permit for alcohol sales within ten days the application for alcohol sales is deemed complete, and all other required permits by the town have been approved. The director or town staff shall inform the applicant as soon as possible of any information missing from the application. If the applicant has requested an exemption from the separation requirement pursuant to Subdivision C.2, the ten day period will begin following final action by the Planning Commission. If the Planning Commission's decision is appealed, the ten day period will begin following final action on the appeal by the Town Council.

G. Revocation. Except as otherwise provided by this section, a permit for alcohol sales may be revoked in the same manner as a use permit, for failure to comply with the standards in this section or any conditions of approval. As part of the revocation proceedings, the planning commission may issue a warning, suspend a permit for a specified amount of time, or permanently revoke the permit, based on the seriousness of the underlying misconduct and the applicant's apparent ability to operate the establishment in compliance with applicable standards and conditions in the future. The commission shall make written findings in support of its decision.

H. Appeal. The director's decision may be appealed to the planning commission within ten days of the decision. A planning commission decision may be appealed to the council in the same manner, and under the same circumstances, as an appeal of a decision to revoke a use permit. (Ord. 205 § 1 (Exh. A), 2003)

The Town Clerk shall cause this Ordinance to be published as required by law in the Loomis News, a newspaper of general circulation and posted within (15) days of the certification to be entered in the Book of Ordinances of the Town.

The foregoing Ordinance was introduced at a regular meeting of the Council of the Town of Loomis duly held on the 14th of November, 2017 and was approved and enacted at a duly held regular meeting or adjourned meeting of the Council held on December 12, 2017 by the following roll call vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Mayor

ATTEST:

Town Clerk