

ORDINANCE NO. NS-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA AMENDING CHAPTERS 11 AND 41 OF THE SANTA ANA MUNICIPAL CODE TO UPDATE THE CITY'S REGULATION OF ENTERTAINMENT AND ALCOHOL PERMITS AND APPLICATION STANDARDS.

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

- A. That the judicious regulation of the sale and service of alcohol is necessary to protect the public health, safety and welfare.
- B. That the City of Santa Ana seeks to be in compliance with the State of California's regulations for the sale and service of alcohol as contained in the Alcoholic Beverage Control Act (Business and Professions Code Section 23000-23047).
- C. That, after a thorough period of research and public involvement, the following standards have been developed in order to simplify the permitting process for alcohol sales conditional use permits, while maintaining those regulations necessary to provide for public health, safety and welfare.
- D. The Police Department is currently updating Chapter 11 to create regulations to encompass entertainment establishments. The Department recognizes that the unique entertainment venues within the City serve to provide a rich and diverse cultural experience for individuals and visitors to the City.
- E. With reduced revenues and the increased growth of nightlife in the city, the Police Department is seeking to support the emerging vibrant uses by developing a strong ordinance to mitigate any negative impacts associated with these venues, and to minimize calls for service while ensuring a reduced fiscal impact on the City.
- F. Police department data convincingly supports the premise that the City's entertainment establishments routinely generate a greater percentage of police-related calls and require a greater number of police service hours than establishments that do not provide entertainment.

- G. The proposed revisions will add operational standards, such as minimum lighting and security guards, while deleting outdated requirements, such as patron registration. The proposed revisions to Chapter 11 will address all live entertainment venues throughout the City and will rename the Dance Permit to the Entertainment Permit. The Entertainment Permit would require the permitting of any venue having live entertainment on a regular basis. The proposed revisions would establish five entertainment categories each specifying mandatory criteria and operational standards, such as requiring minimum police officer and security staffing, attendee identification scanning and a security plan.
- H. The changes to Chapter 11 will require all entertainment venues within the City that are currently conducting entertainment to obtain an Entertainment Permit. Existing uses will be given a one-year grace period in order to obtain the permit.
- I. The changes will create a consistent set of regulations for all entertainment venues within the City.
- J. The Request for Council Action for this ordinance dated July 15, 2013, shall by this reference be incorporated herein, and together with this ordinance, any amendments or supplements and the oral testimony before the City Council at this meeting, shall additionally constitute the necessary findings for this ordinance.
- K. All provisions of the Santa Ana Municipal Code which are repeated herein are repeated solely in order to comply with the provisions of Section 418 of the City Charter. Any such restatement of existing provisions of the Code is not intended, nor shall it be interpreted, as constituting a new action or decision of the City Council, but rather such provisions are repeated for tracking purposes only in conformance with the Charter.

Section 2. Pursuant to the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, the adoption of this ordinance is exempt from CEQA review pursuant to 14 California Code of Regulations section 15061(b)(3), and a Notice of Exemption will be filed upon adoption of this ordinance.

Section 3. Section 11-1 of Chapter 11 of the Santa Ana Municipal Code is amended to read in full as follows:

Chapter 11

ENTERTAINMENT

Sec. 11-1. Definitions.

For the purpose of this chapter the words and phrases herein defined shall be construed as having the following meanings:

After-hours is operation of an establishment with live entertainment between the hours of 12 midnight and 2 a.m. Live Entertainment will not be allowed between 2 a.m. and 6 a.m.

Ambient music is recorded music which is audible from a distance of no more than twenty (20) feet from any portion of the exterior of the premises and which is utilized to create ambience and is not intended to entertain.

Amplified music is electronically enhanced music which is audible from a distance of no more than twenty (20) feet from any portion of the exterior of the premises and which is intended to entertain.

Dance or Dancing is movement of the human body accompanied by music or rhythm.

Live entertainment includes, but is not limited to, musical performances (non-ambient, live or recorded), any act, play, revue, pantomime scene, dance act, DJ, Karaoke, strolling musician or any combination thereof, performed by one (1) or more persons whether or not they are compensated for the performance.

Private entertainment is entertainment which is limited to those persons individually invited, to which no admission charge is made, or entertainment conducted by a bona fide club, society or association, or organization incorporated for benevolent, charitable, dramatic, literary, recreational or entertainment purposes having an established membership, and which holds meetings other than such entertainment at regular stated intervals, and when the proceeds, if any, of such entertainment are used only for the purposes of such club, society, association or organization.

Section 4. Section 11-2 of Chapter 11 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 11-2. Private entertainment excepted.

The provisions of this chapter shall not apply to a private entertainment.

Section 5. Section 11-3 of Chapter 11 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 11-3. Permit--Required; application; investigation; exception.

(a) Temporary Live Entertainment. Every person desiring to conduct temporary live entertainment, not to exceed one (1) day, shall, ten (10) days prior to such temporary one (1) day live entertainment event, file an application for a land use certificate to do so on forms provided. No applicant may obtain more than six (6) temporary one (1) day live entertainment land use certificates in any one-year period. Any property where temporary live entertainment is provided must comply with all zoning and occupancy requirements and regulations applicable to that property. Temporary live entertainment shall be governed under the provisions for land use certificates, and are not subject to the provisions for entertainment permits under this section.

(b) Entertainment Permit. Every person wishing to provide live entertainment as defined in Section 11-1 Definitions, shall file an application with the City Manager, or designee, on forms provided at least sixty (60) days prior to the commencement of the offering of such entertainment.

(c) Such written application shall set forth the following facts:

(1) The name and residence of the applicant or applicants, and if the applicant is a corporation or partnership, the names and residences of the officers, partners or directors thereof, and if the applicant is an association, the names and residences of the officers thereof;

(2) The particular place for which the permit is desired;

(3) The days and time of entertainment activities to be held under the permit;

(4) A statement that the applicant is the licensee of record, sole party, or applicants are the sole party, either directly or indirectly interested in the entertainment for which a permit is sought, and that no other person is, or will be, in any manner interested, directly or indirectly, during the continuance of the permit;

(5) A statement of the ownership of the realty of the premises for which the permit is sought;

(6) The name of at least one responsible party on the premises, as well as a telephone number on the premises where such a person can be reached;

(7) Detailed description of all entertainment to be provided, including, but not limited to, amplified music, dancing, and any other similar live entertainment activities;

(d) The City Manager, or designee, shall investigate the persons applying for such permit, shall consider the items and standards for granting set out in section 11-6 and, in conformance therewith, shall determine which permit category applies pursuant to section 11-7, and then grant such permit if all of the conditions of approval

have been met. In the event that all of the conditions of approval have not been met, the City Manager, or designee, may deny the permit applied for, and shall forthwith notify the applicant of the action along with a statement identifying the reasons for the denial.

(e) No person, firm, partnership, corporation, company, or non-profit or charitable organization shall conduct any entertainment, without first making application for and obtaining a permit to do so, nor shall any person conduct the same during the time while a permit to do so is revoked.

(f) Any modifications or revisions to the live entertainment provided under an entertainment permit require City Manager, or designee, approval.

(g) An entertainment permit shall be valid for a period not to exceed one (1) year from date of issuance. Entertainment permits are not automatically renewed and it shall be the responsibility of the permit holder to file a new application for an entertainment permit at least forty-five (45) days prior to the previous permit's expiration.

(h) All establishments within the City that were conducting activities requiring permitting and regulated under this section whose activities existed prior to *[Ordinance Adoption Date]*, shall have a period of one (1) year from the date of the adoption of the revisions to apply for an entertainment permit. During such time any fees for the processing of the permit shall be waived.

(i) Any permit issued pursuant to the terms of this chapter is issued solely to the person or entity applying for the permit and is non-transferrable to any other person or entity.

(j) Any permit applicant aggrieved by the decision of the City Manager, or designee, to deny said permit may appeal as provided in Chapter 3 of the Santa Ana Municipal Code, except that the written notice of appeal must be filed with the clerk of the council and the City Manager, or designee, within ten (10) days of service of the written notice of the City Manager's, or designee's, decision.

Section 6. Section 11-4 of the Santa Ana Municipal Code is hereby deleted in its entirety:

Sec. 11-4. Reserved.

Section 7. Section 11-5 of the Santa Ana Municipal Code is hereby deleted in its entirety:

Sec. 11-5. Reserved.

Section 8. Section 11-6 of Chapter 11 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 11-6. Same--Issuance of permit.

The City Manager, or designee, shall issue an entertainment permit to an applicant who submits a completed entertainment permit application and has fulfilled all conditions of approval found in this chapter. No permit shall be issued if the applicant or any person interested in or having any control of any part of the management of the entertainment has been convicted of a felony. Any such conviction will justify the revocation of any existing permit.

Section 9. Section 11-7 of Chapter 11 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 11-7. Same--Operational standards.

All establishments with an entertainment permit shall comply with the following operational standards:

(a) *Category 1.* If the establishment has no amplified music, no dancing, and is not operating after-hours, as defined in this chapter, then no entertainment permit is required.

(b) *Category 2.* If the establishment has amplified music, but no dancing, and is not operating after-hours, as defined in this chapter, then an entertainment permit is required and the establishment shall comply with the following operational standards:

(1) The owner or manager of the entertainment venue shall maintain on the premises a written security plan approved by the Police Department. The Category 2 Security Plan shall consist of a policies and procedures manual that addresses the following items:

(A) Procedures for handling obviously intoxicated persons.

(B) The method for establishing a reasonable ratio of employees to patrons, based upon activity level, in order to ensure adequate staffing levels to monitor beverage sales and patron behavior.

(C) Procedures for handling patrons involved in fighting, arguing or loitering about the building, and/or in the immediate adjacent area that is owned, leased, rented or used under agreement by the Licensee(s).

(D) Procedures for verifying the age of patrons for purposes of alcohol sales.

(E) Procedures for ensuring that servers monitor patrons to ensure that their drinking limit/potential intoxication is not exceeded. This procedure should include a description of the procedure the server would use to warn, or refuse to serve, the patron.

(F) Procedures for calling the police regarding observed or reported criminal activity.

(G) Procedures for management of queuing lines.

(H) The location and description of any video games proposed to be on the premises.

(2) Any pool tables, amusement machines or video games maintained on the premises at any time must be reviewed and approved in the security plan. Any pool or billiard tables will be subject to the provisions of Santa Ana Municipal Code Chapter 29 – Pool and Billiards.

(3) Neither the responsible party for the permitted establishment, nor any person or entity operating the premises with the permission of the responsible party, shall violate the City's adult entertainment ordinance contained in Santa Ana Municipal Code section 12-1 and 12-2.

(4) The premises shall not be operated as an adult entertainment business as such term is defined in Santa Ana Municipal Code section 41-1701.6.

(5) Persons who appear obviously intoxicated shall not be admitted into the venue.

(6) Employees shall not consume any alcoholic beverages during their work shift, except for product sampling for purposes of employee education about new products. Under no circumstances may contract security personnel consume alcoholic beverages during their work shift.

(7) Music/noise shall not be audible beyond 20 feet from the exterior of the premises in any direction.

(8) There shall be no public telephones located on the exterior of the premises. All interior pay phones must be designed to allow outgoing calls only.

(9) Any graffiti painted or marked upon the premises or on any adjacent area under the control of the responsible party for the permitted establishment shall be removed or painted within 24 hours of being applied.

(10) It shall be the permitted establishment's obligation to ensure that California Penal Code section 602 - Trespassing is complied with at all times that the premises are in operation.

(11) The responsible party for the permitted establishment shall be responsible for maintaining free of litter the area adjacent to the premises under the control of the licensee.

(12) In no event shall the applicant allow the number of occupants to exceed the posted maximum occupancy.

(13) Existing venue and required parking must conform to the provisions of Chapter 8, Article II, Division 3 of the Santa Ana Municipal Code (Building Security Ordinance). These code conditions will require existing project lighting may require upgrading and new lighting must meet current code standards. Lighting standards cannot be located in required landscape planters where they may become obscured by the mature canopy growth of trees.

(14) Cash register(s) must be visible from the street at all times and shall not be obstructed at any time by temporary or permanent signage or other mitigation agreed upon with the Police Department.

(15) Window displays must be kept to a minimum for maximum visibility and shall not exceed 25 percent of window coverage.

(16) Window displays and racks must be kept to a maximum height of three feet including merchandise.

(17) A timed-access cash controller or drop safe must be installed or other mitigation measures agreed upon with the police department.

(18) Installation of a silent armed robbery alarm or other mitigation measures agreed upon with the police department.

(19) The permittee is ultimately responsible for all activity on the premises.

(20) The permit is non-transferable. The permit cannot be transferred to a new owner/operator, under a sublease or by a subcontractor.

(c) *Category 3.* If the establishment has amplified music and dancing, but is not operating after-hours, as defined in this chapter, then an entertainment permit is required and the establishment shall comply with all of the operational standards for Category 2 entertainment permits, as well as the following operational standards:

(1) The owner or manager of the entertainment venue shall maintain on the premises a written security plan approved by the Police Department. The Category 3 Security Plan shall consist of a policies and procedures manual containing all of the items required in the Category 2 Security Plan plus the following:

(A) A fully-dimensioned site plan showing:

- (i) The posting locations of any required security guards;
- (ii) The location of all emergency exits;
- (iii) The location of primary entrances and exits for patrons;
- (iv) The location and square footage of the alcohol storage area;
- (v) The dimensions and locations of the dance floor(s), stage(s) and fixed bar(s);
- (vi) The location of the designated queuing area including the location of any stanchions;
- (vii) The location of all cameras for the required Closed Circuit Television System (CCTV);
- (viii) Occupancy standards and approvals from the Building Department and Orange County Fire Authority;
- (ix) Additional items as required to be indicated as determined necessary by the City Manager, or designee.

(B) Procedures for counting the number of occupants entering and exiting the venue for purposes of enforcing established occupancy limits.

(2) Except in case of emergency, the responsible party for the permitted establishment shall not permit its patrons to enter or exit the licensed premises through any entrance/exit other than the primary entrance/exit, excluding entrances/exits from enclosed patio areas. Steps shall be taken by the responsible party for the permitted establishment to discourage unauthorized exiting.

(3) The Police Department will require uniformed, state-licensed security guards and/or Santa Ana police officers, at the owner's expense, to perform crowd control inside and outside of the establishment, based upon the type of activities anticipated at the location or based upon prior history of activity at this establishment or other similar businesses. These security guards will be deployed as per the agreed upon, Security Policies and Procedures Manual that has been approved by the Police Department. At a minimum and at all times, entertainment is being offered, the applicant shall employ a minimum of one (1) uniformed, state licensed security guard for every 100 persons in attendance per event, for keeping the peace. Mandated security officers will be required to use a radio frequency and communication equipment that is specified by the Police Department. Radios and communication equipment will be provided by the establishment at the establishment's cost. Guards will be required to provide escort service to patrons of the establishment if requested, insofar as the guard is not off the

premises for more than ten (10) minutes. Mandated security guards will be required to participate in mutual aid activities with the Police Department and other guard companies at the direction of the Police Department. This may include the adoption of mutual aid communications as well as attendance at information sharing meetings. It is the responsibility of the permittee to keep copies and associated records of all individuals acting as private security for the establishment, which illustrate their State-licensed certification. These copies/records shall be readily accessible and provided to Santa Ana Police personnel 24 hours a day upon request.

(4) An electronic incident log shall be maintained at the licensed premises on a continual basis with at least one year of entries and be readily available for inspection by a police officer. The log is for recording any physical altercations, injuries, and objectionable conditions that constitute a nuisance occurring in, on, or at the licensed premises, including the immediately adjacent area that is owned, leased, or rented by the licensee. The log will indicate date, time, description of incident, and action taken. "Objectionable conditions that constitute a nuisance" means disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking, excessive loud noise, etc.

(5) Contract security services, proprietary security personnel, or personnel assuming the functions typically associated with security shall be familiar with the establishment's written Police Department approved Security Policies and Procedures by reviewing them and signing that they have read and understood the policy. The signed acknowledgement shall be kept in a file relating to the security manual and shall be made available to the Police Department upon request.

(6) Security personnel required by the entertainment permit issued for the entertainment venue shall be in a uniform or clothing, which is readily identifiable as a security person. Security uniform standards will be included in the Security Policy and Procedures Manual and will not be the same colors as the Police Department's. They shall maintain order and enforce the establishment's no loitering policy, and shall take "reasonable steps" (as that term is defined in subparagraph (3) of Section 24200 of the California Business and Professions Code) to correct objectionable conditions that constitute a nuisance.

(7) If there is an increase of 25% in the number of police-related incidents on or near the premises, the permittee shall increase the number of uniformed, state-licensed security guards to a total number of guards as determined by the Chief of the Police Department.

(8) In addition to the above number of state-licensed uniformed security guards, the applicant shall provide a minimum of one state-licensed uniformed security guard to ensure patron safety when going to and from the required parking for the venue whether on-site or off-site. Said guard is specifically assigned to this function until all activity on the premises has ceased and patrons have cleared the parking area.

(9) For any concert/live entertainment event where attendance exceeds 400 persons, it shall be the Permittee's responsibility to pay for a minimum of two uniformed Santa Ana police officers to work the event and ensure public safety. If the proposed event is deemed to have special circumstances by the Police Department, the Chief of Police or his authorized representative may increase the number of required police officers to ensure public safety. The officer costs shall be the Permittee's responsibility to include, at a minimum one-half hour prior to, during, and one-half hour after the time the event is scheduled to end or until all patrons have left the premises and parking areas. Law enforcement presence is required at a minimum of four hours for each officer assigned to the venue.

(10) The permittee will be responsible for verifying the age of those wishing to purchase and/or consume alcoholic beverages in order to ensure that the business is in compliance with State law restricting the age of the sales and consumption of alcohol to those twenty-one (21) years of age and older. This verification process may include such techniques as, the manual checking of identification by a trained employee, the use of an identification scanner or similar device, or other method as approved in the security plan. This condition is not intended to be used as a means to discriminate against patrons based on race, ethnicity or legal status.

(11) The owner/operator shall provide a Closed Circuit Television System approved by the Police Department and capable of viewing and recording events on the property and inside the premises with a resolution that will clearly identify individuals for later identification. This system will be clearly identified within the agreed upon Security Policy and Procedures manual. Camera system components shall include:

(A) A minimum of one color camera at each police department specified location.

(B) A color camera recorder or digital system capable of recording events on all cameras simultaneously.

(C) Provide an IP-based system.

(12) The permittee shall submit a monthly activity schedule to the Police Department. The schedule must include a brief synopsis of the type of venue, hours of the venue, artist(s) names and expected attendance. The submission must be via e-mail and must be received 30 days prior. Updates to the proposed schedule must be sent immediately.

(13) A ticket manifest for an event shall be provided, on demand, to an authorized Police Department representative, if requested. The ticket manifest must clearly outline the total number of tickets sold for said event. It is generally understood that the industry standard is to utilize an electronic ticketing system. Authorization by the Police Department to access this online electronic system is the preferred method.

(14) Queuing lines shall be managed in an orderly manner and all disruptive and intoxicated patrons shall be denied entry. The business owner or his

designate shall be responsible for monitoring and managing the queuing lines at all times. Food or alcohol may not be served to patrons waiting to enter the establishment.

(15) The outdoor queuing line shall not block public walkways or obstruct the entry or exit doors of adjacent businesses and residences. Stanchions or barriers must be used to maintain order at all times the queue exceeds 25 patrons. Placement of stanchions and barriers must receive Public Works Agency approval.

(16) Controls shall be established to maintain occupancy levels allowed by the Orange County Fire Authority and these Fire Department approved levels will not be exceeded. Methods of controlling occupancy can include, but not limited to the following: Counters used to count the number of occupants entering and exiting the location, which are available for inspection by OCFA or the police department.

(17) The permitted establishment shall at all times comply with Santa Ana Municipal Code sections 10-181 through 10-187 regarding curfews for minors.

(d) *Category 4.* If the establishment has amplified music, dancing, and is operating after-hours, as defined in this chapter, then an entertainment permit is required and the establishment shall comply with all of the operational standards for Category 2 and Category 3, as well as the following operational standards:

(1) The owner or manager of the entertainment venue shall maintain on the premises a written security plan approved by the Police Department. The Category 4 Security Plan shall consist of a policies and procedures manual containing all of the items required in the Category 2 and Category 3 Security Plans plus the following:

(A) Procedures for the provision of alternate transportation services to patrons. This may include procedures for access to a telephone, the provision of a list of taxi services, or other service that will ensure the safe travel of any patron, particularly those who are intoxicated, in leaving the establishment.

Section 10. Section 11-8 of Chapter 11 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 11-8. Indemnification.

Anyone possessing an entertainment permit shall indemnify and hold the City harmless from any and all losses, claims, actions or damages suffered by any person or persons by reason of or resulting from any negligence of the permittee or its agents, employees, or patrons or on account of any act or omission of the permittee in its exercise of its permit or use or occupancy of any premises in connection with such permit. In the event any suit or action is brought against the City, the permittee shall, upon notice of the commencement thereof, defend the same, at no cost and expense to the City, and promptly satisfy any final judgment adverse to the City or to the City and the permittee jointly; provided, that in the event the City determines that one (1) or more principles of

governmental or public law are involved, the City retains the right to participate in such action. The above liability shall not be diminished by the fact, if it be a fact, that any such death, injury, damage, loss, cost or expense may have been, or may be alleged to have been, contributed to by the negligence of the City or its officers, employees or agents; provided, however, that nothing contained in this section shall be construed as requiring the permittee to indemnify the City against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City, or its officers, employees or agents.

Section 11. Section 11-9 of the Santa Ana Municipal Code is hereby deleted in its entirety:

Sec. 11-9. Reserved.

Section 12. Section 11-10 of the Santa Ana Municipal Code is hereby deleted in its entirety:

Sec. 11-10. Reserved.

Section 13. Section 11-11 of Chapter 11 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 11-11. Entertainment prohibition; hours.

No person shall allow, conduct or permit on any premises within the city open to the public any entertainment activities between the hours of 2 a.m. and 6 a.m. during any day of the week.

Section 14. Section 11-12 of Chapter 11 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 11-12. Entertainment Permit Fee Schedule Adoption

The City shall adopt and amend, from time to time, a schedule of fees as described in this Article by Resolution.

Section 15. Section 11-13 of Chapter 11 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 11-13. Penalties and Revocation

(a) Any establishment obtaining an entertainment permit shall be subject to a penalty in the event that the business is in violation of any of the conditions of approval outlined in this chapter.

(b) This penalty shall consist of:

(1) a written warning upon the first violation, which shall cite the specific condition(s) of approval that were violated;

(2) the payment of a fine upon the second violation;

(3) the payment of an increased fine upon the third violation;

(4) the setting of an administrative revocation hearing, pursuant to the procedures established in Chapter 3 of the Santa Ana Municipal Code, for the fourth violation.

(c) In the event of a revocation, the permittee may apply for reissuance of the permit after six (6) months from the date of revocation. Until such time as the permit may be reinstated, all entertainment on the premises must cease.

Section 16. The title of Chapter 12 of the Santa Ana Municipal Code is amended to read in full as follows:

Chapter 12

ADULT ENTERTAINMENT

Section 17. Section 41-25.5 of Chapter 41 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 41-25.5. Bar.

A commercial establishment whose primary use is the sale and service of alcoholic beverages for consumption on the premises, with or without food service, from which minors are excluded by law and which requires a “public premises”-type license issued by the California Department of Alcoholic Beverage Control.

Section 18. Section 41-44.5 of Chapter 41 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 41-44.5. Concert Venue.

A commercial establishment of 11,000 square feet or larger where people go to primarily listen to and observe various forms of live concerts or entertainment, which includes dancing or other form of personal interaction with the performance.

Section 19. Section 41-57 of Chapter 41 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 41-57. Eating Establishment.

A commercial establishment whose primary use is the sale and service of meals on-site to guests and which has suitable kitchen facilities containing the necessary appliances required for cooking unpackaged foods, and which complies with all of the requirements of the local department of health and the California Department of Alcoholic Beverage Control for a bona fide public eating place pursuant to the Section 23038 of the California Business and Professions Code.

Section 20. Section 41-101.2 of Chapter 41 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 41-101.2. Live Entertainment.

Includes, but is not limited to, musical performances (non-ambient (as defined in section 11-1), live or recorded), any act, play, revue, pantomime scene, dance act, DJ, Karaoke, strolling musician or any combination thereof, performed by one (1) or more persons whether or not they are compensated for the performance.

Section 21. Section 41-128 of Chapter 41 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 41-128. Off-Sale Establishment.

Those establishments licensed by the California Department of Alcoholic Beverage Control to sell alcohol for consumption away from the premises (e.g., liquor stores, convenience stores, grocery stores).

Section 22. Section 41-129 of Chapter 41 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 41-129. On-Sale Establishment.

Those establishments that qualify as bona fide eating establishments and that are licensed by the California Department of Alcoholic Beverage Control to sell alcohol for consumption on the premises.

Section 23. Section 41-138.5 of Chapter 41 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 41-138.5. Public Premise.

An establishment licensed by the California Department of Alcoholic Beverage Control to sell and serve alcohol pursuant to Section 23039 of the California Business and Professions Code.

Section 24. Section 41-150.8 of Chapter 41 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 41-150.8. Separation Requirement.

The prescribed distance between a regulated use, conditionally permitted use, or any other use specifying a separation requirement, and the sensitive use(s) near which it is located. For purposes of variances or minor exceptions as addressed in Sec. 41-632, a separation requirement will not be considered a development standard and will not be subject to waiver or modification.

Section 25. Section 41-132 of the Santa Ana Municipal Code is hereby deleted in its entirety:

Sec. 41-132. Reserved.

Section 26. Section 41-191 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-191. Regulated uses.

(a) Purpose. It is recognized that there are some uses which, because of their very nature, are considered as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, by having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood by a concentration of these uses in any one (1) area.

- (b) Uses subject to regulation:
- (1) Adult bookstore as defined in section 41-12.1.
 - (2) Adult entertainment businesses as defined in section 41-12.2.
 - (3) Adult theaters as defined in section 41-12.4.
 - (4) Adult entertainment businesses as defined in section 41-1701.6.
 - (5) Bars as defined in section 41-25.5.
 - (6) Figure model studios as defined in section 12-120.
 - (7) Massage establishments as defined in section 22-1.
 - (8) Peep show establishments as defined in section 12-22.
 - (9) Adult motels as defined in section 41-12.3.

(c) It shall be unlawful to hereafter establish any of the uses referred to in subsection (b) within the separation requirement of one thousand (1,000) feet of any other such regulated use.

(d) None of the uses referred to in subsection (b) may be established within the separation requirement of one thousand (1,000) feet of any property zoned or used for residential, church, school primarily attended by minors, or park purposes.

Section 27. Section 41-195.5(g) of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-195.5. Temporary Outdoor Activities.

(g) Temporary outdoor activities where alcohol sale or and/or consumption is allowed.

(1) All cooking: equipment (grills, barbecues, etc.) must be turned off one-half (1/2) hour before the activity closure each evening.

(2) The sale, service and consumption of alcohol shall occur only within a fenced-in area. This area shall be designated with appropriate signage identifying it as such and shall be approved by the police department.

(3) The applicant shall ensure that security personnel are on duty at all times and monitoring the fenced-in area designated for the sale, service and consumption of alcohol. Security personnel shall prevent people from carrying alcoholic beverages outside the designated area noted in 41-195.5(g)(2).

(4) Advertising which indicates the availability of alcoholic beverages shall be posted at the point of beverage dispensing only.

(5) Alcoholic beverages shall be served in distinctive cups, which are different from those used for non-alcoholic beverages.

(6) No more than two (2) cups containing alcoholic beverages may be sold to a customer at a time. All alcoholic beverages shall be sold in paper or plastic cups and not in their original glass or metal containers.

(7) The server is prohibited from selling alcoholic beverages to an obviously intoxicated person.

(8) The server is prohibited from consuming alcoholic beverages.

(9) The sale, service and consumption of alcoholic beverages shall cease one (1) hour prior the end of the activity.

Section 28. Section 41-196 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-196. Establishments selling alcoholic beverages.

(a) Conditional Use Permit required. Except as provided in subsection (b), no establishment may sell alcoholic beverages for either on-site or off-site consumption unless a conditional use permit has been approved for such establishment pursuant to Article V of this chapter. Prior to the public hearing for the approval of said conditional use permit, the establishment must be in compliance with all provisions of Chapter 41.

(b) Land use certificates for incidental alcohol sales. A land use certificate may be issued pursuant to the requirements of Section 41-675 for an establishment which serves alcoholic beverages for either on-site or off-site consumption only if the establishment falls within one (1) of the following categories:

(1) Club or lodge establishments where admittance is limited to members and guests invited by members and where the sale of alcoholic beverages is clearly incidental to other activities conducted on the premises.

(2) Florists shops offering the sale of a bottle of an alcoholic beverage together with a floral arrangement.

(c) Alcohol storage and display area for off-sale establishments. No off-sale establishment under 10,000 square feet shall have a combined alcohol storage and display area that exceeds five percent (5%) of the gross floor area of the store area.

(d) Separation requirement for off-sale establishments under 10,000 square feet. No off-sale establishment may be granted a conditional use permit for the sale of alcoholic beverages if any of the following conditions apply:

(1) The proposed establishment is within one thousand (1,000) linear feet of an existing off-sale alcohol license as measured from the primary entrance of one establishment to the primary entrance of the other establishment.

(2) The proposed establishment is within one thousand (1,000) linear feet of any property used as a school primarily attended by minors, for a church or for park purposes as measured from the door of one establishment to the door of the other use(s).

(3) The proposed establishment is determined to be overconcentrated by the state department of alcohol beverage control as defined in Business and Professions Code section 23958.4.

(e) Finding of public convenience or necessity for off-sale establishments under 10,000 square feet located within an area of undue concentration. If the proposed off-sale establishment is located within an area deemed to have an undue concentration of off-sale alcohol licenses pursuant to the State Department of Alcoholic Beverage Control, the City may, at its discretion, prepare a Letter of Public Convenience or Necessity to allow the alcohol license pursuant to the process contained in Section 41-645.5. However, the conditions in subsections (2) and (3) may not be waived.

(f) Operational standards for off-sale establishments. The following operational standards shall be included in the conditions of approval for the conditional use permit required pursuant to Section 41-196:

(1) No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.

(2) The applicant shall be responsible for maintaining free of litter the area adjacent to the premises over which he has control.

(3) There shall be no exterior advertising of any kind or type, including window signs or other signs visible from outside, promoting or indicating the availability of alcoholic beverages on the premises.

(4) There shall be no coin-operated games maintained on the premises at any time.

- (5) All public telephones shall be located on the interior of the premises.
- (6) Any graffiti painted or marked upon the premises or on any adjacent area under the control of the applicant shall be removed or painted over within 24 hours of being applied.
- (7) The applicant shall post a placard prohibiting loitering, pursuant to California Penal Code (“CPC”) section 602, on the exterior of the premises.
- (8) It shall be the applicant’s responsibility to ensure that CPC section 602 is complied with at all times that the premises are in operation.
- (9) The applicant shall at all times utilize an age verification device for all purchases of alcoholic beverages.
- (10) The owner or manager of the licensed premises shall maintain on the premises a written security policy and procedures manual, that has been approved by the police department, addressing at a minimum the following items; handling obviously intoxicated persons; establishing a reasonable ratio of employees to patrons, based upon activity level, in order to monitor beverage sales and patron behavior; handling patrons involved in fighting, arguing or loitering about the building and in the immediate adjacent area that is owned, leased, rented or used under agreement by the Licensee(s); verifying age/checking identification of patrons; calling the police regarding observed or reported criminal activity.
- (11) If there is a marked or noticeable increase in the number of police-related incidents on or near the premises, as such increase may be determined by the Chief of Police, the applicant may be required to provide state-licensed, uniformed security guards at a number determined by the Chief of Police.
- (12) All managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The California Department of Alcoholic Beverage Control must approve said training program. Records of each employee’s successful completion of the certified training program required by this section shall be maintained on the premises of the alcoholic beverage outlet and shall be presented upon request by a representative of the City of Santa Ana.
- (13) Alcoholic beverages in containers of less than 16 oz. cannot be sold by single containers, but must be sold in pre-packaged multi-unit quantities.
- (14) The sales of alcoholic beverages shall be permitted only between the hours of 7:00 a.m. and 12:00/midnight each day of the week unless otherwise modified by the granting of an after-hours Conditional Use Permit.
- (15) Existing building and required parking must conform to the provisions of Chapter 8, Article II, Division 3 of the Santa Ana Municipal Code (Building Security Ordinance). These code conditions will require that the existing project lighting, door/window locking devices

and addressing be upgraded to current code standards. Lighting standards cannot be located in required landscape planters.

(16) Cash register must be visible from the street at all times and shall not be obstructed at any time by temporary or permanent signage.

(17) Window displays must be kept to a minimum for maximum visibility and shall not exceed 25 percent of window coverage.

(18) Window displays and racks must be kept to a maximum height of three feet including merchandise.

(19) A timed-access cash controller or drop safe must be installed.

(20) A silent armed robbery alarm must be installed and operable at all times.

(21) Clearly distinguishable height markers shall be installed on the inside door jamb of all doors used by the public to access the store. Horizontal marks, one-inch wide by three inch long, in different colors, and in a contrasting color to the background, shall be placed every six inches beginning at 5' and ending at 6'6".

(22) No person under the age of 21 shall sell or deliver alcoholic beverages.

(23) Provide a Closed Circuit Television System approved by the Police Department and capable of viewing and recording events inside and outside the premises including the parking areas with a resolution which will clearly identify individuals for later identification as follows:

(a) A minimum of one color camera at each cash register that views the front of a customer, from the waist to the top of the head.

(b) A minimum of one color camera that views the full length side of a customer at the cash register area.

(c) A color camera recorder capable of recording events on all cameras simultaneously.

(d) A tape or disc storage library of recorded cameras kept for a minimum of 60 days.

(e) If video tape is used, tapes cannot be taped over more than six times.

(f) An audio recording component that will record sounds occurring at the customer counter.

(g) An Internet Protocol (IP)-based system is required.

(24) It shall be the operator's responsibility to submit a shopping cart containment plan pursuant to SAMC Section 33.210.

(25) The operator shall be responsible for obtaining all necessary permits for building tenant and freestanding signs. This shall include any window signs and temporary banners.

(g) Operational standards for on-sale establishments. The following operational standards shall be included in the conditions of approval for the conditional use permit required pursuant to Section 41-196 (a).

(1) The premises shall at all times be maintained as a bona-fide eating establishment as defined in Section 23038 of the California Business and Professions code and shall provide a menu containing an assortment of foods normally offered. The premises must have suitable kitchen facilities and supply an assortment of foods commonly ordered at various hours of the day. Full and complete meals must be served whenever the privileges of the on-sale license are being exercised.

(2) There shall be no fixed bar or lounge area upon the premises maintained for the sole purpose of sales, service or consumption of alcoholic beverages directly to patrons. A fixed bar or lounge may be permitted if patrons may order food being offered to the general patrons of the eating establishment.

(3) The sales, service, and consumption of alcoholic beverages shall be permitted only between the hours of 8:00 a.m. and 12:00 a.m. unless otherwise amended by the granting of a conditional use permit for after-hours operations pursuant to Santa Ana Municipal Code Chapter 41.

(4) It shall be the applicant's responsibility to ensure that no alcoholic beverages are consumed on any property adjacent to the licensed premises under the control of the applicant, with the exception of any enclosed patio areas.

(5) The applicant or an employee of the licensee must be present to monitor all areas of the establishment, including outdoor patios, during all times that alcoholic beverages are being served or consumed.

(6) All employees serving alcoholic beverages must complete Responsible Beverage Service Training, or an equivalent approved by the State Department of Alcoholic Beverage Control, prior to being able to serve alcoholic beverages to patrons. Evidence of the completion of such training must be maintained on the premises and available for inspection upon request by the City.

(7) During those times when patrons are restricted to 21 years of age or older, the applicant shall at all times utilize an age verification means or device for all purchases of alcoholic beverages. Such verification of age is not intended to discriminate against patrons based on race, ethnicity or legal status, but only to comply with state law restricting the sale of alcohol to those 21 and older.

(8) Queuing lines shall be managed in an orderly manner and all disruptive and/or intoxicated patrons shall be denied entry. The business owner, or his designee, shall be responsible for monitoring the queuing lines at all times.

(9) The outdoor queuing line shall not block public walkways or obstruct the entry or exit doors of adjacent businesses. Stanchions or barriers must be used to maintain order at all times the queue exceeds 25 patrons. All stanchions or barriers located on public property must be approved by the Public Works Agency.

(10) Employees and contract security personnel shall not consume any alcoholic beverages during their work shift, except for product sampling for purposes of employee education about new products. Under no circumstances may contract security personnel consume alcoholic beverages during their work shift.

(11) There shall be no exterior advertising of any kind or type, including window signs or other signs visible from outside, that promote or indicate the availability of alcoholic beverages on the premises. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition. Permissible window displays must be kept to a minimum for maximum visibility and shall not exceed 25 percent of window coverage. Floor displays shall not exceed three feet in height.

(12) There shall be no promotions encouraging intoxication or drinking contests or advertisements indicating “buy one drink, get one free”, “two for the price of one”, or “all you can drink for...” or similar language.

(13) Any pool tables, amusement machines or video games maintained on the premises at any time must be reviewed and approved in a security plan submitted to the Chief of Police.

(14) Live Entertainment, including but not limited to, amplified music, karaoke, performers and dancing, shall be subject to the issuance of an entertainment permit pursuant to Santa Ana Municipal Code (“SAMC”) Chapter 11 – Entertainment, and shall comply with all of the standards contained therein. Notwithstanding this requirement, music/noise shall not be audible beyond 20 feet from the exterior of the premises in any direction.

(15) Neither the applicant, nor any person or entity operating the premises with the permission of the applicant, shall violate the City’s adult entertainment ordinance contained in SAMC Section 12-1 and 12-2.

(16) The premises shall not be operated as an adult entertainment business as such term is defined in SAMC Section 41-1701.6.

(17) The applicant(s) shall be responsible for maintaining free of litter the area adjacent to the premises under the control of the licensee.

(18) There shall be no public telephones located on the exterior of the premises. All interior pay phones must be designed to allow outgoing calls only.

(19) Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted within 24 hours of being applied.

(20) Existing bona fide eating establishment and required parking must conform to the provisions of Chapter 8, Article II, Division 3 of the Santa Ana Municipal Code (Building Security Ordinance). These code conditions will require that the existing project lighting, door/window locking devices and addressing be upgraded to current code standards. Lighting standards cannot be located in required landscape planters. Prior to issuance of Letter of Approval to the Alcohol Beverage Control Board, this condition must be complied with.

(21) A timed-access cash controller or drop safe must be installed.

(22) Install a silent armed robbery alarm.

(23) The owner or manager of the licensed premises shall maintain on the premises a written security policy and procedures manual, that has been approved by the Police Department, addressing at a minimum the following items:

(A) Procedures for handling obviously intoxicated persons.

(B) The method for establishing a reasonable ratio of employees to patrons, based upon activity level, in order to ensure adequate staffing levels to monitor beverage sales and patron behavior.

(C) Procedures for handling patrons involved in fighting, arguing or loitering about the building, and/or in the immediate adjacent area that is owned, leased, rented or used under agreement by the Licensee(s).

(D) Procedures for verifying the age of patrons for purposes of alcohol sales.

(E) Procedures for ensuring that servers monitor patrons to ensure that their drinking limit/potential intoxication is not exceeded. This procedure should include a description of the procedure the server would use to warn, or refuse to serve, the patron.

(F) Procedures for calling the police regarding observed or reported criminal activity.

(G) Procedures for management of queuing lines.

(H) The location and description of any video games proposed to be on the premises.

(24) The operator shall be responsible for submitting a detailed outdoor fencing and dining plan where outdoor dining is proposed as part of the business operation. If the proposed dining area or fencing is in the public right of way, the applicant must obtain all required permits and approvals from the Public Works Agency.

(25) Combined alcohol storage and display areas shall not exceed five percent (5%) of the gross floor area of the licensed establishment.

Section 29. Section 41-196.2 of Chapter 41 of the Santa Ana Municipal Code is hereby added to read in full as follows:

Sec. 41-196.2. Concert venues.

(a) Conditional Use Permit required. No concert venue, as defined in Section 41-44.5, may operate as a commercial use unless a conditional use permit has been approved for such establishment pursuant to Article V of this chapter. Prior to the public hearing for the approval of said conditional use permit, the establishment must be in compliance with all provisions of Chapter 41.

(b) Operational standards for concert venues. The following operational standards shall be included in the conditions of approval for the conditional use permit required pursuant to Section 41-196.2:

(1) The owner or manager of the licensed premises shall maintain on the premises a written security policy and procedures manual, that has been approved by the Police Department, addressing at a minimum the following items:

(A) Procedures for handling obviously intoxicated persons.

(B) The method for establishing a reasonable ratio of employees to patrons, based upon activity level, in order to ensure adequate staffing levels to monitor beverage sales and patron behavior.

(C) Procedures for handling patrons involved in fighting, arguing or loitering about the building, and/or in the immediate adjacent area that is owned, leased, rented or used under agreement by the Licensee(s).

(D) Procedures for verifying the age of patrons for purposes of alcohol sales.

(E) Procedures for ensuring that servers monitor patrons to ensure that their drinking limit/potential intoxication is not exceeded. This procedure should include a description of the procedure the server would use to warn, or refuse to serve, the patron.

(F) Procedures for calling the police regarding observed or reported criminal activity.

(G) Procedures for management of queuing lines.

(H) The location and description of any video games proposed to be on the premises.

(I) A fully-dimensioned site plan showing:
(i) The posting locations of any required security guards;
(ii) The location of all emergency exits;
(iii) The location of primary entrances and exits for patrons;
(iv) The location and square footage of the alcohol storage area;
(v) The dimensions and locations of the dance floor(s), stage(s) and fixed bar(s);
(vi) The location of the designated queuing area including the location of any stanchions;
(vii) The location of all cameras for the required Closed Circuit Television System (CCTV);
(viii) Occupancy standards and approvals from the Building Department and Orange County Fire Authority;
(ix) Additional items as required to be indicated as determined necessary by the City Manager, or designee.

(J) Procedures for counting the number of occupants entering and exiting the venue for purposes of enforcing established occupancy limits.

(K) Procedures for the provision of alternate transportation services to patrons. This may include procedures for access to a telephone, the provision of a list of taxi services, or other service that will ensure the safe travel of any patron, particularly those who are intoxicated, in leaving the establishment.

(L) Procedures for requiring the use of wristbands to indicate patrons' ages to identify those who are 21 years of age and older.

(2) Any pool tables, amusement machines or video games maintained on the premises at any time must be reviewed and approved in the security plan. Any pool or billiard tables will be subject to the provisions of Santa Ana Municipal Code Chapter 29 – Pool and Billiards.

(3) Neither the responsible party for the permitted establishment, nor any person or entity operating the premises with the permission of the responsible party, shall violate the City's adult entertainment ordinance contained in Santa Ana Municipal Code section 12-1 and 12-2.

(4) The premises shall not be operated as an adult entertainment business as such term is defined in Santa Ana Municipal Code section 41-1701.6.

(5) Persons who appear obviously intoxicated shall not be admitted into the venue.

(6) Employees shall not consume any alcoholic beverages during their work shift, except for product sampling for purposes of employee education about new products. Under no circumstances may contract security personnel consume alcoholic beverages during their work shift.

(7) Music/noise shall not be audible beyond 20 feet from the exterior of the premises in any direction.

(8) There shall be no public telephones located on the exterior of the premises. All interior pay phones must be designed to allow outgoing calls only.

(9) Any graffiti painted or marked upon the premises or on any adjacent area under the control of the responsible party for the permitted establishment shall be removed or painted within 24 hours of being applied.

(10) It shall be the permitted establishment's obligation to ensure that California Penal Code section 602 - Trespassing is complied with at all times that the premises are in operation.

(11) The responsible party for the permitted establishment shall be responsible for maintaining free of litter the area adjacent to the premises under the control of the licensee.

(12) In no event shall the applicant allow the number of occupants to exceed the posted maximum occupancy.

(13) Existing venue and required parking must conform to the provisions of Chapter 8, Article II, Division 3 of the Santa Ana Municipal Code (Building Security Ordinance). These code conditions will require existing project lighting may require upgrading and new lighting must meet current code standards. Lighting standards

cannot be located in required landscape planters where they may become obscured by the mature canopy growth of trees.

(14) Cash register(s) must be visible from the street at all times and shall not be obstructed at any time by temporary or permanent signage or other mitigation agreed upon with the Police Department.

(15) Window displays must be kept to a minimum for maximum visibility and shall not exceed 25 percent of window coverage.

(16) Window displays and racks must be kept to a maximum height of three feet including merchandise.

(17) A timed-access cash controller or drop safe must be installed or other mitigation measures agreed upon with the police department.

(18) Installation of a silent armed robbery alarm or other mitigation measures agreed upon with the police department.

(19) The permittee is ultimately responsible for all activity on the premises.

(20) The permit is non-transferable. The permit cannot be transferred to a new owner/operator, under a sublease or by a subcontractor.

(21) Except in case of emergency, the responsible party for the permitted establishment shall not permit its patrons to enter or exit the licensed premises through any entrance/exit other than the primary entrance/exit, excluding entrances/exits from enclosed patio areas. Steps shall be taken by the responsible party for the permitted establishment to discourage unauthorized exiting.

(22) The Police Department will require uniformed, state-licensed security guards and/or Santa Ana police officers, at the owner's expense, to perform crowd control inside and outside of the establishment, based upon the type of activities anticipated at the location or based upon prior history of activity at this establishment or other similar businesses. These security guards will be deployed as per the agreed upon, Security Policies and Procedures Manual that has been approved by the Police Department. At a minimum and at all times, entertainment is being offered, the applicant shall employ a minimum of one (1) uniformed, state licensed security guard for every 100 persons in attendance per event, for keeping the peace. Mandated security officers will be required to use a radio frequency and communication equipment that is specified by the Police Department. Radios and communication equipment will be provided by the establishment at the establishment's cost. Guards will be required to provide escort service to patrons of the establishment if requested, insofar as the guard is not off the premises for more than ten (10) minutes. Mandated security guards will be required to participate in mutual aid activities with the Police Department and other guard companies

at the direction of the Police Department. This may include the adoption of mutual aid communications as well as attendance at information sharing meetings. It is the responsibility of the permittee to keep copies and associated records of all individuals acting as private security for the establishment, which illustrate their State-licensed certification. These copies/records shall be readily accessible and provided to Santa Ana Police personnel 24 hours a day upon request.

(23) An electronic incident log shall be maintained at the licensed premises on a continual basis with at least one year of entries and be readily available for inspection by a police officer. The log is for recording any physical altercations, injuries, and objectionable conditions that constitute a nuisance occurring in, on, or at the licensed premises, including the immediately adjacent area that is owned, leased, or rented by the licensee. The log will indicate date, time, description of incident, and action taken. "Objectionable conditions that constitute a nuisance" means disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking, excessive loud noise, etc.

(24) Contract security services, proprietary security personnel, or personnel assuming the functions typically associated with security shall be familiar with the establishment's written Police Department approved Security Policies and Procedures by reviewing them and signing that they have read and understood the policy. The signed acknowledgement shall be kept in a file relating to the security manual and shall be made available to the Police Department upon request.

(25) Security personnel required by the entertainment permit issued for the entertainment venue shall be in a uniform or clothing, which is readily identifiable as a security person. Security uniform standards will be included in the Security Policy and Procedures Manual and will not be the same colors as the Police Department's. They shall maintain order and enforce the establishment's no loitering policy, and shall take "reasonable steps" (as that term is defined in subparagraph (3) of Section 24200 of the California Business and Professions Code) to correct objectionable conditions that constitute a nuisance.

(26) If there is an increase of 25% in the number of police-related incidents on or near the premises, the permittee shall increase the number of uniformed, state-licensed security guards to a total number of guards as determined by the Chief of the Police Department.

(27) In addition to the above number of state-licensed uniformed security guards, the applicant shall provide a minimum of one state-licensed uniformed security guard to ensure patron safety when going to and from the required parking for the venue whether on-site or off-site. Said guard is specifically assigned to this function until all activity on the premises has ceased and patrons have cleared the parking area.

(28) For any concert/live entertainment event where attendance exceeds 400 persons, it shall be the Permittee's responsibility to pay for a minimum of two

uniformed Santa Ana police officers to work the event and ensure public safety. If the proposed event is deemed to have special circumstances by the Police Department, the Chief of Police or his authorized representative may increase the number of required police officers to ensure public safety. The officer costs shall be the Permittee's responsibility to include, at a minimum one-half hour prior to, during, and one-half hour after the time the event is scheduled to end or until all patrons have left the premises and parking areas. Law enforcement presence is required at a minimum of four hours for each officer assigned to the venue.

(29) The permittee will be responsible for verifying the age of those wishing to purchase and/or consume alcoholic beverages in order to ensure that the business is in compliance with State law restricting the age of the sales and consumption of alcohol to those twenty-one (21) years of age and older. This verification process may include such techniques as, the manual checking of identification by a trained employee, the use of an identification scanner or similar device, or other method as approved in the security plan. This condition is not intended to be used as a means to discriminate against patrons based on race, ethnicity or legal status.

(30) The owner/operator shall provide a Closed Circuit Television System approved by the Police Department and capable of viewing and recording events on the property and inside the premises with a resolution that will clearly identify individuals for later identification. This system will be clearly identified within the agreed upon Security Policy and Procedures manual. Camera system components shall include:

(A) A minimum of one color camera at each police department specified location.

(B) A color camera recorder or digital system capable of recording events on all cameras simultaneously.

(C) Provide an IP-based system.

(31) The permittee shall submit a monthly activity schedule to the Police Department. The schedule must include a brief synopsis of the type of venue, hours of the venue, artist(s) names and expected attendance. The submission must be via e-mail and must be received 30 days prior. Updates to the proposed schedule must be sent immediately.

(32) A ticket manifest for an event shall be provided, on demand, to an authorized Police Department representative, if requested. The ticket manifest must clearly outline the total number of tickets sold for said event. It is generally understood that the industry standard is to utilize an electronic ticketing system. Authorization by the Police Department to access this online electronic system is the preferred method.

(33) Queuing lines shall be managed in an orderly manner and all disruptive and intoxicated patrons shall be denied entry. The business owner or his designate shall be responsible for monitoring and managing the queuing lines at all times. Food or alcohol may not be served to patrons waiting to enter the establishment.

(34) The outdoor queuing line shall not block public walkways or obstruct the entry or exit doors of adjacent businesses and residences. Stanchions or barriers must be used to maintain order at all times the queue exceeds 25 patrons. Placement of stanchions and barriers must receive Public Works Agency approval.

(35) Controls shall be established to maintain occupancy levels allowed by the Orange County Fire Authority and these Fire Department approved levels will not be exceeded. Methods of controlling occupancy can include, but not limited to the following: Counters used to count the number of occupants entering and exiting the location, which are available for inspection by OCFA or the police department.

(36) The permitted establishment shall at all times comply with Santa Ana Municipal Code sections 10-181 through 10-187 regarding curfews for minors.

Section 30. Section 41-196.5 of Chapter 41 of the Santa Ana Municipal Code is hereby added to read as follows:

Sec. 41-196.5. Entertainment permit required.

Any legal non-residential use wishing to offer entertainment as an ancillary use to its primary operation must apply for an entertainment permit pursuant to Chapter 11 of the Santa Ana Municipal Code. At no time may entertainment be offered without such a permit.

Section 31. Section 41-630 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-630. Planning commission duties, authority.

The planning commission is hereby authorized under conditions herein provided to grant minor exceptions to, and variances from the provisions of this chapter, and to grant conditional use permits for uses in any zone in which such uses may be conditionally permitted.

Section 32. Section 41-631 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-631. Zoning administrator, powers and duties.

The zoning administrator is authorized to act on minor exceptions as listed in section 41-632(a)(3).

Section 33. Section 41-632 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-632. Conditional use permit, variance and minor exception applications--Initiation, scope.

(a) In accordance with the procedures outlined in this article, application may be made for:

(1) Conditional use permit for a specific use of land or buildings in a land use district wherein such use may be so conditionally permitted.

(2) Variance from the development standards of this chapter.

(3) Minor exception to obtain a waiver or modification of those zoning provisions which pertain to the following:

(a) Lineal dimensions of yards. Modifications granted shall not exceed by more than twenty (20) per cent the minimum requirements.

(b) Separation between buildings and other structures. Modifications granted shall not exceed by more than fifty (50) per cent the minimum requirement.

(c) Lot coverage. Modifications granted shall not exceed by more than twenty (20) per cent the maximum coverage permitted.

(d) Height of buildings. Modifications granted shall not exceed by more than twenty-five (25) per cent the maximum height permitted.

(e) Signs. Area modifications granted shall not exceed by more than twenty (20) per cent the maximum area permitted.

(f) Setback and future right-of-way lines.

(g) Off-street parking. Modifications granted for reductions in required number of stalls shall not exceed by more than twenty (20) per cent the minimum ordinance requirement and pursuant to the standards contained in section 41-638.1.

(h) Operational standards. Modifications granted may include minor exceptions to screening and landscape requirements but shall not include exceptions to provisions pertaining to uses permitted in the open.

(i) Walls and fences.

Section 34. Section 41-633 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-633. Same--Filing; form and content.

Application for conditional use permit, variance or minor exception shall be in writing and filed in the city planning department upon forms provided by the department and shall include the following information:

(a) A full statement of the special circumstances and conditions relied upon as grounds for application.

(b) An outline of the proposed use, including adequate plans and a legal description of the property involved.

(c) For public notification required for any public hearings the provisions of Santa Ana Municipal Code section 2-153(c) shall apply.

(d) Each application shall be signed by the record owner or agent for the owner if notarized certificate of power of attorney is filed with the application.

Section 35. Section 41-634 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-634. Same--Filing fees.

Every application under this chapter for a minor exception, variance, conditional use permit or appeal to the planning commission or city council shall be accompanied by a filing fee. No application shall be accepted for filing without the required fee, except that all governmental agencies are exempted from the fee requirement. The city council shall from time to time by resolution adopt a schedule of fees to be charged, a copy of which shall be maintained in the office of the planning department.

Section 36. Section 41-635 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-635. Hearing on application--Hearing date.

Upon the filing for a minor exception, variance or conditional use permit, the director of planning shall set the application for public hearing at a regular or an adjourned meeting which is to be held not less than seven (7) days nor more than forty-five (45) days after the filing date.

Section 37. Section 41-636 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-636. Same--Notice of hearing.

All public notification requirements shall comply with the provisions of Santa Ana Municipal Code section 2-153(c).

Section 38. Section 41-638 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-638. Standards for granting applications for minor exceptions, variances and conditional use permit and appeals.

(a) The council and planning commission, and in the case of minor exceptions, the zoning administrator may grant according to the procedure outlined in this chapter:

(1) Conditional use permits for specific uses located at a particular location when it shall be deemed:

(i) That the proposed use will provide a service or facility which will contribute to the general well being of the neighborhood or the community; and

(ii) That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity; and

(iii) That the proposed use will not adversely affect the present economic stability or future economic development of property in the surrounding area;

(iv) That the proposed use will comply with the regulations and conditions specified in this chapter for such use; and

(v) That the proposed use will not adversely affect the general plan of the city or any specific plan applicable to the area of the proposed use.

(2) Variances from and minor exceptions to the provisions of the Municipal Code when it appears that all of the following have been established:

(i) That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges not otherwise at variance with the intent and purpose of the provisions of this chapter;

(ii) That the granting of a variance or minor exception is necessary for the preservation and enjoyment of one or more substantial property rights;

(iii) That the granting of a variance or minor exception will not be materially detrimental to the public welfare or injurious to surrounding property;

(iv) That the granting of a variance or minor exception will not adversely affect the general plan of the city.

(b) In granting any conditional use permit, variance or minor exception, the zoning administrator, planning commission or council may impose such conditions as are deemed necessary and desirable to protect the public health, safety or welfare in accordance with the purpose and intent of this chapter.

Section 39. Section 41-640 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-640. Zoning administrator to make finding of fact--Referral to planning commission for hearing.

In granting or denying a minor exception, the zoning administrator shall make a written finding which shall specify all facts relied upon in rendering his decision and in attaching conditions and safeguards. A copy of the decision together with the written finding of fact shall be filed with the clerk of the council, with the city's planning department, and mailed to the applicant. All decisions of the zoning administrator on applications for minor exceptions shall be final unless appealed to the planning commission pursuant to section 41-645.

Section 40. Section 41-641 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-641. Same--Referral to planning commission.

In the event the zoning administrator is of the opinion any minor exception request is of such magnitude as to be of special interest to the people of the City of Santa Ana and the planning commission, he may continue the hearing to the next regularly scheduled meeting of the planning commission, who shall then process the application in the manner prescribed in section 41-639 of this article.

Section 41. Section 41-643 of the Santa Ana Municipal Code is hereby deleted in its entirety:

Sec. 41-643. Reserved.

Section 42. Section 41-644 of the Santa Ana Municipal Code is hereby deleted in its entirety:

Sec. 41-644. Reserved.

Section 43. Section 41-645 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-645. Appeals from decisions of planning commission and/or zoning administrator--
Generally.

(a) An appeal from a decision or requirement of the planning commission or zoning administrator may be made by any interested party, individual or group.

(b) Any appeal made under the terms of this article shall be made within ten (10) calendar days following the date of the decision by the planning commission or zoning administrator. Further, said appeal period shall end at 5:00 p.m. on the tenth calendar day following said date of the decision by the planning commission or zoning administrator. If said tenth calendar day ends on a Saturday, Sunday or holiday, the ten (10) day period shall end at 5:00 p.m. on the next regular business day. The formal action by the zoning administrator or planning commission shall become effective on the day following the first regularly scheduled council meeting after the ten (10) day appeal period, unless the city council in compliance with section 41-645 of this article V, holds a public hearing on the matter, then the decision of the city council will become effective on the day following the hearing and decision by the city council.

(c) All appeals shall be in writing and on forms provided by the planning department and shall specify wherein there was any error of decision or requirement by the commission or zoning administrator. Furthermore, a copy of said appeal shall be filed with the planning department and the clerk of the council.

(d) Upon receipt of said appeal of the decision of the planning commission, the planning department shall set the matter for hearing by the council. In the event the matter is an appeal from a ruling by the zoning administrator, the matter shall be heard by the planning commission.

(e) All appeals shall be heard in the same manner as prescribed for the original hearing.

(f) Upon filing of an appeal, the planning department shall forward to the clerk of the council a copy of the written findings, maps, papers and exhibits upon which the decision of the planning commission and/or zoning administrator was based.

(g) The council, or in the case of a zoning administrator appeal, the planning commission, may, after public hearing, affirm, reverse, change, modify the original decision and may make any additional determination it shall consider appropriate within the limitations imposed by this chapter. Such decision shall be filed with the clerk of the council, and the city planning department; one copy thereof shall be sent to the applicant.

Section 44. Section 41-645.5 of Chapter 41 of the Santa Ana Municipal Code is amended to read in full as follows:

Sec. 41-645.5. Same--Preparation of a letter of public convenience or necessity for off-sale alcohol conditional use permits.

(a) In the event that a business requesting a conditional use permit for an off-sale alcohol license is located within an area deemed to have an undue concentration of said licenses as determined by the California Department of Alcoholic Beverage Control pursuant to Section 23958 et seq. of the California Business and Professions Code, then that business may apply to the planning commission for the preparation of a letter of public convenience or necessity as a component of the application for the conditional use permit. The process of consideration of this request will be governed by Article V regarding the processing of conditional use permits except that the following findings must be made.

(1) In granting said letter of public convenience or necessity the applicant must prove and the planning commission must find that:

(i) The proposed use will not be detrimental to the character of development in the immediate neighborhood and will be in harmony with the overall objectives of the General Plan.

(ii) The economic benefit outweighs the negative impacts to the community as whole.

(iii) The issuance of the license will provide a needed service not currently being met in the community

(iv) There exist special and unusual circumstances present here to justify a new retail alcohol outlet when there are already similar alcohol uses existing nearby.

(v) The business cannot operate profitably without a liquor license.

(vi) The applicant has demonstrated reasonable efforts to seek community input.

(b) Within two (2) days following the date of a planning commission decision on the preparation of a letter of public convenience or necessity, the planning manager shall send a written report of such decision to the members of the city council. If, within twenty-one (21) days following the date of such a planning commission decision, the city council sets the matter for public hearing, then the decision of the planning commission shall be vacated and the decision regarding the preparation of a letter of public convenience or necessity shall be heard and decided by the city council.

Section 45. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

ADOPTED this _____ day of _____, 2013

Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: _____
Ryan O. Hodge, Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-XXX to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council
City of Santa Ana