

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SANTA BARBARA AMENDING THE SANTA BARBARA
MUNICIPAL CODE BY ADDING CHAPTER 28.80 TO
REGULATE ALCOHOLIC BEVERAGE RETAIL
ESTABLISHMENTS IN THE COASTAL ZONE AND
AMENDING VARIOUS SECTIONS WITHIN TITLE 28 TO BE
CONSISTENT WITH THIS INTENT

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

SECTION 1. Section 28.04.020 of Chapter 28.04 of Title 28 of the Santa Barbara
Municipal Code is amended to read as follows:

Alcoholic Beverage Retail Establishment. Establishments with a Type 20 or
21 License as designated by the Alcoholic Beverage Control Act that conduct retail sales
of alcoholic beverages for consumption off the premises including, but not limited to: liquor
stores, beer and wine stores, convenience markets, mini-markets, markets,
neighborhood markets, retail sales establishments, wine shops, and service stations. An
“alcoholic beverage retail establishment” also includes a general retail store, a grocery
store and a retail pharmacy that devotes any percentage of its floor area to the sale and
display of alcoholic beverages. It does not include alcohol beverage manufacturers such
as a winery, brewery or micro-brewery that sells alcohol for off-site consumption.

SECTION 2. Section 28.22.035 of Chapter 28.22 of Title 28 of the Santa Barbara
Municipal Code is amended to read as follows:

28.22.035 Uses Permitted Upon the Issuance of a Conditional Use Permit.

In the HRC-2 Zone, alcoholic beverage retail establishments, automobile rentals,
parking lots, automobile service stations and automobile service station/mini-markets
may be permitted with a conditional use permit issued in accordance with the provisions

of Chapter 28.94 of this Code, except where specifically prohibited elsewhere in this Chapter.

SECTION 3. Chapter 28.54 of Title 28 of the Santa Barbara Municipal Code is amended by adding Section 28.54.040 which reads as follows:

28.54.040 Uses Permitted Upon the Issuance of a Conditional Use Permit.

As provided in Chapters 28.93 and 28.94 of this Title.

SECTION 4. Chapter 28.63 of Title 28 of the Santa Barbara Municipal Code is amended by adding Section 28.63.040 which reads as follows:

28.63.040 Uses Permitted Upon the Issuance of a Conditional Use Permit.

As provided in Chapters 28.93 and 28.94 of this Title.

SECTION 5. Chapter 28.70 of Title 28 of the Santa Barbara Municipal Code is amended by adding Section 28.70.040 which reads as follows:

28.70.040 Uses Permitted Upon the Issuance of a Conditional Use Permit.

As provided in Chapters 28.93 and 28.94 of this Title.

SECTION 6. Section 28.71.030 of Chapter 28.71 of Title 28 of the Santa Barbara Municipal Code to amended to as follows:

28.71.030 Uses Permitted Upon the Issuance of a Conditional Use Permit.

A. Alcoholic Beverage Retail Establishments. In the OC Zone, alcoholic beverage retail establishments may be permitted with a conditional use permit issued in accordance with the provisions of Chapter 28.94 of this Code except where specifically prohibited elsewhere in this Chapter.

BA. Automobile Related Uses. In the OC Zone, automobile rentals and parking lots shall be permitted with a conditional use permit issued in accordance with the provisions of Chapter 28.94 of this Code.

CB. Small Hotels. In the OC zone, small hotels shall be permitted upon the issuance of a conditional use permit in the OC zone area designated for “small hotel” on the map attached to this Chapter as Exhibit A subject to the following express limitations:

1. A small hotel may not have more than six guest rooms;
2. The size of each hotel guest room shall be limited to a maximum of 300 square feet of floor area (including hallways, closets, baths, interior circulation and other similar floor area) and the room may not include an individual kitchen area;
3. A common kitchen / dining / lobby area is allowed but may not be located within a guest room;
4. A manager’s residential unit is allowed with a maximum of 600 square feet of floor area provided that the manager’s unit is located adjacent to, or with immediate access to, the common or lobby area and provided that it not have a separate access from outside the common area.

DC. Findings Required for Small Hotels. Planning Commission approval of small hotels in the area of the OC zone for which they are authorized by Subsection B of this Section shall be subject to all of the following CUP findings:

That the small hotel:

1. will support the goals of the Local Coastal Plan and OC zone to promote a vital, mixed use neighborhood in the Waterfront comprised of a diversity of land uses;
2. is part of a mixed-use project and in a mixed-use setting within a property having pre-existing legal uses or permitted OC uses;
3. is compatible with the surrounding land uses and OC uses;
4. may include a manager's unit if it is necessary to support the hotel or other improvements on the site;
5. will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved;
6. has a sufficient area for the site and has a design for the facilities of an appropriate magnitude in view of the character of the land and in view of the proposed development that significant detrimental impact on surrounding properties is avoided;
7. will provide adequate access and off-street parking in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time; and

8. will have an appearance (in terms of its arrangement, height, scale, and architectural style of the buildings, location of parking areas, landscaping, and other features) which is compatible with the character of the area.

SECTION 7. Title 28 of the Santa Barbara Municipal Code is amended by adding Chapter 28.80 which reads as follows:

Chapter 28.80 Alcoholic Beverage Retail Establishments.

28.80.010 Legislative Intent.

The purpose of this Chapter is to:

A. Promote a healthy and safe business environment in the City of Santa Barbara that protects residents from the public nuisances attributable to the sale of alcoholic beverages.

B. Monitor existing establishments to ensure they do not substantially change in mode or character of operation.

C. Complement the State of California alcohol-related laws. The City does not intend to replace or assume any powers vested in the California Department of Alcoholic Beverage Control.

D. This ordinance does not apply to on sale alcohol establishments such as a restaurant, bar, or a winery, brewery or micro-brewery that sells alcohol for off-site consumption.

28.80.020 Where Permitted.

Alcoholic beverage retail establishments, limited to uses permitted in the zone, may be permitted in any zone upon the issuance of a conditional use permit pursuant to Chapter 28.94 of this Title.

28.80.030 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the following meanings:

Alcoholic Beverage. Alcohol, spirits, liquor, wine, beer, and any liquid or solid containing alcohol, spirits, wine, or beer, that contains one-half of one percent or more of alcohol by volume and that is fit for beverage purposes either alone or when diluted, mixed or combined with other substances, the sale of which requires an Alcoholic Beverage Control (ABC) license.

California Department Of Alcoholic Beverage Control Or ABC. The department of the State of California empowered to act pursuant to Article 20, Section 22, of the California Constitution and authorized to administer the provisions of the Alcoholic Beverage Control Act.

Hip Flask. A small flask for potable liquids of a kind designed so that it may be carried in a hip pocket.

Public Nuisance. Anything which is injurious to health, indecent, offensive to the senses, so as to interfere with the comfortable enjoyment of life or property.

Retail Display Area. Includes all floor area within the establishment that is accessible and within view of customers, including aisles, and floor area occupied by shelves, counters, and refrigerator coolers.

Substantial Modifications. Substantial modifications to the mode or character of operation. Such activities include, but are not limited to the following:

1. Change in activity so that ABC requires a different type of license.
2. An increase of the floor area or shelf space devoted to the display or sales of any alcoholic beverage.
3. Extending the hours of operation.
4. A change in ownership or transfer of an ABC license, which includes new owners or licensees added to the establishment.
5. Changes to the conditions provided under the Conditional Use Permit.
6. Changes from the License Applications submitted to the ABC.

28.80.040 Local Letter of Public Convenience or Necessity (PCN) Required.

A letter of public convenience or necessity (PCN) is a discretionary determination that the business operation will provide some kind of benefit to the surrounding community, which is communicated back to the licensee and the ABC in the form of a letter. The Chief of Police is authorized to issue a PCN letter whenever an applicant for an ABC license is required to obtain one. A PCN letter will be issued prior to the application for a conditional use permit pursuant to this Chapter. The Chief of Police will

review and act upon the request in compliance with the time periods established by State law. The Chief of Police's decision on whether to issue a PCN letter is final with no further right of appeal.

28.80.050 Notification Required.

All applicants and operators of an alcoholic beverage retail establishment are required to notify the Chief of Police within 10 days of submitting an original off-sale application to the ABC, or when business activities will result in a substantial modification to the mode or character of operation for existing businesses.

28.80.060 Performance and Development Standards.

Approval of a conditional use permit may only be granted for alcoholic beverage retail establishments, located, developed, and operated in compliance with the standards contained in this Section. Variations to these standards may be approved by the Planning Commission in order to prevent an unreasonable hardship or for any other reason consistent with the purpose of this Chapter. Unreasonable hardship is defined as an action requiring significant difficulty or expense when considered in light of a number of factors that can include but is not limited to the nature and cost of the standard imposed in relation to the size, resources, nature, and structure of the alcohol retailer operation.

A. **Location.** Alcoholic beverage retail establishments requesting non-transferred licenses may only be permitted on a site located in an area with capacity for additional off-sale licenses, as defined by ABC, with low to average crime rates, as

defined annually by the Santa Barbara Police Department, provided that the site is not subject to a moratorium.

B. **Distance.** Alcoholic beverage retail establishments requesting new non-transferred licenses may only be located on a lot that is a minimum of 500 feet away from any residentially zoned lot, or any lot that contains a public or private elementary or high school, health care facilities, Social Services Facility as defined in 30.295.030, substance abuse treatment centers, religious facilities, parks or playgrounds. However, an Alcohol Retail Establishment may apply for a modification and obtain approval from the Planning Commission to be located within 500 feet of the above referenced sensitive locations. The distance shall be measured in a straight line without regard to intervening structures or objects from the nearest point on the property to the nearest point on the other property line.

C. **Containers.** The sale, distribution, dispensation, and display of all alcoholic beverages is limited to the following type and size of containers:

1. **Wine and Wine Coolers.**

a. Wine must be in a container with a volume of 750 milliliters or greater in size, except multipack containers of wine, and multipack wine coolers containing no more than six percent alcohol by volume.

b. Multipack wine and wine coolers shall not be sold in containers smaller than 12 ounces and in units of less than one four-pack for off-site consumption.

2. Distilled Spirits. Distilled spirits, except pre-mixed cocktails, must be in a container with a volume of 375 milliliters or greater in size. Miniature, single-serving, travel-sized “airline bottles” are prohibited. Distilled spirits shall not be permitted in 375 milliliters hip flask containers.

3. Beer, Ale, and Malt Liquor.

a. Beer, ale, and malt liquor must be in a container with a volume greater than 32 ounces. This restriction is not intended to prohibit the sale of such beverages in kegs or other types of containers, with a volume of two or more gallons, which are clearly designed to dispense multiple servings.

b. Multipack beer, ale, and malt liquor in containers of 32 ounces or less shall not be sold in units less than one three-pack for off-site consumption.

D. **Drive-Through Facilities.** Alcoholic beverages shall not be sold or distributed from a drive-through facility or a walk-up window.

E. **Product Display.** Alcoholic beverages shall not be displayed for sale:

1. From an ice tub, ice chest, ice barrel or similar stand-alone container;

2. Within five feet from any store entrance or exit;

3. On a check-out counter or any display case or rack located adjacent to a checkout counter or checkout waiting area.

This subdivision does not prohibit display of alcoholic beverages from behind a counter or from a built in refrigerated display case that is accessible only by store employees.

F. **Lighting.** Lighting shall comply with the Outdoor Lighting Ordinance (Santa Barbara Municipal Code Chapter 22.75); adequate external lighting shall be provided on-site in order to maintain a safe and secure environment.

G. **Noise.** Noise levels generated by the operation of such establishment shall comply with the City's Noise Ordinance (Santa Barbara Municipal Code Chapter 9.16). Amplified sound at the property line shall not exceed 60dB(A).

H. **Litter.** Business owners shall be responsible for keeping their premises clean of any litter or debris and shall provide adequate trash and recycling receptacles for customer use on-site.

I. **Pay Phones.** Pay phones are not permitted outside of the alcoholic beverage retail establishments.

J. **Signage.** There shall be no advertising of alcoholic products, or tobacco and paraphernalia, or similarly controlled products visible from the exterior of the building.

K. **Window Obstructions.** To ensure a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance, windows shall not be tinted and no more than 15% of windows and entry doors shall be blocked by either interior or exterior obstructions such as signs, vending machines, refrigerators, coolers, shelves, racks, or storage.

L. **Drug Paraphernalia.** An alcoholic beverage retail establishment shall be prohibited from selling drug or tobacco paraphernalia products as defined in Santa

Barbara Municipal Code Section 9.45.010, and Health and Safety Code Sections 11014.5 and 11364.5.

28.80.070 Required Findings.

A conditional use permit for an alcoholic beverage retail establishment may only be approved if the Planning Commission makes the following findings in addition to the findings required pursuant to Chapter 28.94, Conditional Use Permits, and any other findings required by this Title:

A. The proposed use shall not potentially have a significant adverse effect on the crime rate or nuisance activities as provided under 28.80.300 in the area of the proposed site. Particular attention shall be given to those crimes involving public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct, and alcoholic beverage sales to minors.

B. That its upkeep and operating characteristics are compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood.

28.80.080 Conditions of Approval.

The Planning Commission may impose conditions of approval in furtherance of the purpose of this Ordinance, such as, limit the hours or other operational characteristics of the use; restrict outdoor storage and display; require a special security plan; make alterations to the entries/exits or other floor plan changes; or add requirements for

buffering, screening, lighting, planting areas, or other site elements to avoid adverse impacts on adjacent lots or the surrounding area.

28.80.090 Changes to Approved Plans or Substantial Modifications.

Any changes to the structure, site development, use, or substantial modifications to the mode or character of operation of any alcoholic beverage retail establishment which becomes lawfully established with a conditional use permit on or after the effective date of this Chapter and is licensed by the ABC, shall require an amendment to the conditional use permit or approval. If the use is abandoned pursuant to Section 28.87.360, Abandonment and Revocation of Permits and Approvals, or ceases to be licensed by ABC, it shall not continue without approval by the original review authority and shall be processed in the same manner as the original approval.

28.80.100 Existing Alcoholic Beverage Retail Establishments.

Alcoholic beverage retail establishments lawfully existing prior to the effective date of the ordinance adopting this Chapter, and licensed by ABC, may be continued, repaired and maintained. Notwithstanding Section 28.87.030.E, Nonconforming Uses, the right to continue an existing alcoholic beverage retail establishment may be revoked with the right to appeal under Section 28.87.360, Abandonment and Revocation of Permits and Approvals, and if revoked a Conditional Use Permit is needed in order to continue the sale of alcohol. Revocation of the use can only be initiated by those with the responsibility to enforce under Section 28.80.600, below, when any of the following occur:

A. **Public Nuisance.** The use has been declared a public nuisance pursuant to Section 28.80.300, below.

B. **Discontinued Use.** The use has been discontinued or ceases for a period of one year or more, or ceases to be licensed by the ABC.

C. **Substantial Modifications.** There are substantial modifications to the mode or character of operation.

D. **Violations.** There is or has been a violation of, or failure to observe the terms or conditions of this Chapter, or the use has been conducted in violation of the provisions of this Title, or any applicable law or regulation, including but not limited to the Alcohol Beverage Control Act.

28.80.150 Product Display for Existing Alcoholic Beverage Retail Establishments.

The display of alcoholic beverages is subject to the following standards:

1. From an ice tub, ice chest, ice barrel or similar stand-alone container;
2. Within five feet from any store entrance or exit;
3. On a check-out counter or any display case or rack located adjacent to a checkout counter or checkout waiting area.

This subdivision does not prohibit display of alcoholic beverages from behind a counter or from a built in refrigerated display case that is accessible only by store employees.

28.80.200 Mandatory Training and Presentation of Documents.

The following requirements apply as a condition of approval to all new and existing alcoholic beverage retail establishments. All store owners and current employees of existing establishments must comply with the mandatory training within 6 months of the effective date of this Chapter. All new store owners and employees are required to be trained within 60 days from the start of their business or employment. Failure to comply will result in the termination of the right to continue an existing establishment.

A. **Mandatory Training.** All store managers and their employees shall complete the Responsible Beverage Service (RBS) Training and are required to carry a valid certification while selling alcoholic beverages. To satisfy this requirement, a certified program must meet the standards of the ABC Responsible Beverage Service Advisory Board or other certifying or licensing body designated by the State of California.

B. **Presentation Of Documents.** A copy of any City conditions of approval, applicable ABC conditions, the ABC license, and any required training requirements, shall be posted in at least one prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment; and shall be presented to any City, County, or State enforcement officer or official upon request.

28.80.300 Public Nuisance.

A public nuisance shall be deemed to exist if the following activities are repeated within the premises or in close proximity of the premises such as: disturbance of the

peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, or lewd conduct. The City Administrator may take any action necessary to abate such public nuisances, including but not limited to revocation proceedings.

28.80.400 Reporting.

If the City Administrator or the Chief of Police determine there has been a violation of this Chapter or any of the conditions set forth in a conditional use permit issued in compliance with this Chapter, a report of those violations shall be presented to the Planning Commission for review that may include the date, time, and specificity of the violations. The Planning Commission shall require an annual review of any new and existing alcoholic beverage retail establishments.

28.80.500 Annual Fee.

The City Council shall establish by resolution, an annual regulatory fee that shall be imposed on all new and existing alcoholic beverage retail establishments. The annual fee shall be assessed for each alcoholic beverage retail establishment that consists of the following factors:

A. The City Council may establish by resolution fees for administration of this Chapter, including, but not limited to, flat or graduated annual fees, hourly fees, and supplemental fees, any or all of which may reflect whether and to what extent the new

and existing alcoholic beverage retail establishments upon which the fee is imposed has complied with this Chapter.

B. Owners and Operators shall be jointly and severally liable for any fee or charge imposed under this Chapter.

C. The City may collect any past due fees or charges imposed under this Chapter by use of all available legal means, including, but not limited to, means available for the collection of judgments, liens and action for recover of money. The City may also recover its collection costs.

28.80.600 Responsibility to Enforce.

The provisions of this Chapter shall be administered and enforced by the City Administrator in conjunction with the Chief of Police. Such officer, or their duly authorized representatives, may enter upon private or public property to examine an alcoholic beverage retail establishment for the purposes of enforcement and regulation of the conditions of approval, performance standards, and other applicable regulations set forth in this Chapter.

SECTION 8. Section 28.87.360 of Chapter 28.87 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

28.87.360 Abandonment and Revocation of Permits and of Staff Hearing Officer or Planning Commission Approvals.

A. ~~ABANDONMENT OR NON-USE OF APPROVAL.~~ The validity of a ~~Staff Hearing Officer or Planning Commission~~ any action approving a ~~modification, conditional use permit, variance, or Performance Standard Permit~~ a permit or approval granted under this Title shall terminate if (i) a building permit for the use authorized by the approval is not issued within 24 months of granting the approval, unless an extension is granted by the Community Development Director, and the construction authorized by the permit diligently pursued to completion and issuance of a Certificate of Occupancy, or (ii) the use authorized by the approval is discontinued, abandoned or unused for a period of six months following the earlier of (a) issuance of a Certificate of Occupancy for the use, or (b) two years from granting the approval.

B. ~~SUSPENSION OF TIME DURING LITIGATION.~~ The period of time specified in Subsection A above shall not include the period of time during which a lawsuit involving the ~~approval of the modification, conditional use permit, variance, or Performance Standard Permit or~~ permit or related approvals is or was pending in a court of competent jurisdiction. After service of the initial petition or complaint in the lawsuit upon the City, the applicant may advise the City of the need for a litigation tolling pursuant to the City's adopted procedures.

C. ~~VIOLATION OF CONDITIONS OF APPROVAL~~ REVOCATIONS. Any permit or approval granted under this Title may be revoked or revised for cause if any of the conditions or terms of the permit or approval are violated or if any applicable law or ordinance is violated. ~~If the conditions of approval of any variance, modification,~~

~~conditional use permit or performance standard permit have not been met within any time limits established in such conditions, or have been violated, as determined by the Community Development Director., the Staff Hearing Officer or Planning Commission may revoke these permits or approvals. A decision to revoke shall be made following a hearing, using the same noticing requirements that were applicable to the original permit or application. A decision to revoke or revise a permit or approval shall require public notice and hearing before the Planning Commission. The Planning Commission may revoke or revise a permit or approval if it makes any of the following findings:~~

1. The approval was obtained by means of fraud or misrepresentation of a material fact by the applicant;
2. The use, building, or structure has been substantially altered or expanded beyond what is set forth in the permit or approval or substantially changed in character in a manner that violates the terms of the permit or approval;
3. There is or has been a documented violation of, or failure to observe the terms or conditions of, the permit or approval, or the use has been conducted in violation of the provisions of this Title, or any applicable law or regulation; or
4. The use to which the permit or approval applies has been conducted in a manner detrimental to the public safety, health or welfare, or so as to be a nuisance.

D. APPEALS.

~~1. A decision of the Staff Hearing Officer to revoke a permit or other approval under this section may be suspended or appealed pursuant to Section [28.05.020](#).~~

2. A decision of the Planning Commission to revoke a permit or other approval under this Section may be appealed to the City Council pursuant to Chapter [1.30](#). In addition to the procedures specified in Chapter [1.30](#), notice of the public hearing before the City Council on an appeal from a decision of the Planning Commission regarding a decision of the Staff Hearing Officer shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council.

SECTION 9. Section 28.94.030 of Chapter 28.94 of Title 28 of the Santa Barbara Municipal Code is amended by adding Subsection 28.94.030.FF which reads as follows:

FF. Alcoholic Beverage Retail Establishments in any zone subject to the provisions in Chapter 28.80 of this Title, and limited to uses permitted in the zone.