ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REPEALING THE PROVISIONS SET FORTH IN PART 7 OF CHAPTER 20.80 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE PERTAINING TO GASOLINE SERVICE STATION COMBINED USES; AMENDING PART 11 OF CHAPTER 20.80 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO AMEND THE LOCATIONAL CRITERIA FOR USES INVOLVING THE OFF-SALE OF ALCOHOLIC BEVERAGES; AMENDING TABLE 20-90 WITHIN SECTION 20.40.100 OF CHAPTER 20.40 AND AMENDING TABLE 20-140 WITHIN SECTION 20.70.100 OF CHAPTER 20.70, ALL WITHIN TITLE 20 OF THE SAN JOSE MUNICIPAL CODE, TO DISTINGUISH OFF-SALE OF BEER AND/OR WINE USES FROM OFF-SALE OF ALL TYPES OF ALCOHOLIC BEVERAGES USES, AND ADDING A NEW CHAPTER 6.84 TO TITLE 6 OF THE SAN JOSE MUNICIPAL CODE TO SET FORTH CONSIDERATIONS WHEN MAKING A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY UNDER A CALIFORNIA STATE LIQUOR LICENSE APPLICATION

WHEREAS, on August 10, 2005, this Ordinance was found to be categorically exempt from environmental review pursuant to the provisions of Section 15305 of the California Environmental Quality Act of 1970, as amended ("CEQA"), together with State guidelines implementing CEQA and Title 21 of the San José Municipal Code, under File No. PP 05-161.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 20.40.100 of Part 2 of Chapter 20.40 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.40.100 Allowed Uses and Permit Requirements

A. "Permitted" land uses are indicated by a "P" on Table 20-90.

B. "Conditional" uses are indicated by a "C" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

C. "Special" uses are indicated by a "S" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.

D. "Administrative" uses are indicated by a "A" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.

E. Land uses not Permitted are indicated by a "-" on Table 20-90. Land uses not listed on Table 20-90 are not Permitted.

F. When the right column of Table 20-90 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.

Table 20-90
Commercial Districts
Land Use Regulations

Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
General Retail					
Retail sales, goods and merchandise	-	P	P	P	
Alcohol, off-site sales – beer and/or wine only	-	C	C	C	Section 20.80.900
Alcohol, off-site sales, full range of alcoholic beverages	-	C	C	C	Section 20.80.900
Bakery, retail	-	P	P	P	
Food, beverage, groceries	-	P	P	P	
Nursery, plant	-	P	P	P	Note 1
Outdoor vending	-	A	A	A	Part 10, Chapter 20.80
Pawn shop/broker	-	C	C	C	See Title 6

Table 20-90 Commercial Districts Land Use Regulations					
Use	**Zoning District**				**Notes & Sections**
	CO	**CP**	**CN**	**CG**	
Seasonal sales					Part 14, Chapter 20.80
Education and Training					
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
Instructional art studios	-	P	P	P	Note 2
Instructional art studios, with live models	-	C	C	C	Note 2
Private Instruction, personal enrichment	-	P	P	P	Note 3
School- elementary and secondary (Public)	P	P	P	P	
School- elementary and secondary (Private)	-	C	C	C	
School, driving (class C & M license)	-	P	P	P	Note 4
School, post secondary	-	P	P	P	Note 5
School, trade and vocational	-	C	C	C	
Entertainment and Recreation Related					
Arcade, amusement	-	C	C	C	
Dancehall	-	C	C	C	
Entertainment	-	C	C	C	
Poolroom/Billiards Establishment	-	C	C	C	
Private club or lodge	C	C	C	C	
Recreation, Commercial (indoor)	-	P	P	P	
Recreation, Commercial (outdoor)	-	C	C	C	
Theatre, indoor	-	C	C	C	
Theatre, outdoor	-	-	-	C	
Food Services					
Banquet facility	-	C	C	C	
Caterer	-	P	P	P	Note 6
Drinking establishments	-	C	C	C	
Public eating establishments	-	P	P	P	
Health and Veterinary Services					
Animal boarding, indoor	-	P	P	P	Section 20.40.120
Animal grooming	-	P	P	P	Section 20.40.120
Emergency ambulance service	C	C	C	C	

Table 20-90 Commercial Districts Land Use Regulations					
Use	**Zoning District**				**Notes & Sections**
	CO	**CP**	**CN**	**CG**	
Hospital/ in-patient facility	C	C	C	C	
Medical clinic/ out-patient facility	P	P	P	P	
Medical, dental and health practitioner	P	P	P	P	
Veterinary clinic	-	P	P	P	Note 7
General Services					
Bed and Breakfast	-	P	P	P	Part 2, Chapter 20.80
Dry cleaner	-	P	P	P	
Hotel/motel	-	P	P	P	
Laundromat	-	P	P	P	
Maintenance and repair, small household appliances	-	P	P	P	
Messenger services	P	P	P	P	Note 8
Mortuary and funeral services	P	P	P	P	
Personal services	-	P	P	P	Section 20.200.880
Photo processing and developing	-	P	P	P	
Printing and publishing	-	P	P	P	
Offices and Financial Services					
Automatic Teller Machine	P	P	P	P	Section 20.80.200
Business Support	-	P	P	P	
Financial Institution	P	P	P	P	
Offices, business and administrative	P	P	P	P	Section 20.40.110
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	
Church/Religious Assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Publicly operated)	P	P	P	P	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	-	C	C	C	
Residential					
Emergency residential shelter	C	C	C	C	Section 20.80.500
Live/Work	-	S	S	S	Section 20.40.130
Mixed Use/Ground floor commercial with residential above	-	C	C	C	Note 9
Residential Care Facility for seven or more persons	C	C	C	C	
Residential Service Facility for seven or more persons	C	C	C	C	

Table 20-90 Commercial Districts Land Use Regulations					
Use	**Zoning District**				**Notes & Sections**
	CO	**CP**	**CN**	**CG**	
Single Room Occupancy Hotel	-	C	C	C	Part 15, Chapter 20.80
Single Room Occupancy Living Unit	-	C	C	C	Part 15, Chapter 20.80
Drive-Through Uses					
Drive-through in conjunction with any use	-	-	C	C	
Recycling Uses					
Reverse vending	A	A	A	A	
Small collection facility	A	A	A	A	
Transportation and Utilities					
Communications service exchange	-	-	-	C	
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Television, radio studios without antenna/dishes	-	-	-	C	
Short term parking lot for uses or events other than on-site	-	-	-	C	Note 10
Wireless communication antenna	C	C	C	C	Section 20.100.1300
Wireless communication antenna, slimline monopole	S	S	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Section 20.80.1910
Electrical Power Generation					
Private Electrical Power Generation Facility	C	C	C	C	Note 16
Co-Generation Facility	S	S	S	S	
Stand-by/Backup					
Facilities that **do not** exceed noise or air standards	S	S	S	S	
Facilities that **do** exceed noise or air standards	C	C	C	C	
Temporary Stand-by/Backup	A	A	A	A	

Table 20-90 Commercial Districts Land Use Regulations					
Use	**Zoning District**				**Notes & Sections**
	CO	**CP**	**CN**	**CG**	
Photovoltaic	P	P	P	P	Note 15
Vehicle Related Uses					
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	
Auto broker, wholesale, no on-site storage	P	P	P	P	
Car wash, detailing	-	-	C	C	
Gas or charge station	-	C	C	P	Note 11
Gas or charge station with incidental service and repair	-	C	C	P	Note 12, Note 18
Glass sales, installation and tinting	-	-	C	P	Note 18
Sale or lease, commercial vehicles	-	-	C	C	Note 18
Sale passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	P	Note 17, Note 18
Leasing passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	C	Note 16
Sale, vehicle parts	-	C	P	P	Note 14
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	Note 13, Note 18

Notes Applicable to all Commercial Districts:

(1) In the CP District, landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
(2) Includes such areas as dance, music, martial arts and fine arts.
(3) Includes such areas as driving, language, and academics.
(4) No on site storage of vehicles permitted.
(5) Includes public and private colleges and universities, as well as extension programs and business schools.
(6) Not a catering facility.
(7) Intentionally omitted.
(8) No on site storage of vehicles permitted.
(9) Make sure General Plan supports mixed use or residential.
(10) Use must be less than twenty-four (24) hours.
(11) No incidental repair or service permitted.

(12) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
(13) Non engine and exhaust related service and repair allowed as incidental.
(14) No outdoor sales areas or dismantling allowed.
(15) Photovoltaic (PV) systems may be processed through a Permit Adjustment.
(16) No on-site storage of vehicles permitted.
(17) In the CG District, incidental storage of vehicles, and incidental repair of vehicles in addition to what otherwise would be permitted, requires a Conditional Use Permit. Incidental storage and repair of vehicles is prohibited in all other commercial districts.
(18) All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.

SECTION 2. Section 20.70.100 of Part 2 of Chapter 20.70 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.70.100 Allowed Uses and Permit Requirements

A. "Permitted" land uses are indicated by a "P" on Table 20-140.

B. "Conditional" uses are indicated by a "C" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.

C. "Special" uses are indicated by a "S" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.

D. "Administrative" uses are indicated by an "A" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.

E. Land uses not permitted are indicated by a "-" on Table 20-140. Land uses not listed on Table 20-140 are not permitted.

F. The column of Table 20-140, under the heading Additional Use Regulations for the DG Area, identifies further regulations on the uses of ground-floor building space within a portion of the DC Zoning District. The portion of the DC District

included in the DG Area is described in Section 20.70.520. These regulations apply to ground-floor building space, defined as Downtown Ground-Floor Space ("DG Area"), in Section 20.70.520 of this Chapter. If there are no additional regulations on properties located in the DG Area noted in this column, the use regulations for the DG Area remain those regulations of the DC Zoning District.

G. The "Parking" column of Table 20-140 establishes the required parking. The amount of parking may not be increased or decreased unless modified by the Director as set forth in Sections 20.70.320 and 20.70.330 of this Chapter.

H. When the right column of Table 20-140 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

Table 20-140
Downtown Districts
Land Use Regulations

Use	**Zoning Districts**		**Applicable Notes & Sections**		
	DC	**DC-NT1**	**Additional Use Regulations for the DG Area**	**Parking**	**Applicable to All Downtown Districts**
Offices and Financial Services					
Automatic Teller Machine	P	P		No parking	Section 20.80.200
Business Support	P	P	-, Note l	No parking	-
Financial institution	P	P	S, Note l	1 per 360 sq. ft.*	
Financial Services	P	P	S, Note n	No parking	
Offices, business and administrative	P	P	-, Note j	1 per 360 sq. ft.*	Section 20.70.110
Research and development	P	P	-	1 per 360 sq. ft.*	Note 1
General Retail					
Alcohol, off-site sales – beer and/or wine only	C	C		No parking	Section 20.80.900
Alcohol, off-site sales – full range of alcoholic beverages	C	C		No parking	Section 20.80.900
Auction	S	-	-	No parking	

Table 20-140 Downtown Districts Land Use Regulations					
Use	**Zoning Districts**		**Applicable Notes & Sections**		
	DC	**DC-NT1**	**Additional Use Regulations for the DG Area**	**Parking**	**Applicable to All Downtown Districts**
Food, beverage, groceries	P	P		No parking	
Open air sales establishments and areas	S	S		No parking	
Outdoor vending	S	S		No parking	Part 10, Chapter 20.80
Pawn Shop, Pawn Broker	C	C	Note b	No parking	
Retail sales, goods and merchandise	P	P	Note a	No parking	
Seasonal sales	P	P		No parking	Part 14, Chapter 20.80
Education and Training					
Day care center	P	P	S, Note c	No parking	
Post-secondary School	P	P	-	1 per 360 sq. ft.	
Trade School	P	P	-	1 per 360 sq. ft.	
Personal enrichment, Instructional Art	P	P	-, Note d	1 per 360 sq. ft.	
School, elementary (grades K-8)	C	C	-	1 per teacher and employee	
High School (grades 9-12)	C	C	-	.75 per teacher and employee and 1 per each 10 students	
Entertainment and Recreation Related					
Amusement arcade	C	-	Note e	No parking	
Entertainment establishment	C	-		No parking	
Movie Theater	P	P		No parking	
Recreation Commercial/Indoor	P	P		No parking	
Poolroom	S	-		No parking	
Private club or lodge	P	P	-	1 per 360 sq. ft.	

Table 20-140 Downtown Districts Land Use Regulations					
Use	**Zoning Districts**		**Applicable Notes & Sections**		
	DC	**DC-NT1**	**Additional Use Regulations for the DG Area**	**Parking**	**Applicable to All Downtown Districts**
Food Services					
Banquet facility	P	P	Note f	No parking required	
Caterer	P	P	C, Note f	No parking	
Drinking establishments	C	C		No parking	
Entertainment as an incidental use to any General Retail or Food Services Use permitted in the Downtown Zoning Districts	P	P		No parking	Note 7
Public eating establishments	P	P		No parking	
Health and Veterinary Services					
Animal grooming	S	S	-	No parking	Note 2
Animal Boarding, indoor	P	P	-	No parking	
Emergency ambulance service	C	-	-	No parking	
Hospital/ in-patient medical facility	C	-	-	1.5 per doctor	
Medical or Dental Clinic/Out-patient facility	P	P	-	1.5 per doctor	
Veterinarian	P	P	-	1.5 per doctor	
General Services					
Bed and breakfast	P	P	S, Note m	.35 per room	Part 2, Chapter 20.80
Hotel/motel	P	P	-, Note m	.35 per room	
Maintenance and repair of household appliances	P	P	-	No parking	
Mortuary and funeral services	C	C	-	.75 per employee and vehicle	

Table 20-140 Downtown Districts Land Use Regulations					
Use	**Zoning Districts**		**Applicable Notes & Sections**		
	DC	**DC-NT1**	**Additional Use Regulations for the DG Area**	**Parking**	**Applicable to All Downtown Districts**
Personal Services	P	P	Note g	No parking	-
Printing and Publishing	P	P	Note h	No parking	
Public, Quasi-Public and Assembly Uses					
Auditorium	C	-	-	No parking	
Cemetery	C	C	-	No parking	
Church/religious assembly	P	P		No parking	
Information Center	P	P		No parking	
Museums, libraries	P	-	P	No parking	
Parks, playgrounds, or community centers	P	P	Note k	No parking	
Residential					
Residential Shelter	C	-	-	1 per 4 beds, 1 per 360 sq.ft.*	
Live/work	P	S		1 per unit	Section 20.70.120
Residential multiple dwelling	P	P	-	1 per unit	
Residential Care Facility for 7 or more persons	C	C	-	.75 per employee	
Residential Services Facility for 7 or more persons	C	C	-	.75 per employee	
Single room occupancy living unit	S	S	-	.6 per room	Part 15, Chapter 20.80
Single room occupancy hotel	S	S	-	.6 per room	Park 15, Chapter 20.80
Residential Accessory Uses					
Accessory buildings and structures	P	P	-	No parking	
Recycling Uses					
Reverse vending	S	S	-	No parking	Note 4
Small collection facility	S	S	-	No parking	Note 4

Table 20-140 Downtown Districts Land Use Regulations					
Use	**Zoning Districts**		**Applicable Notes & Sections**		
	DC	**DC-NT1**	**Additional Use Regulations for the DG Area**	**Parking**	**Applicable to All Downtown Districts**
Transportation and Communication					
Community television antenna systems	C	-	-	No parking	
Off-site and alternating use parking arrangements	P	P	-	N/A	Section 20.90.200
Parking establishment, off-street	P	P	-	N/A	
Private Electrical Power Generation Facility	C	C	-	1 for each vehicle used in the operation of such facility	
Standby Generators that do not exceed noise or air standards	S	S	-	N/A	
Short term parking lot for uses or events other than on-site	S	S		N/A	
Radio & Television Studios	S	-	C	No parking	
Wireless communication antenna	S	-	-	No parking	Section 20.80.1900
Wireless communication antenna, building mounted	P	-	-	No parking	Section 20.80.1900
Vehicle Related Uses					
Accessory installation for cars and passenger trucks	P	-	-	No parking	
Car wash, detailing	P	-	-	No parking	
Gas or charge station	P	-	-	No parking	Note 4
Gas or charge station with incidental service and repair	P	-	-	No parking	Note 4
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	1.5 per employee	Note 5

Table 20-140 Downtown Districts Land Use Regulations					
Use	**Zoning Districts**		**Applicable Notes & Sections**		
	DC	**DC-NT1**	**Additional Use Regulations for the DG Area**	**Parking**	**Applicable to All Downtown Districts**
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	2 per bay or .75 per employee	Note 6
Sale, vehicle parts, new	P	-	-	No parking required	

Notes:

Notes applicable to the DG Area only:

(a) Excluding second-hand stores not dealing primarily in antiques, artworks, or vintage clothing.
(b) Only as a use incidental to a retail jewelry store, otherwise, not permitted.
(c) Only as a use incidental to existing on-site office use, otherwise not permitted.
(d) Culinary/Art School with public classes and public demonstrations allowed, includes such areas as dance, music, martial arts, and fine arts.
(e) Allowed only as an incidental use to other allowed recreation uses.
(f) Only as a use incidental to restaurant, grocery or bakery uses for primarily on site sales, otherwise not permitted.
(g) Excludes check-cashing services, photography studios, weight loss centers, interior decorating, and bail bond services.
(h) Only if dedicated primarily to on-site retail customer copy services, otherwise not permitted.
(i) Only if dedicated primarily to on-site retail customer services, otherwise not permitted.
(j) Exception for travel agencies and real estate agencies which are the only permitted uses.
(k) Community centers are not allowed.
(l) Exception for copy shops and mail centers which are the only permitted uses.
(m) Use of ground floor to be primarily dedicated to customer-related public services.
(n) Includes financial retail services such as payroll advances, foreign currency exchange, debt card services and related financial services products but excludes check cashing except as an ancillary use.

Notes applicable to Downtown Core (DC) Zoning District, including DG Area:

(1) Excludes manufacturing uses.

(2) Boarding not permitted.
(3) No lot may be used solely for an accessory structure or building.
(4) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
(5) All activity must be conducted indoors.
(6) Non-engine and exhaust related service and repair allowed as incidental use.
(7) Limited to instrumental and vocal music and readings. Also, notwithstanding the provisions of Section 20.200.940(2), incidental instrumental and vocal music shall be allowed between the hours of 6:00 a.m. and 12:00 a.m.

* Under the Parking Management Plan, October 2001, the Code may be changed to reduce the parking allotments for these uses. The reduction would be to 2.6 spaces per 1,000 square feet when the Downtown East Valley Light Rail Line is opened, and would be further reduced to 2.5 spaces per 1,000 square feet when BART is opened.

Fifteen percent (15%) of total parking requirement must be provided off-site.

SECTION 3. Part 7 of Chapter 20.80 of Title 20 of the San José Municipal Code is hereby repealed in its entirety.

SECTION 4. Section 20.80.900 of Part 11 of Chapter 20.80 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.80.900 Off-Sale of Alcoholic Beverages

A. A Conditional Use Permit may be issued pursuant to the applicable provisions of this Title for the off-sale of any alcoholic beverages only if the decision-making body first makes the following additional findings, where applicable:

1. For such use at a location closer than five hundred (500) feet from any other use involving the off-sale of alcoholic beverages, situate either within or outside the City, that the proposed location of the off-sale of alcoholic beverages use would not result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one-thousand (1,000) foot radius from the proposed location.

2. For such use at a location closer than five hundred (500) feet from any other use involving the off-sale of alcoholic beverages, situate either within or outside the City, where the proposed location of the off-sale of alcoholic beverages use would result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one thousand (1,000) foot radius from the proposed location, that the resulting excess concentration of such uses will not:

   a. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or

   b. Impair the utility or value of property of other persons located in the vicinity of the area; or

   c. Be detrimental to public health, safety or general welfare.

3. For such a use at a location closer than five hundred (500) feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university, or closer than one hundred fifty (150) feet from any residentially zoned property, that the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect such residential, child care center, public park, social service agency, residential care facility, residential service facility and/or school use.

B. The off-sale of alcoholic beverages as incidental sales in conjunction with the sale of gift baskets, balloons and flowers is exempt from the requirements of a Conditional Use Permit.

SECTION 5. Title 6 of the San José Municipal Code is hereby amended by adding a new Chapter to be numbered and entitled and to read as follows:

Part 6.84
Determinations of Public Convenience or Necessity For An Alcoholic Beverage Control License

6.84.010 Purpose

The purpose of this Part is to provide appropriate feedback to the State of California in connection with the issuance of licenses for the off-sale of alcoholic beverages by the California Department of Alcoholic Beverage Control in those areas that are deemed to be over-concentrated with off-sale outlets or those areas that that are considered high crime, as specified in Business and Professions Code Section 23958 e*t seq*., as the same may be amended from time to time.

6.84.020 Director

"Director," for the purposes of and as used in this Chapter, means the Director of Planning Building and Code Enforcement.

6.84.030 Findings

A. Whenever a request for a determination of public convenience or necessity in connection with the issuance of a license for the off-sale of alcoholic beverages by the California Department of Alcoholic Beverage Control is submitted to City as allowed under California Business and Professions Code Section 23958.4, as the same may be amended from time to time, the request and any appeal shall be processed utilizing the process provisions of a conditional use permit contained in Chapter 20.100 of Title 20 of this Code.

B. The Planning Commission, or the City Council on appeal, may issue a determination of public convenience or necessity in connection with an application for a license from the California Department of Alcoholic Beverage Control for the off-sale of alcoholic beverages only after first finding all of the following conditions exist:

1. The proposed use is not located within a targeted law enforcement area; and

2. Approval of the proposed use would not result in a grouping of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one thousand (1,000) foot radius from the proposed use; and

3. The proposed use would not be located within five hundred (500) feet of a school site, day care center site, public park, social services agency site, residential care facility site or residential service facility site, or within 150 feet of a site upon which a residential use is conducted or that is residentially zoned; and

4. Alcohol sales would not represent a majority of sales, stock or shelving space of the proposed use.

C. The Planning Commission, or the City Council on appeal, may issue a determination of public convenience or necessity in connection with an application for a license from the California Department of Alcoholic Beverage Control for the off-sale of alcoholic beverages only after first finding that:

1. The census tract in which the proposed outlet for the off-sale of alcoholic beverages is located is unusually configured and the proposed outlet would act as a convenience to an underserved portion of the community without presenting a significant adverse impact on public health or safety in the area; or

2. The proposed outlet for the off-sale of alcoholic beverages would enhance or facilitate the vitality of an existing commercial area without presenting a significant adverse impact on public health or safety in the area; or

3. The census tract in which the proposed outlet is located has a low population density in relation to other census tracts in the City, and the proposed outlet would not contribute to an over-concentration in the absolute numbers of outlets for the off-sale of alcoholic beverages in the area; or

4. The proposed off-sale of alcoholic beverages is incidental and appurtenant to a larger retail use and provides for a more complete and convenient shopping experience.

D. Nothing contained in this Chapter shall be deemed or construed as requiring the Planning Commission, or City Council on appeal, to issue a determination of public convenience or necessity under the provisions of this Chapter. Under no circumstances shall an applicant for a determination of public convenience or necessity under this Chapter have a right to such determination, and nothing contained in this Chapter shall be deemed or construed to confer upon any applicant a right to have a determination of public convenience or necessity made for any particular site or use.

SECTION 6. The effective date of this ordinance shall be February 1, 2006.

PASSED FOR PUBLICATION of title this _____ day of _____, 2005, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

RON GONZALES
Mayor

ATTEST:

LEE PRICE, CMC
City Clerk