



City of Huntington Beach Planning and Building Department

STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning and Building
BY: Jennifer Villasenor, Senior Planner *JV*
DATE: September 24, 2013
SUBJECT: ZONING TEXT AMENDMENT NO. 13-001 (DTSP DISTRICT 1 OFF-SITE ALCOHOL SALES)
APPLICANT: City of Huntington Beach
LOCATION: Specific Plan No. 5 (Downtown Specific Plan) – District 1

STATEMENT OF ISSUE:

- Zoning Text Amendment (ZTA) No. 13-001 involves an amendment to the Downtown Specific Plan (DTSP) to prohibit the sale of alcohol for off-site consumption in District 1 (Downtown Core). The amendment would apply to any permitted use in District 1.

- Staff's Recommendation: Approve Zoning Text Amendment No. 13-001 and forward to the City Council for adoption for the following reasons:
 - Consistent with City Council direction and Police Department recommendations;
 - Addresses public safety issues related to alcohol consumption associated with off-site sales in the downtown area as outlined by the Chief of Police on June 3, 2013;
 - Consistent with the City Council Strategic Plan goal to “Enhance and Maintain Public Safety”; and
 - Conforms to the General Plan, certified Local Coastal Program, and Chapter 247 of the Huntington Beach Zoning and Subdivision Ordinance.

RECOMMENDATION:

Motion to:

“Approve Zoning Text Amendment No. 13-001 with findings (Attachment No. 1) and forward Draft Ordinance (Attachment No. 2) to the City Council for adoption.”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. “Deny Zoning Text Amendment No. 13-001 with findings for denial.”
- B. “Continue Zoning Text Amendment No. 13-001 and direct staff accordingly.”

PROJECT PROPOSAL:

Zoning Text Amendment No. 13-001 involves an amendment to the Downtown Specific Plan (DTSP) to prohibit the sale of alcohol for off-site consumption in District 1 (Downtown Core) pursuant to Section 2.6 of the Downtown Specific Plan. The amendment would apply to any permitted use in District 1 (Attachment No. 2).

The proposed amendment would apply to new establishments. Existing businesses that have off-sale licenses would be allowed to operate as they currently do, i.e. grandfathered, and continue to serve any public need for the retail sale of alcohol in the downtown area. Catering businesses, which require an on-sale ABC license, would not be affected by the proposed ZTA. The City has determined that this amendment is necessary to reduce the incidence of alcohol-related crime and problems in the downtown core and surrounding residential and beach areas.

Background:

At the City Council's direction, the Chief of Police presented recommendations to reduce the impact of alcohol sales and consumption in the downtown area at the June 3, 2013 City Council study session. One recommendation was to prohibit any additional off-sale¹ alcohol licenses in the downtown area because the Police Department had determined that off-sale alcohol contributed to alcohol related crimes and problems in the downtown core area as well as the surrounding residential neighborhoods and on the beach. At the conclusion of the study session, the Chief of Police was directed by the City Manager to take action to prohibit any new off-sale Alcoholic Beverage Control (ABC) Licenses in the DTSP – District 1 area.

At the July 15, 2013 City Council meeting, the City Council adopted a resolution directing the Chief of Police to file a formal protest with the Department of Alcoholic Beverage Control of any future application for an off-sale alcohol license within the DTSP – District 1 area. The City Council was also informed at the July 15th meeting that the Planning and Building Department would begin processing an amendment to the DTSP that would prohibit the sale of alcohol for off-site consumption in the District 1 area.

Study Session:

The Planning Commission held a study session on September 10, 2013. Staff introduced the proposed changes to the Downtown Specific Plan and provided background as described above. The Planning Commission asked questions related to applicability of the changes to existing businesses and requested additional information regarding the number of off-sale licenses allowable under the ABC Act, the number of off-sale licenses within the broader downtown area, and zoning of parcels within a half mile radius of District 1 (refer to Attachment No. 4).

One member of the public spoke at the study session and provided a letter in support of the project in addition to supporting information previously prepared by the Police Department (Attachment No. 5).

¹ While the DTSP and Huntington Beach Zoning and Subdivision Ordinance generally refer to uses requesting the sale of alcohol *for on- or off-site consumption*, the Department of Alcoholic Beverage Control would classify the type of license as *on- or off-sale*. For purposes of discussion on ZTA No. 13-001, these terms are interchangeable.

ISSUES:

General Plan Conformance:

The General Plan Land Use Map designation for District 1 of the DTSP is Mixed Use – >30 units per acre – Specific Plan Overlay – Design Overlay – Pedestrian Overlay (M->30-sp-pd-d), except for the Main Street Library site, which is designated Public (P). The proposed project is consistent with this designation and the goals and objectives of the City’s General Plan as follows:

A. Land Use Element

Policy LU 10.1.8: Require that entertainment, drinking establishments, and other similar uses provide adequate physical and safety measures to prevent negative impacts on adjacent properties.

Policy LU 10.1.9: Continue to control the location and amount of alcohol sales, adult businesses, game arcades, and other “community-sensitive” uses, based on proximity to residences, schools, religious facilities, and parks as authorized by legislative and legal requirements.

B. Public Facilities and Services Element

Goal PF 1: Protect the community from criminal activity, reduce the incidence of crime and provide other necessary services within the City.

Objective PF 1.3: Ensure that new developments in Huntington Beach are designed to encourage safety.

Policy PF 1.3.2: Ensure that new development and land use proposals are analyzed to determine the impact their operators, occupants, visitors or customers may have on the safety and welfare of the community.

Zoning Text Amendment No. 13-001 would amend the DTSP to prohibit the sale of alcohol for off-site consumption for any use, including restaurants and retail establishments, in the District 1 (Downtown Core) of the DTSP. The changes to the DTSP are a direct response to recommendations made by the Police Department, which determined that the sale of alcohol for off-site consumption contributed to alcohol related crime and problems in the downtown core area as well as the surrounding residential neighborhoods and on the beach. Implementation of the changes to prohibit off-site alcohol sales for any use in the District 1 (Downtown Core) area would be a measure to prevent negative impacts on adjacent properties, control the amount of off-site alcohol sales near downtown residential areas and the beach, and potentially reduce the incidence of crime related to alcohol consumption.

Zoning Compliance: Not applicable.

Urban Design Guidelines Conformance: Not applicable.

Environmental Status:

Zoning Text Amendment No. 13-001 is categorically exempt pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act.

Coastal Status:

Zoning Text Amendment No. 13-001 would require an amendment to the City’s certified Local Coastal Program, subject to approval from the California Coastal Commission, prior to becoming effective.

Redevelopment Status: Not applicable.

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements:

Zoning Text Amendment No. 13-001 is based on recommendations from the Police Department as presented by the Chief of Police to the City Council on June 3, 2013.

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on September 12, 2013. Notices were sent to all restaurant and retail businesses within the DTSP District 1 area as well as interested agencies/organizations including the Downtown Business Improvement District, Marketing and Visitors Bureau, Chamber of Commerce and the Downtown Residents Association. As noted in the Background section of this report, one letter in support of ZTA No. 13-001 was received at the September 10th Planning Commission study session (Attachment No. 5). As of September 17, 2013, no other communications regarding ZTA No. 13-001 have been received.

Application Processing Dates:

<u>DATE OF COMPLETE APPLICATION:</u>	<u>MANDATORY PROCESSING DATE(S):</u>
Not Applicable	Not Applicable

ANALYSIS:

The Police Department makes an average of 400 public intoxication arrests and 150 possession/consumption of alcohol in public arrests annually citywide, the majority of which are in the downtown area. According to the California Department of Alcoholic Beverage Control (ABC), there are currently five off-sale (Type 20 and 21) licenses issued to businesses within the DTSP – District 1 area. The Police Department has reported that the sale of alcohol at these businesses contributes to alcohol-related crime and problems in the downtown area as well as the surrounding residential neighborhoods and on the beach, including underage drinking and increased prevalence of homeless persons.

The Department of Alcoholic Beverage Control is the State agency charged with implementing laws governing the sale of alcohol in California (ABC Act) as well as issuing alcohol licenses. The ABC Act allows a certain number of on- and off-sale licenses to be issued per county based on population (Attachment No. 3), and this is monitored at the census tract level. For the census tract in which District 1 is located, ABC has determined that four on-sale and two off-sale licenses would be appropriate based on the census tract population. The number of alcohol licenses can exceed the number determined appropriate by ABC. The ABC Act states that additional alcohol licenses may be issued if the local governing agency makes a finding of public convenience or necessity. In Huntington Beach, this finding is effectively made through the conditional use permit (CUP) process. Table 1 shows the number of issued licenses in the District 1 census tract compared to the number of licenses determined appropriate per the ABC Act.

TABLE 1

Census Tract No.	Number of On-Sale Licenses Determined Appropriate by ABC*	Number of Active On-Sale Licenses** (Type 41,47,48,75,42)	Number of Off-Sale Licenses Determined Appropriate by ABC*	Number of Active Off-Sale Licenses** (Type 20,21)
993.11	4	38 (34 – District 1)	2	7 (5 – District 1)

Source: Department of Alcoholic Beverage Control (ABC) website

** As of May, 2012*

*** As of September 10, 2013*

As requested by the Planning Commission, Attachment No. 4 provides the information in Table 1 in addition to data on population and number of licenses issued for surrounding census tracts, census tract boundaries, parcels within half-mile of District 1 and zoning.

Currently, District 1 of the DTSP allows the retail sale of alcohol for off-site consumption with a CUP from the Zoning Administrator. If the area devoted to the sale, display or storage of alcohol is less than 10 percent of the total floor area of a retail market or florist/gift shop no conditional use permit is required and the sale of alcohol is permitted by right. Eating and drinking establishments can also be permitted to have off-site alcohol sales and obtain an ABC license to allow the sale of alcohol for both on- and off-site consumption with a CUP. Other uses, such as hotels and cultural institutions, may also have these uses ancillary to the primary use. With the existing Downtown Specific Plan, the only way to regulate off-site alcohol sales for this group of uses is to specifically restrict off-site sales through conditions of approval on a CUP.

The proposed changes to the Downtown Specific Plan would prohibit the sale of alcohol for off-site consumption in the District 1 (Downtown Core) area and potentially reduce the incidence of alcohol-related crimes in the downtown area. Limiting the sale of alcohol for off-site consumption in District 1 would ensure greater compatibility with the other uses downtown as well as the surrounding residential neighborhoods and beach areas. The proposed changes to the Downtown Specific Plan would not affect the zoning designation, development standards or allowable density for any affected property.

Although the goals and policies of the Downtown Specific Plan encourage uses that promote tourism and recreation to encourage investment and stimulate the economy, they also call for a well-balanced mix of retail and restaurant uses while limiting alcohol-related uses. The amendment to prohibit the sale of alcohol for off-site consumption in District 1 of the Downtown Specific Plan would not inhibit the

goal to promote tourism and recreation as there would be no changes to the type of uses allowed. In addition, visitor-serving commercial uses would continue to be required as they currently are in District 1 of the Downtown Specific Plan. For these reasons, staff is recommending that the Planning Commission approve Zoning Text Amendment No. 13-001 pursuant to the Police Department's recommendations and City Council direction.

ATTACHMENTS:

1. Suggested Findings for Approval – ZTA No. 13-001
2. Draft City Council Ordinance – ZTA No. 13-001
3. Sections 23815 – 23827 California Business and Professions Code
4. District 1 and Surrounding Census Tracts Exhibit
5. Public Comment Letter Received at the September 10, 2013 Planning Commission Study Session.

SH:MBB:jv

ATTACHMENT NO. 1

SUGGESTED FINDINGS OF APPROVAL

ZONING TEXT AMENDMENT NO. 13-001

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act because it is a minor zoning text amendment which does not change development standards, intensity, or density of any zoning district.

SUGGESTED FINDINGS OF APPROVAL ZONING TEXT AMENDMENT NO. 13-001

1. Zoning Text Amendment No. 13-001 to amend the Downtown Specific Plan to prohibit the sale of alcohol for off-site consumption for any use is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan. The goals and policies of the General Plan require that the City implement safety measures for drinking and entertainments uses that prevent negative impacts on adjacent properties and require that the City control alcohol-related uses when they are in closer proximity to residential and other “community-sensitive” uses. Zoning Text Amendment No. 13-001 would amend the DTSP to prohibit the sale of alcohol for off-site consumption for any use, including restaurants and retail establishments, in District 1 (Downtown Core) area of the DTSP. The changes to the DTSP are a direct response to recommendations made by the Police Department, which determined that the sale of alcohol for off-site consumption contributed to alcohol related crime and problems in the downtown core area as well as the surrounding residential neighborhoods and on the beach. Implementation of the changes to prohibit off-site alcohol sales for any use in the District 1 (Downtown Core) area would be a measure to prevent negative impacts on adjacent properties, control the amount of off-site alcohol sales near downtown residential areas and the beach, and potentially reduce the incidence of crime related to alcohol consumption.
2. In the case of a general land use provision, Zoning Text Amendment No. 13-001 is compatible with the uses authorized in, and the standards prescribed for, the zoning district for which it is proposed. The proposed changes to the Downtown Specific Plan would not affect the zoning designation, development standards or allowable density for any affected property. The Police Department has determined that the sale of alcohol for off-site consumption contributes to alcohol-related crime and problems in the area. Limiting the sale of alcohol for off-site consumption in District 1 of the Downtown Specific Plan area would ensure greater compatibility with the other uses downtown as well as the surrounding residential neighborhoods and beach areas.
3. A community need is demonstrated for the change proposed. The changes to the Downtown Specific Plan would prohibit additional off-sale alcohol licenses in the District 1 (Downtown Core) area of

the Downtown Specific Plan and potentially reduce the incidence of alcohol-related crimes in the downtown area as well as the surrounding residential neighborhoods and on the beach.

4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice. The proposed amendment to the Downtown Specific Plan would implement a measure, as recommended by the Police Department, which would help to improve and maintain public safety within the downtown area, ensure that impacts related to alcohol uses are minimized and ensure that future uses are compatible with the existing downtown uses. Additionally, there are currently five establishments with off-sale alcohol licenses that are operating and would maintain the public's convenience. While the goals and policies of the Downtown Specific Plan encourage uses that would promote tourism and recreation to encourage investment and stimulate the economy, they also call for a well-balanced mix of retail and restaurant uses while limiting alcohol related uses. The amendment to prohibit the sale of alcohol for off-site consumption in District 1 of the Downtown Specific Plan would not inhibit the goal to promote tourism and recreation as there would be no changes to the type of uses allowed. In addition, visitor-serving commercial uses would continue to be required as they currently are in the Downtown Specific Plan area.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH
AMENDING SPECIFIC PLAN NO. 5 – DOWNTOWN SPECIFIC PLAN
(ZONING TEXT AMENDMENT NO. 13-001)**

WHEREAS, pursuant to the California State Planning and Zoning Law, the Huntington Beach Planning Commission and Huntington Beach City Council have held separate, duly noticed public hearings to consider Zoning Text Amendment No. 13-001, which amends Specific Plan No. 5 – Downtown Specific Plan to prohibit the sale of alcohol for off-site consumption for any use in District 1 of the Downtown Specific Plan area; and

After due consideration of the findings and recommendations of the Planning Commission and all other evidence presented, the City Council finds that the aforesaid amendment is proper and consistent with the General Plan;

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. That Specific Plan No. 5 – Downtown Specific Plan is hereby amended to read as set forth in Exhibit A.

SECTION 2. This ordinance shall become effective immediately upon certification by the California Coastal Commission but not less than 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the ____ day of _____, 2013.

Mayor

ATTEST:

INITIATED AND APPROVED:

City Clerk

Director of Planning and Building

REVIEWED AND APPROVED:

APPROVED AS TO FORM:

City Manager

City Attorney

Exhibit A: Legislative Draft

Demolition

The deliberate removal or destruction of the frame or foundation of any portion of a building or structure.

Director

The Director of the Department of Planning or his or her designee, unless otherwise specified.

Dwelling, multiple unit

A building or buildings designed with two or more dwelling units.

Dwelling, single unit

A detached building designed primarily for use as a single dwelling, no portion of which is rented as a separate unit, except as permitted by this document. Attached single family dwellings shall be considered as multi-family.

Eating and drinking establishments

Businesses serving prepared food or beverages for consumption on or off the premises. This use classification shall prohibit the sale of alcohol for off-site consumption in District 1.

Entertainment

A single event, a series of events, or an ongoing activity or business, occurring alone or as part of another business, to which the public is invited to watch, listen, or participate, or is conducted for the purposes of holding the attention of, gaining the attention of, or diverting or amusing guests or patrons, including, but not limited to:

- a. Any amusement or event such as live music or other performance which is knowingly permitted by any establishment subject to this chapter, including presentations by single or multiple performers, such as hypnotists, pantomimes, comedians, song or dance acts, plays, concerts, any type of contest; sporting events, exhibitions, carnival or circus acts, demonstrations of talent or items for gift or sale; shows, reviews, and any other such activity which may be attended by members of the public.
- b. Live or recorded music where public dancing is permitted.
- c. Any event controlled, conducted, sponsored, encouraged, or knowingly permitted, by an establishment subject to this chapter, which involves any of the activities described in the foregoing paragraphs which is presented by members of the public, whether or not the participants in said activities are compensated by the establishment.

- d. Establishments which provide jukeboxes, televisions, video games, video programs, or recorded music and no other entertainment, as herein defined, are not required to comply with the provisions of this chapter, unless the recorded music is played on equipment which is operated by an agent or contractor of the establishment for a period exceeding ten minutes per hour.

The intent of this section is to require an Entertainment Permit of establishments which provide that which is commonly known as a “DJ” and to exempt establishments which provide incidental or ambient music.

Facade

The main face or front of a building.

Feasible

Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

Floor Area Ratio (FAR)

A number which indicates how many square feet of structure can be built on a site. FAR is determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

Fly tower

The structure and rigging behind and above the stage in a performing arts theater. The purpose of a fly tower is a system to move set pieces, lights, microphones and other equipment on or off stage and to lift or “fly” the scenery above the stage.

Food and beverage sales

Retail sales of food and beverages for off-site preparation and consumption. Typical uses include groceries or delicatessens. Establishments at which 20 percent or more of the transactions are sales of prepared food for on-site or take-out consumption shall be classified as Catering Services or Eating and Drinking Establishments. Food and beverage sales with alcoholic beverage sales shall mean establishments where more than ten percent of the floor area is devoted to sales, display and storage of alcoholic beverage (except in District 1 where the sale of alcohol for off-site consumption is prohibited).

Fractional ownership hotel

Facility providing overnight visitor accommodations where at least some of the guest rooms (units) within the facility are owned separately by multiple owners on a fractional time basis. A fractional time basis means that an owner receives exclusive right to use of the individual unit for a certain quantity of days per year and each unit available for fractional ownership will have multiple owners.

<u>Permitted Uses District 1*</u>					
<u>Use*</u>	<u>Permitted</u>	<u>Admin Permit</u>	<u>CUP from ZA</u>	<u>CUP from PC</u>	<u>TUP from ZA</u>
Accessory dwelling units		✓			
Artists' studios ¹	✓				
Banks and savings and loans branch offices ²	✓				
Carts and kiosks ³		✓			
Commercial parking ⁴			✓		
Cultural institutions				✓	
Eating and drinking establishments ⁵		✓			
Eating and drinking establishments, with less than 12 seats	✓				
Eating and drinking establishments, with alcohol (hours of operation up to 11 pm M-TH and 12 am Fri-Sun.)			✓		
Eating and drinking establishments, with alcohol (hours of operation past 11 pm M-TH and/or 12 am Fri-Sun.)				✓	
Eating and drinking establishments, with dancing				✓	
Eating and drinking establishments, with live entertainment				✓	
Food and beverage sales, without alcoholic beverage sales	✓				
Health and sports clubs				✓	
Home occupations ⁶		✓			
Hotels, motels, and bed and breakfasts				✓	
Live/work units ⁷		✓			
Offices, business and professional ⁸	✓				
Personal enrichment services ⁹		✓			
Personal services	✓				
Public facilities			✓		
Real estate businesses	✓				
Religious assembly			✓		
Multi-family housing, apartments, condominiums, and stock-cooperatives (up to 4 units)	✓				
Multi-family housing, apartments, condominiums, and stock-cooperatives (more than 4 units)			✓		
Single-family detached dwellings ¹⁰	✓				
Retail markets with alcohol sales **				✓	
Retail sales					

Figure 3-23 Permitted Uses District 1 (1 of 2)

<u>Permitted Uses District 1*</u>					
<u>Use*</u>	<u>Permitted</u>	<u>Admin Permit</u>	<u>CUP from ZA</u>	<u>CUP from PC</u>	<u>TUP from ZA</u>
Retail sales, outdoor ¹²					
Service stations ¹³				✓	✓
Theaters			✓		
Travel services	✓				
<p>*The sale of alcohol for off-site consumption is prohibited for any use in District 1.</p> <p>¹ Must include retail sales</p> <p>² With no drive through windows and not to exceed 5,000 square feet</p> <p>³ Pursuant to Section 230.94 of the HBZSO</p> <p>⁴ Not permitted on street level, street frontage for properties fronting Main Street and/or Pacific Coast Highway.</p> <p>⁵ Pursuant to Section 3.2.24 Outdoor Dining</p> <p>⁶ Pursuant to Section 230.12 of the HBZSO</p> <p>⁷ Provided that:</p> <ul style="list-style-type: none"> • The live/work unit is permitted to be a maximum of 3,000 square feet. • The non-residential area is permitted to be a maximum 50% of the area of each live/work unit. • The non-residential area function shall be limited to the first or main floor only of the live-work unit. • A maximum of 5 non-residential worker or employees are allowed to occupy the non-residential area at any one time. • Dwelling units that include an office that is less than ten percent of the area of the dwelling unit shall not be classified as a live/work unit. <p>⁸ Pursuant to Section 3.3.1.3. Permitted Uses, items 1), and 2)</p> <p>⁹ Not to exceed 5,000 square feet</p> <p>¹⁰ That comply with the standards provided in Section 3.3.4. District 4 - Established Residential and the standards contained in the Residential Infill Lot Developments Ordinance in Section 230.22 of the HBZSO</p> <p>¹¹ Exempting retail markets with no more than 10 percent of the floor area devoted to sales, display, and storage of alcoholic beverages (including florist shops offering the sale of a bottle of an alcoholic beverage together with a floral arrangement), provided the sale of alcoholic beverages is not in conjunction with the sale of gasoline or other motor vehicle fuel.</p> <p>¹² Pursuant to Section 3.2.25. Outdoor Display Areas and Sales</p> <p>¹³ With minimum 14,000 square feet of net lot area, subject to the development standards outlined in Section 230.32 of the HBZSO and located only on Pacific Coast Highway between 7th Street and 9th Street</p> <p>Note: Projects with less than 100' frontage and additions shall require a CUP from ZA.</p> <p>Projects with 100' frontage or greater shall require a CUP from PC.</p>					

Figure 3-23 Permitted Uses District 1 (2 of 2)

BUSINESS AND PROFESSIONS CODE

SECTION 23815-23827

23815. It is hereby determined that the public welfare and morals require that there be a limitation on the number of premises licensed for the sale of distilled spirits.

23816. The number of premises for which an onsale general license is issued shall be limited to one for each 2,000, or fraction thereof, inhabitants of the county in which the premises are situated. No additional onsale general licenses, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any county where the number of all premises for which onsale general licenses are issued is more than one for each 2,000, or fraction thereof, inhabitants of the county. No onsale general license shall be issued in lieu of or upon the cancellation or surrender of an onsale beer and wine license.

23817. Until July 1, 1963, the number of premises for which an offsale general license is issued shall be limited to one for each 2,000, or fraction thereof, inhabitants of the county in which the premises are situated; and no additional offsale general license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any county where the number of premises for which all offsale general licenses are issued is more than one for each 2,000, or fraction thereof, inhabitants of the county.

On and after July 1, 1963, the number of premises for which an offsale general license is issued shall be limited to one for each 2,500, or fraction thereof, inhabitants of the county in which the premises are situated; and no additional offsale general license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any county where the number of premises for which all offsale general licenses are issued is more than one for each 2,500, or fraction thereof, inhabitants of the county.

23817.4. The Legislature finds and declares that the public welfare and morals require that there be a limitation on the number of premises licensed for the off sale of beer and wine.

23817.5. (a) (1) The number of premises for which an off-sale beer and wine license is issued shall be limited to one for each 2,500, or fraction thereof, inhabitants of the city or county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city or county where the number of premises for which all off-sale beer and wine licenses are issued is more than one for each 2,500, or fraction thereof, inhabitants of the city or county.

(2) The number of premises for which an off-sale beer and wine license is issued in a city and county, in combination with the number of premises for which an off-sale general license is issued in a city and county, shall be limited to one for each 1,250, or fraction thereof, inhabitants of the city and county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city and county where the number of premises for which all off-sale beer and wine licenses in combination with off-sale general licenses are issued is more than one for each 1,250, or fraction thereof, inhabitants of the city and county.

(b) (1) Notwithstanding subdivision (a), a retail off-sale beer and wine replacement license may be issued at a premises that was operated under an existing off-sale beer and wine license no less than 90 days prior to the date of application for the replacement license, provided that the existing licensee is subject to a bankruptcy proceeding and the existing licensee has no right to operate at the premises, or has abandoned the premises of that license.

(2) A replacement license shall not be issued if the existing license has been, or is in the process of being, transferred, or if the existing license has been canceled by the licensee or surrendered by the licensee pursuant to department rule.

(3) An application for a replacement license shall be accompanied by a fee of one hundred dollars (\$100) and all conditions imposed upon the existing off-sale beer and wine license at the premises shall be imposed upon the replacement license.

(4) Upon issuance of the replacement license, the off-sale beer and wine license existing at the premises shall be canceled by operation of law. A replacement license shall not be transferred to another premises.

23817.7. (a) Notwithstanding Section 23817.5, the department may approve an application for an off-sale beer and wine license in areas covered by Section 23817.5, if the applicant shows that public convenience or necessity would be served by the issuance, and where all of the following conditions are found to exist:

(1) The applicant premises are located in a crime reporting district that is below that specified pursuant to paragraph (1) of subdivision (a) of Section 23958.4. In considering an application, the department may take into account adjacent crime reporting districts, if the applicant premises are located within 100 feet of the boundaries of any adjacent district. The department shall use an average of reported crimes in the crime reporting district in which the premises are located and reported crimes in any adjacent crime reporting district, if the total of crimes reported in the adjacent district or districts is greater than the crime reporting district in which the premises are located.

(2) The applicant premises are located in an area that falls below the concentration level provided in paragraph (3) of subdivision (a) of Section 23958.4.

(3) The local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines that public convenience or necessity would be served by the issuance.

(b) The department may impose reasonable conditions on a licensee as may be needed in the interest of the public health, safety, and welfare regarding signing, training for responsible beverage sales and hours, and mode of sale.

23817.8. (a) Notwithstanding Section 23817.5, the department may approve an application for an off-sale beer and wine license by a licensed beer and wine wholesaler, even though the applicant premises will be located in an area having an undue concentration of off-sale beer and wine licenses, as provided in paragraph (3) of subdivision (a) of Section 23958.4, provided each of the following conditions are met:

(1) The off-sale beer and wine license shall be held at the same location as the beer and wine wholesaler license.

(2) The off-sale beer and wine license shall be restricted to sales solicited and accepted by direct mail, telephone, or on-line computer. The off-sale beer and wine license shall not be used for operations conducted from a retail store open to the public.

(b) The department may impose reasonable conditions on a licensee as may be needed in the interest of the public health, safety, and welfare regarding signing, training for responsible beverage sales, hours, and mode of sale.

23817.9. For the purposes of Section 23817.5, beginning with the year 2000, population shall be determined by the most recent United States decennial census or a single subsequent census between United States decennial censuses validated by the Population Research Unit of the Department of Finance five years after a United States decennial census.

23817.10. Whenever it is made to appear to the department by satisfactory evidence that the population in any city or county has increased by more than 2,500 or multiples of 2,500 inhabitants or the population in a city and county has increased by more than 1,250 or multiples of 1,250 inhabitants since the most recent United States decennial census and if the total number of off-sale beer and wine licenses in that city, county, or city and county does not then exceed the maximum specified in Section 23817.5, the department may issue additional licenses, not to exceed one off-sale beer and wine

license for each increase of 2,500 inhabitants in the city or county or for each increase of 1,250 inhabitants in the city and county since the taking of the census.

23818. Population, for the purpose of Sections 23816 and 23817, shall be determined by the most recent United States decennial or special census or a subsequent census validated by the Population Research Unit of the Department of Finance.

23819. Nothing in this article authorizes the cancellation of any license which may be outstanding in any county in excess of the number authorized by the ratio established in this article, nor shall anything in this article require the issuance of any license in any county because the number of the licenses does not equal the authorized ratio.

23820. The department may make all rules consistent with the provisions of Section 22 of Article XX of the Constitution, or the provisions of this division, necessary to carry into effect the provisions of this article, and to restrict the issuance of alcoholic beverage licenses, including seasonal licenses, but not including beer, beer and wine wholesaler's, and winegrower's licenses, to a number in any county as the department shall determine is in the interest of public welfare and morals, convenience, or necessity.

23821. Whenever it is made to appear to the department by satisfactory evidence that the population in any county has increased by more than 2,000 or multiples of 2,000 inhabitants since the most recent United States decennial or special census, and it appears to the department that by reason thereof the inhabitants of the county are unjustly and unfairly discriminated against, and if the total number of on-sale general licenses in such county do not then exceed the maximum specified in Section 23816, the department, subject to the limitation contained in Section 24070, may issue not to exceed one on-sale general license for each increase of 2,000 inhabitants in the county since the taking of the census.

Whenever it is made to appear to the department by satisfactory evidence that the population in any county has increased by more than 2,500 or multiples of 2,500 inhabitants since the most recent United States decennial or special census and it appears to the department that by reason thereof the inhabitants of the county are unjustly and unfairly discriminated against, and if the total number of off-sale general licenses in such county do not then exceed the maximum specified in Section 23817, the department, subject to the limitation contained in Section 24070, may issue not to exceed one off-sale general license for each increase of 2,500 inhabitants in the county since the taking of the census.

Before any applications for new original on-sale general or new original off-sale general or intercounty transfer of off-sale general or on-sale general licenses are accepted, the department shall publish pursuant to Section 6061 of the Government Code in the county where such new original licenses may be issued or into which off-sale general or on-sale general licenses may be transferred, notice of the department's intention to receive applications for the issuance of such new original licenses or for the intercounty transfer of off-sale general or on-sale general licenses, setting forth the date, time, manner and place of acceptance of such applications within the county. In all other respects the limitation hereinbefore provided for shall continue in effect.

23824. Limitations provided by Section 23816 on the number of licensed premises shall not apply to premises located on land owned by and leased from the State of California, or to premises owned by the State of California, any incorporated city, county, city and county, airport district, or other district or public corporation of the State of California or to premises leased to the State of California or to any city or county, so long as the premises are operated as a bona fide public eating place, provided, however, that civic auditoriums owned by any incorporated city, county, city and county, or other district or any premises leased to the State of

California or to any county or city for use as a civic auditorium and directly operated by a public entity shall be subject to the limitations provided by Section 23816, but shall not be required to be operated as a bona fide public eating place. The civic auditorium shall further not be subject to the provisions of Section 23793.

Licenses issued on premises owned by the state, incorporated city, county, city and county, airport district, or other district or public corporation of the State of California, or issued on premises leased to the State of California or to any county or city, shall be renewable as set forth in Section 24048. These licenses shall be excluded from the number of premises used in determining application of the limitations provided by this article. These licenses shall be subject to an original fee of six thousand dollars (\$6,000) and shall be only transferable from person to person at the same premises. Prior to the issuance of these licenses, the governmental agency owning or leasing the premises shall file with the department a written request that the license be issued and a written statement setting forth the reasons why issuance of the license would be in the public interest.

A written request filed with the department by the governmental agency owning or the city or county leasing premises used as a civic auditorium and directly operated as a public entity that the license be issued need not contain a written statement setting forth the reasons why issuance of the license would be in the public interest.

Funds derived from fees collected pursuant to the amendments made to this section at the 1975-76 Regular Session of the Legislature shall be deposited in the General Fund.

23824.1. (a) The provisions of Section 23824 shall apply to convention centers and event centers which are operated by municipal, independent nonprofit agencies for the purpose of providing meeting rooms, exhibit space, or event and theatrical seating, or all of these.

(b) Any license issued pursuant to this section shall be issued only upon condition that all revenues generated from the license shall be segregated and allocated for the operations and capital requirements of the convention center or event center only.

(c) For purposes of this section, "event center" means a community center, activity center, auditorium, convention center, arena, or other building, collection of buildings, or facility which is used exclusively or primarily for the holding of exhibitions, conventions, meetings, spectacles, concerts, or shows.

23825. As used in this article, "onsale general license" includes a special onsale general license; provided, that the limitation prescribed in Section 23816 shall not prohibit the exchange of an onsale general license for a special onsale general license, or the exchange of a special onsale general license for an onsale general license.

23826. Notwithstanding any other provision of this chapter, in any county where the inhabitants number less than 2,500 and where on July 1 of any calendar year there exists in any such county none or only one on-sale general license and none or only one off-sale general license the department may issue one additional original on-sale general license and one additional original off-sale general license during the following 12-month period.

In issuing the licenses provided for in this section, the department shall follow the procedure set forth in Section 23961.

A license issued pursuant to this section shall not be transferred from one county to another.

23826.2. No new off-sale beer and wine license shall be issued in a county of the first class, as specified in Section 28022 of the Government Code, unless it is issued with conditions, pursuant to Sections 23800 and 23801, which provide that the sale of products other than beer and wine on an annual basis, measured by gross receipts, shall exceed the annual sales of beer and wine products measured by the same basis.

23826.5. Notwithstanding any other provision of this chapter, in any county of the 58th class, the department may issue three additional original off-sale general licenses.

In issuing the licenses provided for in this section, the department shall follow the procedure set forth in Section 23961.

A license issued pursuant to this section shall not be transferred from one county to another.

23826.7. Notwithstanding any other provision of this chapter, in any county where the inhabitants number less than 5,000 but more than 3,000 according to the 1970 federal census and where the major economy of that county is dependent upon the year-round use of that county's recreational facilities the department may issue five additional new original on-sale general licenses for bona fide public eating places. Any premises to qualify for a license under this section shall have a seating capacity for 100 or more diners. In no event shall more than five such licenses be issued under this section.

In issuing the licenses provided for in this section, the department shall follow the procedure set forth in Section 23961.

Nothing in this chapter shall prohibit a person who currently holds a valid on-sale general license for seasonal business from applying for an original on-sale general license pursuant to this section.

A license issued under this section shall not be transferred from one county to another nor shall it be transferred to any premises not qualifying under this section.

23826.8. Notwithstanding any other provision of law, the director may authorize the conversion of any on-sale general license for seasonal business to an on-sale general license if the on-sale general license for seasonal business was originally issued before May 1, 1982, or if an application for original issuance of that license was filed before May 1, 1982, or, in the case of any county of the 34th class, if the on-sale general license for seasonal business was originally issued before October 1, 1982, or if an application for original issuance of that license was filed before October 1, 1982. An application for conversion shall be accompanied by the fee required by Section 23954.5 for an on-sale general license. The department shall not accept any applications for original issuance of an on-sale general license for seasonal business on or after January 1, 1983.

An on-sale general license for seasonal business which is converted to an on-sale general license under this section may not be transferred for a period of two years from the date of issuance, except as provided in Section 24071, and except when the department determines that the transfer is necessary to prevent undue hardship. The purchase price or consideration that may be paid by a transferee or received by a transferor of an on-sale general license created by conversion under this section shall not exceed six thousand dollars (\$6,000), except that after a period of five years from the date of issuance of the license there shall be no restriction as to the purchase price or consideration that may be paid by a transferee or received by a transferor.

23826.9. (a) Notwithstanding any other provision of this chapter, in any county of the 56th class, the department may issue 10 additional new original on-sale general licenses for bona fide public eating places. Any premises to qualify for a license under this section shall have a seating capacity for 50 or more diners. In no event shall more than 10 on-sale general licenses for bona fide eating places be issued under this section.

(b) In issuing the licenses provided for in this section, the department shall follow the procedure set forth in Section 23961.

(c) Nothing in this chapter shall prohibit a person who currently holds a valid on-sale general license for seasonal business from applying for an original on-sale general license pursuant to this section.

(d) A license issued under this section shall not be transferred from one county to another nor shall it be transferred to any premises not qualifying under this section.

23826.10. (a) Notwithstanding any other provision of this chapter, in any county of the 29th class, commencing January 1, 2009, the department may issue five additional new original on-sale general

licenses for bona fide public eating places per year, for a period of three years. Any premises to qualify for a license under this section shall have a seating capacity for 50 or more diners. In no event shall more than 15 on-sale general licenses for bona fide eating places be issued under this section.

(b) In issuing the licenses provided for in this section, the department shall follow the procedure set forth in Section 23961.

(c) Nothing in this chapter shall prohibit a person who currently holds a valid on-sale general license for seasonal business from applying for an original on-sale general license pursuant to this section.

(d) A license issued under this section shall not be transferred from one county to another nor shall it be transferred to any premises not qualifying under this section.

23826.11. (a) Notwithstanding any other provision of this chapter, in any county of the 18th class the department may issue five additional new original on-sale general licenses for bona fide public eating places per year, until January 1, 2016. To qualify for a license under this section the premises upon which a bona fide public eating place is operated shall have a seating capacity for 50 or more diners. Not more than a total of 15 on-sale general licenses shall be issued under this section.

(b) In issuing the licenses provided for in this section, the department shall follow the procedure set forth in Section 23961.

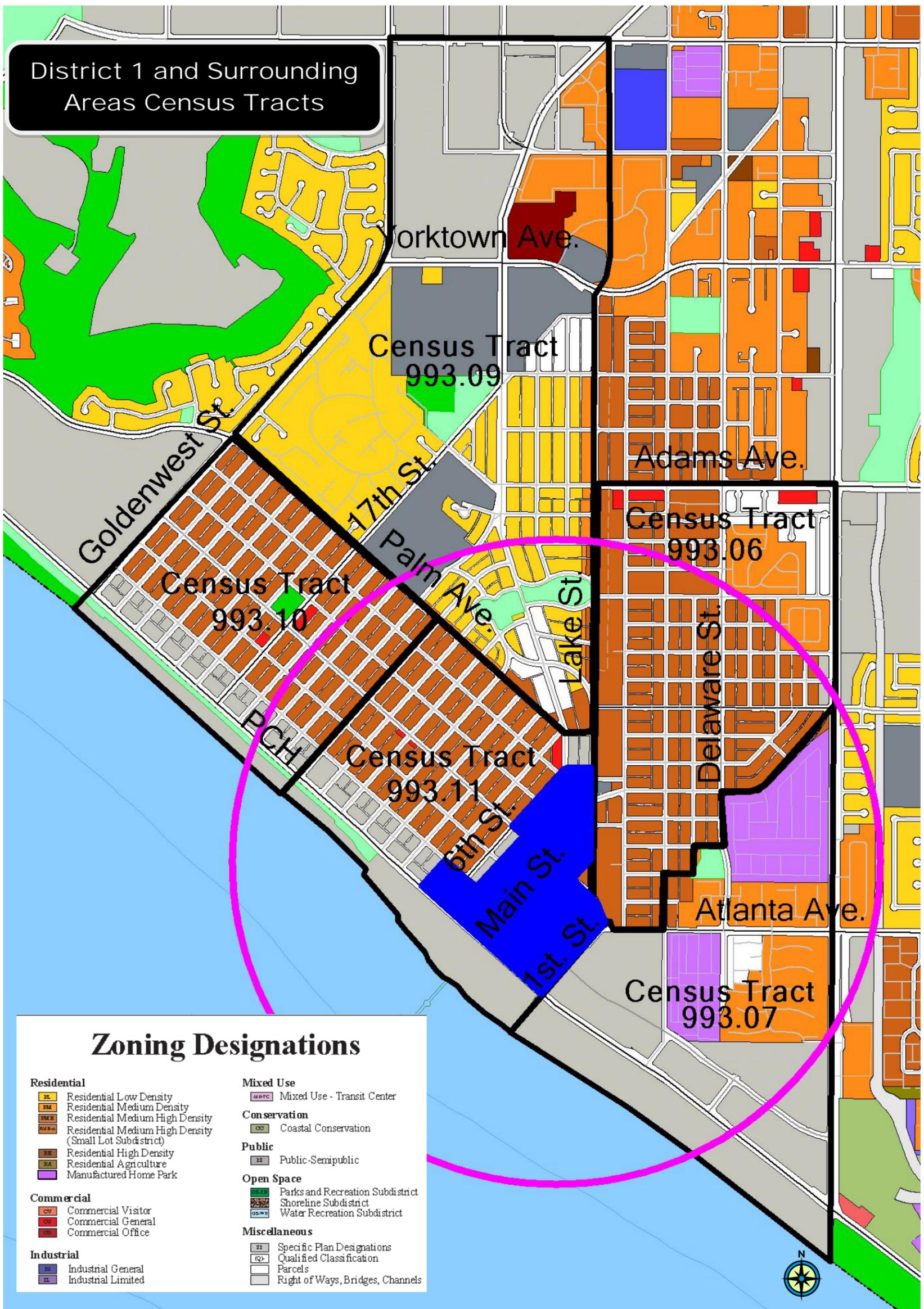
(c) This chapter does not prohibit a person who currently holds a valid on-sale general license for seasonal business from applying for an original on-sale general license pursuant to this section.

(d) A license issued under this section shall not be transferred from one county to another nor shall it be transferred to any premises not qualifying under this section.

23827. Notwithstanding any other provision of this chapter, in any county where the inhabitants number less than 7,000 and where the major economy of that county is dependent upon the continual use of that county's recreational facilities the department may issue four additional new original on-sale general licenses for bona fide public eating places. Any premises to qualify for a license under this section shall have a seating capacity for 100 or more diners. In no event shall more than four such licenses be issued under this section.

In issuing the licenses provided for in this section, the department shall follow the procedure set forth in Section 23961.

A license issued pursuant to this section shall not be transferred from one county to another.



Census Tract

District 1

Parcels w/i half-mile

Census Tract No.	Population	No. of On-Sale Licenses Determined Appropriate by ABC*	No. of Active On-Sale Licenses** (Type 41,47,48,75,42)	No. of Off-Sale Licenses Determined Appropriate by ABC*	No. of Active Off-Sale Licenses** (Type 20,21)
993.11 (District 1 Census Tract)	3,598	4	38 (34 - District 1)	2	7 (5 - District 1)
993.06	6,028	6	2	3	5
993.07	2,502	2	2	1	0
993.09	4,547	5	5	2	1
993.10	4,482	5	0	2	2

Source: Department of Alcoholic Beverage Control (ABC) website

*As of May 2012

**As of September 10, 2013

From: [Richardson Gray](#)
To: [Villasenor, Jennifer](#); [De Coite, Kim](#)
Subject: Planning Commission -- Project Review -- September 10, 2013 -- Zoning Text Amendment No. 13-001 -- DTSP District 1 Off-Site Alcohol Sales
Date: Saturday, September 07, 2013 1:36:24 PM
Attachments: [Chief Small Crime Report -- 2012.pdf](#)
[Chief Small Crime Report -- 2011.pdf](#)

Dear Jennifer and Kimberly,

Please provide this email to Scott Hess and all seven Planning Commissioners, as my public comments on the referenced Project Review item for this Tuesday. I plan to read these comments to the Planning Commission on Tuesday. For the last six years, I have owned my home in our Downtown neighborhood.

I strongly urge the Planning Commission to adopt the referenced Zoning Text Amendment No. 13-001, for the following reasons, among others.

1. As per the attached Huntington Beach Police Department ABC Reports for 2012 and 2011, the two major Reporting Districts, numbers 451 and 461, in the DTSP's District 1, had by far the worst crime rates in the City, and combined total crime rates that were over ten times the Citywide average, for both years.
2. Per a Huntington Beach Neighbors analysis in 2012, using then current ABC data and the 2010 Census, the DTSP District 1's census tract, number 993.11, has roughly three times the number of Off-Site ABC establishments per 1,000 residents than the same numbers for the Citywide and Countywide averages. Hence, our Downtown already has a large undue concentration of Off-Site ABC establishments.
3. Per Police Chief Kenneth Small's presentation to the City Council at their June 3, 2013 Study Session, regarding alcohol consumption and all of the related crime problems, our Downtown has one of the highest concentrations of ABC licenses in the entire State of California. Chief Small went on to say that our Downtown is unique in that its entertainment district directly abuts established residential neighborhoods, including mine.
4. Chief Small continued by saying that public alcohol intoxication (person cannot care for self or property, typically prompted by a complaint) is the most frequent Downtown crime, with approximately 400 arrests per year.
5. Last, Chief Small said that our Downtown has another roughly 100 arrests per year for public alcohol consumption.

Thank you for consideration of my views.

Richardson Gray

415 Townsquare Lane #208
Huntington Beach, CA 92648
714-348-1928 (cell)
richardson.gray@yahoo.com



CITY OF HUNTINGTON BEACH

INTER-DEPARTMENT COMMUNICATION

TO: Investigator Kessler, Investigator Fong
Vice Investigators

CC: Chief of Police via Chain of Command

FROM: **Julie Romano**
Crime Analysis Unit

DATE: January 31, 2012

SUBJECT: 2011 Part I Crimes and Part II Arrests for ABC Report

I have attached a copy of Part I Crimes by RD and Part II Arrests by RD for the City of Huntington Beach. A summary is as follows:

Total RD's In the City	130
Total Crime Count	10336
Average Crime Count per Patrol Area	79.51

A 20% greater number of crimes than the average number of crimes for all RDs is **95.41**

There are 31 RDs with a count greater than 95.41. The RD's are listed in RD order.

RDs	Part I Crimes	Part II Arrests	Total	RDs	Part I Crimes	Part II Arrests	Total
155	68	34	102	412	73	89	162
165	76	53	129	413	71	108	179
241	73	48	121	421	58	62	120
242	283	80	363	422	75	84	159
252	81	88	169	431	52	131	183
253	78	24	102	432	77	169	246
261	84	65	149	436	99	38	137
262	87	78	165	441	55	66	121
263	58	57	115	442	93	106	199
271	49	59	108	451	327	838	1165
272	170	157	327	452	65	67	132
273	54	48	102	461	193	264	457
282	48	124	172	462	46	76	122
283	56	131	187	463	62	50	112
293	125	70	195	476	70	56	126
349	83	44	127				



CITY OF HUNTINGTON BEACH

INTER-DEPARTMENT COMMUNICATION

TO: Investigator Fong, Investigator Archer
Vice Investigators

CC: Chief of Police via Chain of Command

FROM: **Julie Romano**
Crime Analysis Unit

DATE: February 28, 2013

SUBJECT: 2012 Part I Crimes and Part II Arrests for ABC Report

I have attached a copy of Part I Crimes by RD and Part II Arrests by RD for the City of Huntington Beach. A summary is as follows:

Total RD's In the City	130
Total Crime Count	10084
Average Crime Count per Patrol Area	77.57

A 20% greater number of crimes than the average number of crimes for all RDs is **93.08**

There are 31 RDs with a count greater than 93.08. The RD's are listed in RD order.

RD	Part I Crimes	Part II Arrests	Grand Total	RD	Part I Crimes	Part II Arrests	Grand Total
165	85	44	129	293	178	75	253
168	66	31	97	349	98	20	118
171	65	32	97	412	88	89	177
179	59	35	94	413	61	97	158
241	83	32	115	421	53	59	112
242	339	73	412	422	78	70	148
252	106	76	182	431	35	104	139
253	74	22	96	432	93	156	249
261	80	67	147	436	94	33	127
262	133	77	210	442	89	82	171
263	53	56	109	451	500	621	1121
271	48	63	111	452	67	57	124
272	117	168	285	461	279	233	512
273	70	58	128	462	56	71	127
282	68	114	182	463	76	41	117
283	66	130	196				