

EXHIBIT A

The text of Section 18.110.020 of the Rialto Municipal Code hereby is amended to read in full (deletions in ~~strike through~~ and additions in ***bold & italic***) as follows:

“A. The provisions of this chapter shall apply to the new development of, or the conversion of an existing building or structure into, an establishment offering alcoholic beverages for sale for off-site consumption.

B. Except for section 18.110.050, the provisions of this chapter shall also apply to any existing establishment engaged in the off-sale of alcoholic beverages that changes or proposes to change the type of license within the off-sale license classification or that increases or proposes to increase the square footage of the premises used for the sale of alcoholic beverages.

~~B.-C~~ Notwithstanding the foregoing, the following establishments are exempt from the provisions of this chapter and the provisions shall not apply to any of the following:

1. Establishments containing fifteen thousand square feet or more of gross floor area that do not sell alcoholic beverages as their principal business;
2. Establishments that engaged in the off-sale of alcoholic beverages prior to the effective date of the ordinance codified in this chapter; provided that such establishments comply with the following conditions:
 - a. The establishment retains the same type of retail liquor license within a license classification, and
 - b. The licensed establishment is operated continuously without substantial change in mode or character of operation. For purposes of this subdivision a break in continuous operation without change in mode or character of operation does not include:
 - i. A closure for not more than thirty days for purposes of repair, if that repair does not change the nature of the licensed premises and does not increase the square footage of the premises used for the sale of alcoholic beverages, or
 - ii. The closure for restoration of premises rendered totally or partially inaccessible by an act of God or other accident beyond the control of the establishment, if the restoration does not increase the square footage of the premises used for the sale of alcoholic beverages and the restoration complies with and is permitted by all other applicable provisions of this code including, without limitation Chapter 18.60 of this title; or
 - iii. A brewpub or microbrewery which has located at its premises or on property contiguous thereto a bona fide public eating place or establishment provided that the

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brewpub or microbrewery may only sell beer produced and bottled, or produced and packaged, or produced elsewhere and bottled or packaged on the premises of the brewpub or microbrewery for on-site and off-site consumption."

The text of Section 18.110.050 of the Rialto Municipal Code hereby is amended to read in full (deletions in ~~strike through~~ and additions in ***bold & italic***) as follows:

"A. A business or establishment may not engage in the off-sale of alcoholic beverages unless it is to be located in accordance with the following site location criteria:

- A1.*** Separation Distance from Schools. No such business shall be located within one thousand feet from the boundary of an existing public or private elementary, middle junior high or high school, preschool or kindergarten, or any such proposed school site as designated by the applicable school district's board of education or other governing body.
- B2.*** Separation from Churches and Public Parks. No such business shall be located within five hundred feet of any existing church or public park.
- C3.*** Separation from Residential Areas. No such business shall be located within one hundred feet of any existing residential dwelling or property zoned for any residential use.
- D4.*** Separation Distances between Similar Establishments. ~~Any such business shall be located a minimum distance of one thousand feet from any existing business licensed by the state of California Department of Alcoholic Beverage Control for off-sale general alcoholic beverage sales with less than fifteen thousand square feet of gross floor area.~~ ***There is no minimum separation distance required between establishments offering alcoholic beverages for sale for off-site consumption approved under the provisions of this chapter.***

~~E.~~ ***B.*** For purposes of this section, all measurements shall be made by following the shortest, direct route from the property line of the point or location in question to the nearest point upon the outside wall of the building or building lease space of the existing, approved establishment offering alcoholic beverages for sale for off-site consumption ***distances shall be measured by airline from the closest edge of any school, day care, church, or residential structure to the closest edge of the premises or the closest edge of the parking lot or parking area of the establishment for off-sale of alcoholic beverages, whichever distance is shorter. Parking lot or parking area of an establishment for off-sale of alcoholic beverages refers to a lot or area maintained for the benefit of patrons of the establishment, or if multiple businesses are in the vicinity of the establishment, the parking area shall***

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be determined by the area necessary to comply with the off-street parking requirements of this code or that which is reasonably necessary to accommodate the anticipated parking needs of the establishment."

Section 18.110.090 is hereby added to Title 18, Chapter 18.110 of the Rialto Municipal Code section as follows:

"Determinations of Public Convenience or Necessity

A. Purpose. The purpose of this chapter 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 are considered high crime, as specified in Business and Professions Code Section 23958 et seq., as the same may be amended from time to time.

B. Definitions.

- 1. "Determination" means a determination of public convenience or necessity by the City of Rialto to assist the State of California in 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-premises sale outlets or those areas that are considered high crime, as specified in Business and Professions Code 23958 et seq., as the same may be amended from time to time.***
- 2. "Director," for the purposes of and as used in this chapter, means the Director of Development Services.***

C. Request for Determination.

- 1. Whenever a request for a determination 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 the city as allowed under California Business and Professions Code Section 23958.4, as the same may be amended from time to time, the determination request shall be processed utilizing the process provisions of a conditional development permit contained in Chapter 18.66 of this Code.***
- 2. Subject to the provisions of this section, the planning commission shall hold a public hearing, review an application for a determination, and 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***

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the off-sale of alcoholic beverages only after making all of the findings required in subsection D below.

3. *The planning commission's decision on the determination shall be appealable to the city council, pursuant to the procedures set forth in Chapter 18.68 of the Rialto Municipal Code.*

D. Required Findings.

The following findings must be made prior to any determination under this section:

1. *The proposed use is not located within an area designated by the city for targeted neighborhood enhancement services or programs, or located within an area in which the chief of police has determined, based upon quantifiable information, that the proposed use: (a) would be detrimental to the public health, safety, or welfare of persons located in the area; or (b) would significantly increase the severity of existing law enforcement or public nuisance problems in the area; and*
2. *The proposed use would not lead to the grouping of more than four off-sale of alcoholic beverage uses within a one thousand-foot radius from the exterior of the building containing the proposed use; and*
3. *The proposed use complies with the site location criteria under Section 18.110.050; and*
4. *At least one of the following additional findings:*
 - a. *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; or*
 - b. *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; or*
 - c. *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-premises sale of alcoholic beverages in the area.*

E. *Nothing contained in this section shall be deemed or construed as requiring the planning commission or city council to issue a determination under the provisions of this section. Under no circumstances shall a requestor for a determination under this section*

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have a right to such determination, and nothing contained in this section shall be deemed or construed to confer upon any requestor a right to have a determination made for any particular site.”