

EXHIBIT A

Paragraph B of Section 18.110.020 of the Rialto Municipal Code is amended to read in full as follows:

“B. Notwithstanding the foregoing the provisions of this chapter shall not apply to any of the following:

1. Establishments containing fifteen thousand square feet or more of gross floor area which do not sell alcoholic beverages as their principal business;
2. Establishments which have been 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~~ are operated continuously without substantial change in mode or character of operation. The mode or character of operation does not include a change in the type of retail liquor license within a license classification. For purposes of this subdivision a break in continuous operation does not include:

~~i. a.~~ 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. b.~~ 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

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permitted by all other applicable provisions of this code including, without limitation [Chapter 18.60](#) of this title; or

~~iii.~~ c. 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 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.”

Section 18.110.050 of the Rialto Municipal Code hereby is amended to read in full 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~~

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~~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.~~

~~B. No school, church, public park or residential use, where such uses are conditionally permitted, may be established near an existing business or establishment engaged in the off sale of alcoholic beverages unless it is to be located in accordance with the following site location criteria:~~

- ~~1. Schools. No 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 shall be located within one thousand feet from the boundary of an existing, approved business or establishment engaged in the off sale of alcoholic beverages.~~
- ~~2. Churches and Public Parks. No church or public park shall be located within five hundred feet of any existing, approved business or establishment engaged in the off sale of alcoholic beverages.~~
- ~~3. Residential Areas. No residential dwelling or property zoned for any residential use shall be located within one hundred feet of any existing, approved business or establishment engaged in the off sale of alcoholic beverages.~~

~~This subsection B shall not apply to schools, churches, public parks, or residential uses in zones where such uses are permitted by right.~~

E. 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

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~~the existing, approved establishment offering alcoholic beverages for sale for off-site consumption.”~~

Section 4 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

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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 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

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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 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.”