

ORDINANCE NO. 1015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, AMENDING CHAPTER 17.42 OF THE LANCASTER MUNICIPAL CODE, RELATING TO ALCOHOLIC BEVERAGE ESTABLISHMENTS, AND REPEALING ORDINANCE NO. 1013

WHEREAS, on June 14, 2016, the City Council of the City of Lancaster adopted Ordinance No. 1013, which established certain restrictions on the size and quantity of containers of alcoholic beverages that could be sold for off-site consumption by some retail establishments; and

WHEREAS, City Council's purpose in adopting Ordinance No. 1013 was to protect public health, safety and welfare by deterring, preventing and/or mitigating certain public nuisance conditions activities that occur in and around some retail establishments that sell alcoholic beverages for off-site consumption, including loitering, drinking in public, panhandling and littering; and

WHEREAS, at the June 14, 2016 City Council meeting, several business owners of alcoholic beverage establishments and other interested parties raised concerns about possible unintended consequences that may occur as a result of implementation of Ordinance No. 1013; and

WHEREAS, City Council voted to delay the effective date of the ordinance until January 1, 2017, in order to provide a "working group" of business owners, City staff and representatives of the City's Planning and Criminal Justice Commissions time to explore whether alternative methods could be developed that would address the public nuisance conditions and activities of concern while mitigating the business owners' concerns about the potential unintended effects associated with implementation of Ordinance No. 1013; and

WHEREAS, the working group discussed possible revisions to Chapter 17.42 of the Lancaster Municipal Code, which regulates alcoholic beverage establishments, that would address the identified public nuisance conditions and activities that were the subject of Ordinance No. 1013; and

WHEREAS, the working group proposed including additional performance and operating standards to Section 17.42.110, applicable to both "deemed approved" alcoholic beverage establishments and those that are operating pursuant to a conditional use permit; and

WHEREAS, the proposed revisions further include incorporating an administrative citation process, one that the City Council has approved to address other unlawful and/or nuisance activities, that will give alcoholic beverage establishments an opportunity to correct the conditions and activities at the business in lieu or in advance of potentially having their deemed approved status or conditional use permit revoked; and

WHEREAS, the City Council finds and declares that the proposed revisions to Chapter 17.42 of the Lancaster Municipal Code may deter and prevent the unlawful conditions and activities that were the focus of Ordinance No. 1013, without the potential for unintended effects on small business owners, and that the proposed revisions may be equally successful in protecting public health, safety and welfare by deterring, preventing and/or mitigating public nuisance conditions and activities in and around alcoholic beverage establishments.

THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 17.42 of the Lancaster Municipal Code is hereby repealed; provided, however, that such repeal shall not affect or excuse any violation of said Chapter occurring prior to the effective date of this ordinance. A new Chapter 17.42 of the Lancaster Municipal Code is hereby added as set forth in Attachment A attached hereto.

Section 2. Ordinance No. 1013, adopted on June 14, 2016, is hereby repealed.

Section 3. The City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

I, Britt Avrit, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the 25th day of October, 2016, and placed upon its second reading and adoption at a regular meeting of the City Council on the 13th day of December, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

BRITT AVRIT, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES }ss
CITY OF LANCASTER }

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 1015, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)

ATTACHMENT A

Chapter 17.42 - ALCOHOLIC BEVERAGE ESTABLISHMENTS

Sections:

17.42.010 - Purpose and intent.

The purpose of adopting regulations for the sale of alcoholic beverages is to ensure that such sales will not adversely affect surrounding residents, businesses, and institutions; and to ensure that any such use operates in a manner compatible with existing and future adjacent uses.

This chapter alone does not allow or permit alcoholic beverage establishments, but only applies to such establishments where otherwise allowed or permitted within an involved applicable land use zoning district. This chapter does not authorize the operation of alcoholic beverage establishments in any land use district where they are not otherwise allowed or permitted by the applicable involved zoning district's regulations.

17.42.020 - Definitions.

For the purpose of this chapter, the following words or terms shall be defined as follows:

"Alcoholic beverage" means a fermented or distilled beverage including alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer which contains one-half of one percent or more of alcohol by volume which is fit for beverage purposes, either alone or when diluted with other substances, and sale of which require a license from the State ABC.

"Alcoholic beverage control (ABC)" means the California State Department of Alcoholic Beverage Control.

"Alcoholic beverage establishment" means any or all of the following: a bona fide restaurant, an incidental off-sale alcoholic beverage establishment, an incidental on-sale alcoholic beverage establishment, a primary off-sale alcoholic beverage establishment, and a primary on-sale beverage establishment.

"Bona fide restaurant" means a business enterprise which is conducted, or proposed to be conducted, in compliance with the following requirements:

1. The issuance by ABC of a Type 41 or a Type 47 license;
2. A kitchen and a dining area that constitute permanent and identifiable portions of the business premises where meals are prepared by the establishment for consumption on the premises during all hours the establishment is open for business;
3. A printed menu which is made available to patrons by a server for the purpose of ordering meals;
4. Not less than 51% of the business enterprise is derived from the sale of food and non-alcoholic beverages;
5. At least one full-time cook is engaged by the business enterprise to prepare meals for patrons on the premises during the permissible hours of operation;
6. There shall be no drinking contests or other similar activities.

Fast food restaurants, billiard or pool halls, nightclubs, and adult-oriented businesses are not considered bona fide restaurants.

"Convenience market" means any business establishment of less than ten thousand (10,000) square feet not connected with a petroleum products service-station, and which is characterized by retail sales of food products and household items, and which devote a minimum of fifteen (15) percent of overall sales floor area to display and sale of fresh meat and produce. Convenience markets shall be prohibited from selling spirits (ABC License Type 21).

"Enforcing officer" includes any Lancaster public safety officer, Lancaster community services officer, Los Angeles County Sheriff's deputy, and any other public officer or employee designated by the City Manager to issue administrative citations in accordance with section 17.42.160 of this chapter.

"Entertainment" means any form of entertainment, whether live, televised audio or video taped, including, but not limited to, any type of performance for the purpose of amusing the audience, such as: dancing, singing, playing a musical instrument or acting.

"Existing deemed approved alcoholic beverage establishment" means any establishment lawfully engaged in the sale of alcoholic beverages for on- or off-sale consumption which is in existence prior to the effective date of this chapter, retains the same type of alcoholic beverage license and continues to legally operate without substantial change in the mode or character of operation.

"Fast food restaurant" means a restaurant whose business is primarily related to take-out food. Customers typically order food from a menu board. A fast food restaurant may also have a drive-through window.

"Grocery store" means any business establishment selling food products, household merchandise, and/or drugs to the public which has a floor area of more than 10,000 square feet.

"Incidental alcoholic beverage establishments" means incidental off-sale alcoholic beverage establishments and incidental on-sale alcoholic beverage establishments. Wineries and incidental uses allowed under a Type 02 liquor license issued by State ABC shall not be considered incidental alcoholic beverage establishments.

"Incidental off-sale alcoholic beverage establishment" [means those establishments that both: (1) sell, serve or give away alcoholic beverages for consumption off the premises; and (2) utilize no more than the square footage provided in the table below for the sale and display of alcoholic beverages for consumption off the premises. This definition shall not include sales establishments operated as an incidental use to a winery under a Type 02 liquor license issued by State ABC.]

Size of Outlets	Maximum square footage of sales floor area for the sale and display of alcoholic beverages
0 to 100,000 gross square feet of total sales floor area	Up to 5% or 2,500 square feet, whichever is less
Greater than 100,000 gross square feet of total sales floor area	Up to 5% or 7,500 square feet, whichever is less

"Incidental on-sale alcoholic beverage establishment" means those establishments that both: (1) sell, serve or give away alcoholic beverages for consumption on the premises; and (2) utilize 10% or less of the gross floor area for the sale, display and storage of alcoholic beverages for consumption on the premises. Without limitation, this definition includes a hotel that maintains only a Type 70 alcoholic beverage license, and a hospital which maintains only a Type 63 alcoholic beverage license. For purposes of this article, a bona fide restaurant shall not be considered an incidental on-sale alcoholic beverage establishment. This definition shall not include wine tasting rooms operated as an incidental use to a winery under a Type 02 liquor license issued by the State ABC.

"Liquor store" means a retail or wholesale establishment which has obtained an alcoholic beverage control license Type 21 (off-sale general) to engage in the sale or sealed or containerized alcoholic beverages wherein the sale of alcoholic beverages constitutes 51% or more of the establishment's gross financial receipts. This definition shall not include sales establishments incidental to a winery operated under a Type 02 liquor license issued by State ABC.

"Mini-mart" means a retail establishment which contains less than 10,000 square feet of gross floor area utilized in whole or in part for the sale of a variety of items including groceries, delicatessen items, staples, dairy products, pre-packaged food, soft drinks, sundry items, and/or alcoholic beverages, and may include the sale of gasoline or other petroleum products. "Mini-mart" is distinguished from a "convenience market" in that it does not devote at least 10% of its overall floor area to the display and sale of fresh meat and produce. Any mini-mart that sells alcoholic beverages shall be deemed a primary alcoholic beverage establishment.

"Mixed-use development" means a building or combination of buildings intentionally designed as a single development to accommodate a combination of residential and commercial uses.

"Mixed-use district" means any physical location designated by the city of Lancaster general plan or zoning map as a mixed-use district.

"Nightclub" means a place of entertainment, typically open at night, usually serving food and/or alcoholic beverages, which may have a floor show and/or offer live or recorded entertainment or music and/or space for dancing.

"Operator" means any person who has an ownership interest, in any manner, in an alcoholic beverage establishment, including, without limitation, a corporation and each of its officers, directors and stockholders; a partnership and each of its partners; a limited liability company and each of its managing members.

"Owner" means and includes any person with a recorded ownership interest in, or a right of possession, control or use of the premises on which an alcoholic beverage establishment is located, including all persons shown as owners on the last equalized assessment roll of the Los Angeles County Assessor's Office. Owners include property managers and persons with powers of attorney, executors of estates, trustees, or who are court appointed administrators, conservators, guardians or receivers.

"Planning commission" means the planning commission of the city of Lancaster.

"Primary off-sale alcoholic beverage establishment" means any business establishment which is making application for or which has obtained a liquor license from ABC authorizing the sale of alcoholic beverages for consumption off the premises in original, unopened containers, and which exceeds the amount of floor area devoted to alcoholic beverage sales area as defined under "incidental off-sale alcoholic beverage establishment." For the purposes of this chapter, liquor stores and mini-markets shall be deemed primary off-sale alcoholic beverage establishments. This definition shall not include wineries and incidental uses operated under a Type 02 liquor license issued by State ABC.

"Primary on-sale alcoholic beverage establishment" means any business establishment which is making application for or which has obtained a liquor license from ABC authorizing the sale of alcoholic beverages for consumption on the premises. Such liquor licenses include, but are not limited to, Type 41 (on-sale beer and wine for bona fide public eating place), Type 42 (on-sale beer and wine for public premises), Type 47 (on-sale general for bona fide public eating place), Type 48 (on-sale general for public premises), Type 50 (on-sale general for club), Type 51 (club), and Type 52 (veteran's club). For the purposes of this chapter, bona fide restaurants, nightclubs, bars, and banquet facilities, which sell alcoholic beverages for on-site consumption, shall be deemed primary on-sale alcoholic beverages establishments. This definition shall not include wineries and incidental uses operated under a Type 02 liquor license issued by State ABC.

"Responsible Person" means an operator of an alcoholic beverage establishment, an operator's on-site manager(s), an operator's employees and/or a property owner, as defined herein.

"Sales floor area" means the calculation of area for the sale and display of specified products, including but not limited to alcoholic beverages, fresh meat and fresh produce. The calculation of sales floor area percentage shall be based on the gross floor area of the premises, including any warehousing or storage areas and shall include actual product display areas and reasonable public access aisles within or adjacent to said display area.

"Substantial change in mode or character of operation" means and includes, but is not limited to, the following situations:

1. The alcoholic beverage establishment has changed, or proposes to change, its type of retail liquor license with the Department of Alcoholic Beverage Control;
2. An alcoholic beverage establishment increases floor area by more than 20%;
3. An alcoholic beverage establishment changes from an "incidental off-sale" or an "incidental on-sale" establishment to a "primary off-sale" or a "primary on-sale" establishment;
4. The alcoholic beverage establishment proposes to reinstate alcohol sales after the retail liquor license has been revoked or suspended for a period greater than 90 days by the Department of Alcoholic Beverage Control; or
5. The establishment is a bona fide restaurant with a Type 41 or Type 47 license that adds entertainment, except for non-amplified solo or similar entertainment on an occasional basis, which does not occupy more than 50 square feet or substantially change the character of the restaurant operation.

"Supermarket" means any business establishment selling food products, household merchandise, and/or drugs to the public, which has a floor area of more than 10,000 square feet.

"Winery" means an establishment operating under a Type 02 liquor license issued by State ABC for the production of wine. "Winery" includes incidental tasting, sales, and dining associated with the overall establishment and allowed under the Type 02 license.

17.42.030 - Conditional use permit required.

On or after the effective date of this chapter, no place where alcoholic beverages are sold, served, or given away as a normal course of business for on-sale or off-sale consumption, shall be established without first obtaining a conditional use permit from the city of Lancaster. No existing deemed approved alcoholic beverage establishment shall substantially change its mode or character of operation as such term is defined by this chapter, without first obtaining a conditional use permit.

Issuance of a conditional use permit shall be in accordance with the requirements set forth in Chapter 17.32 of this code and the requirements of this chapter (except for wineries approved pursuant to Section 17.08.070(EE) of this code). The planning commission shall approve, conditionally approve, or disapprove an application for a conditional use permit for alcoholic beverage establishments. Following a public hearing at which all parties may present testimony, the planning commission shall state findings of fact, which serve as the basis of its decision, and record the decision in writing.

A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishment, and be presented to city of Lancaster or Los Angeles County sheriff's personnel upon request.

17.42.040 - Conditional use permit—Distance requirements.

A. New alcoholic beverage establishments shall adhere to the distance requirements as specified below:

Primary Alcoholic Beverage Establishments

Type of Establishment	On-Sale	Off-Sale	Bona Fide Restaurant
Religious Assembly	300'	300'	-0-
Public/Private School (K-12)	1,000'	1,000'	-0-
Day Care Center	300'	300'	-0-
Residential Use or Residentially Designated Property	300'	300'	-0-
Existing Primary Alcoholic Beverage Establishment	500'	500'	-0-
Public Park	500'	500'	-0-
Hospital	500'	500'	-0-

Incidental Alcoholic Beverage Establishments

Type of Establishment	On-Sale	Off-Sale
Religious Assembly	300'	-0-
Public/Private School (K-12)	500'	-0-
Day Care Center	500'	-0-
Residential Use or Residentially Designated Property	300'	-0-
Existing Primary Alcoholic Beverage Establishment	300'	-0-
Public Park	500'	-0-
Hospital	500'	-0-

B. Measurement of Distance. The distance requirement shall be measured in a straight line from the closest property line to the closest property line.

- C. Request for Waiver. An applicant for an alcoholic beverage establishment may request, in conjunction with the conditional use permit, a waiver of the distance requirements. In considering such request, the planning commission may approve a waiver if it makes the following findings:
 - 1. The alcoholic beverage establishment will serve a specific community need;
 - 2. The distance waiver approved for the alcoholic beverage establishment is not expected to result in an adverse effect on adjacent property, uses or residents.
- D. Exceptions to Distance Requirements. The distance requirements shall not be applicable to an alcoholic beverage establishment located within a mixed use development or a mixed use district.

17.42.050 - Conditional use permit—Findings.

In order to approve a conditional use permit for an alcoholic beverage establishment, the planning commission, or city council on appeal, shall find that the proposed use is consistent with the purpose and intent of this chapter. In addition, the planning commission, or the city council on appeal, shall make the following findings as well as the findings required by Section 17.32.090:

- A. That the proposed use will be located within a zone which permits alcoholic beverages to be sold, served, or given away for on-sale or off-sale consumption, as the case may be, upon obtaining a conditional use permit;
- B. That the proposed use will not adversely affect nearby residents and facilities primarily devoted to use by children, families, and the general public, after giving consideration to the distance or proximity of the proposed alcoholic beverage establishment to residential districts, schools (public or private), day care centers, public parks, playgrounds and other recreational facilities, churches or other places of religious worship, hospitals, clinics or other health care facilities; and
- C. That the proposed use serves the public convenience and necessity based upon all factors outlined in Section 17.42.060.

17.42.060 - Conditional use permit—Factors regarding public convenience or necessity.

In deciding whether to issue the conditional use permit, the planning commission, or the city council on appeal, shall consider whether the public convenience or necessity is being served and make findings to justify such conclusion based upon review and consideration of relevant factors, which shall include, but not limited to, the following:

- A. The extent to which the issuance of the conditional use permit would duplicate services and, therefore, contribute to an over-concentration of alcoholic beverage establishment;
- B. The extent to which alcohol sales are related to the function of the proposed use, and the possibility of the use operating in a viable manner without alcohol sales;
- C. The ability of the proposed establishment to serve a niche in the market not filled by other alcoholic beverage establishment in the area;

- D. The convenience of purchasing alcoholic beverages in conjunction with other specialty food sales or services;
- E. The aesthetic character and ambiance of the proposed establishment;
- F. The manner in which the proposed establishment is to be conducted (special or unique features), including the extent to which the establishment will provide an adequate and well trained staff;
- G. The manner in which the proposed establishment complements the established or proposed businesses in a specific area;
- H. The extent to which the proposed establishment, location and/or operator has a history of law enforcement problems;
- I. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the city; and
- J. The number of alcohol-related law enforcement calls for service, crimes or arrests in the reporting district and in adjacent districts.

17.42.070 - Conditions of approval for on-sale alcoholic beverage establishments.

Establishments engaged in the retail sale of alcoholic beverages for on-premises consumption shall be operated in a manner which does not interfere with the normal use of adjacent properties. In addition to those conditions which the planning commission, or the city council on appeal, may otherwise impose, all conditional use permits for on-sale beverage establishments shall be subject to the following conditions of approval:

- A. The exterior of the premises shall be kept free of litter.
- B. Graffiti shall be removed from the site within 72 hours.
- C. Alcoholic beverages shall not be permitted to be consumed in the parking area or other exterior areas of the premises, except for designated outdoor areas approved as part of the application.
- D. Exterior lighting of the parking area shall be kept at an intensity of between one and 2-foot candles, so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas. Light sources shall be screened from the adjacent properties and from the sky.
- E. Adequate security measures shall be provided as specified by the planning commission including, but not limited to, retaining trained staff and security personnel and providing security devices, such as surveillance or burglar alarm systems.
- F. Hours of operation, including deliveries to the proposed establishment, shall be compatible with the need and character of the surrounding neighborhood. In order to protect the public health, safety and welfare, the planning commission may limit the hours of operation.
- G. All employees who serve or sell alcoholic beverages shall successfully complete a responsible beverage service training program that meets the requirements of the State ABC within 90 days of hire. Records of such training shall be maintained on the premises and made available to city of Lancaster or Los Angeles County sheriff's personnel upon request.

- H. Noise levels at the property line of any sensitive use as listed in Section 17.24.040 adjoining the site of the alcoholic beverage establishment shall not exceed 65 dBA.
- I. The management of any establishment selling alcohol shall take necessary steps to assure the orderly conduct of employees, patrons and visitors on the premises, and to assure timely response to concerns of neighbors and local officials about problems related to alcohol sales and service at the establishment.
- J. The owner of the establishment shall maintain all required permits and/or licenses for the sale of alcoholic beverages in good standing.
- K. The establishment shall conspicuously post an interior sign stating: "We ID everyone under 30 years of age for alcohol sales." The language of such sign shall be English, as well as the predominant language of the establishment's clientele.

17.42.080 - Conditions of approval for off-sale alcoholic beverage establishments.

Establishments engaged in the retail sale of alcoholic beverages for off-premises consumption shall operate in a manner which does not interfere with the normal use of adjacent properties. In addition to those conditions which the planning commission, or the city council on appeal, may otherwise impose, all conditional use permits for off-sale alcoholic beverage establishment shall be subjected to the following mandatory conditions of approval:

- A. The exterior of the premises shall be kept free of litter.
- B. Graffiti shall be removed from the site within 72 hours.
- C. The sale of alcoholic beverages for consumption on premises shall be prohibited and appropriate posting of signs stating that drinking on the premises is prohibited by law shall be posted both inside and outside the establishment. The premises shall include the establishment proper and/or the appurtenant common area if located in a commercial center.
- D. Exterior lighting of the parking area shall be kept at an intensity of between one and 2-foot candles, so as to provide adequate lighting for patrons while not disturbing surrounding residential or commercial areas. Light sources shall be screened from the adjacent properties and from the sky.
- E. Adequate security measures shall be provided as specified by the planning commission including, but not limited to, retaining trained staff and security personnel and providing security devices, such as surveillance or burglar alarm systems.
- F. Hours of operation, including deliveries to the proposed establishment, shall be compatible with the need and character of the surrounding neighborhood. In order to protect the public health, safety and welfare, the planning commission may limit the hours or operation.
- G. All employees who serve or sell alcoholic beverages shall successfully complete a responsible beverage service training program that meets the requirements of the California Department of Alcohol Beverage Control within 90 days of hire. Records of such training shall be maintained on the premises and made available to the city of Lancaster or the Los Angeles County sheriff's department personnel upon request.

- H. Noise levels at the property line of any sensitive use as listed in Section 17.42.040 adjoining the site of the alcoholic beverage establishment shall not exceed 65 dBA.
- I. Exterior public telephones that permit incoming calls may not be located on the premises.
- J. The operation of video or any other electronic games may be prohibited in conjunction with the sale of alcoholic beverages, and will be considered on a case by case basis.
- K. The planning commission may restrict alcoholic beverages sales by container size and type where such restriction is determined to be necessary for the reasonable protection of public health and safety.
- L. No beer or wine shall be displayed within 5 feet of the cash register or the front door unless it is in a permanently affixed cooler.
- M. No sale of alcoholic beverages shall be made from a drive-through or walk-up window.
- N. No display or sale of beer or wine shall be made from an ice tub.
- O. No self-illuminated or "in-motion" advertising for beer or wine shall be located on buildings or windows, or be visible from outside the building.
- P. If the establishment also engages in the sale of motor vehicle fuel, no advertisement of alcoholic beverages shall be displayed at motor fuel islands.

17.42.090 - Exceptions—Specific plan areas.

The requirements of this chapter shall not apply to areas of the city for which a specific plan has been adopted pursuant to Section 65450 of the Government Code of the state of California if the adopted specific plan contains regulations regarding alcoholic beverage establishments.

17.42.100 - Existing deemed approved establishments selling alcoholic beverages.

Any establishment lawfully existing prior to the effective date of this chapter and licensed by the state of California for the retail sale of alcoholic beverages for on-sale or off-sale consumption shall be considered to have a "deemed approved" status and shall only be required to obtain a conditional use permit for a "substantial change in mode or character of operation" as described in Section 17.42.020, or for a revocation or expiration of "deemed approved" status as set forth in Section 17.42.130. The distance requirements set forth in Section 17.42.040 shall not apply to any existing deemed approved alcoholic beverage establishment.

17.42.110 - Performance standards; public nuisance.

- A. The operator of an alcoholic beverage establishment, whether operating with a "deemed approved" status or pursuant to a Conditional Use Permit, shall use and maintain the premises and conduct the business in a manner that comports with all applicable local, state and federal law, including but not limited to, the Calif. Business & Professions Code, the Lancaster Property Maintenance ordinance (codified at LMC Chapter 8.28), and the Lancaster Zoning ordinance (codified at LMC Title 13). Lawful property maintenance and business operations shall include, but are not limited to, the following:

1. The premises shall be maintained without the presence of garbage, junk, trash, debris or other miscellaneous items in exterior areas except in approved trash collection containers/enclosures.
2. The premises, including any surface of a structure, sidewalk, curb, ground surface, vehicle, tree, shrub, rock or other tangible item that is visible from publicly or privately owned real or personal property, shall be maintained free of graffiti. All graffiti shall be removed within seventy-two (72) hours from the operator's first observation of graffiti or receipt of verbal or written notification of such graffiti by any enforcing officer as defined in this chapter.
3. The premises shall be maintained with all signage required by applicable state and local law, including but not limited to signs prohibiting loitering, public drinking and/or the presence of open alcoholic beverage containers on the premises.
4. The establishment shall be maintained in such a manner that signs, refrigerator cases, promotional displays, equipment and/or any other items do not obstruct the view of the interior of the establishment from the parking lot and public street or other right-of-way.
5. The premises shall be maintained without the presence of exterior public telephones. Any existing public telephone shall be removed within thirty (30) calendar days from the effective date of this ordinance.
6. The operator of the establishment shall maintain a current and valid City business license and shall conduct business in full accordance with any and all conditions imposed thereon.
7. The operator shall not sell, furnish, give or permit the sale, furnishing or giving of an alcoholic beverage to an obviously intoxicated person or to a habitual or common drunkard.
8. The operator shall not sell, furnish, give or permit the sale, furnishing or giving of an alcoholic beverage to any person under 21 years of age, or knowingly allow such person to consume alcoholic beverages on the premises.
9. The operator shall not cause, allow or permit nuisance and other unlawful activities on the premises, including, but not limited to:
 - a. Loitering;
 - b. Drinking alcoholic beverages and/or possessing open alcoholic beverage containers in exterior portions of the premises, other than in a designated patio or other area approved by the Department of Alcoholic Beverage Control and/or the City in conjunction with an on-sale establishment;
 - c. Littering;
 - d. Creating excessive noise;
 - e. Disturbing the peace;
 - f. Engaging in illegal drug activity or prostitution;
 - g. Trafficking in stolen goods;

- h. Harassing passersby or business patrons;
 - i. Panhandling;
 - j. Engaging in acts of vandalism;
 - k. Otherwise engaging in conduct that is unlawful and/or constitutes a nuisance.
10. The operator shall take all reasonable steps to ensure the conditions and activities on the property on which the alcoholic beverage establishment is located do not constitute a public nuisance. For purposes of this chapter, “reasonable steps” includes, without limitation, the following:
- a. Requesting those persons engaging in conduct that constitutes a nuisance to cease that conduct, unless the operator has reasonable cause to believe such request may jeopardize his or her personal safety.
 - b. Calling the city’s law enforcement and/or public safety personnel if the operator’s attempts to abate the nuisance conduct have been unavailing or if the operator has reasonable cause to believe such attempts may jeopardize his or her personal safety.
 - c. Timely undertaking actions to address conditions that facilitate loitering and other nuisance activity on the premises, such as removing furniture from areas adjacent to the entry of the establishment, prohibiting persons from using any portion of the premises for the installation and/or operation of a temporary business or other use, and/or other preventive actions.
- B. The City Council finds and declares that it is unlawful and a public nuisance for a person to use or maintain, or to permit the use or maintenance of, property on which an alcoholic beverage establishment is located, or to conduct the business or permit the business to be conducted in a manner that is contrary to the requirements set forth in this section 17.42.110, any city or state permits, licenses and/or approvals, and/or all other applicable sections of this code, state or federal law or regulation, or that otherwise poses a threat to public health, safety and welfare.
- C. An operator shall be deemed responsible for the act or omission of any on-site manager and/or employee who uses or maintains, or permits the use or maintenance of, property on which an alcoholic beverage establishment is located, or who conducts the business or permit the business to be conducted, in violation of this chapter.
- D. Upon the sale or transfer of ownership of an alcoholic beverage establishment to a bona fide third party, previous findings of public nuisance uses, conditions and activities before such sale or transfer of ownership shall not be imputed to the new owner, unless the city determines that the sale or transfer of ownership is not to a bona fide third party.

17.42.120 – Conditional use permit: Expiration, modification, revocation.

- A. A conditional use permit for an alcoholic beverage establishment shall lapse if the use is discontinued for 90 consecutive days, or if the establishment's alcoholic beverage control license has been revoked or transferred to another location.
- B. A conditional use permit is subject to modification at any time if the planning commission makes a determination that changed circumstances or unanticipated effects concerning the operation of the business establishment necessitate that conditions be added, amended or deleted. The planning commission shall set a public hearing to consider such modification of said conditional use permit in accordance with the applicable provisions of this code. A decision of the planning commission pursuant to this section shall be appealable to the City Council in accordance with Chapter 17.36 of this code. The planning commission's decision shall be final and binding if an appeal is not timely filed.
- C. A conditional use permit for an alcoholic beverage establishment is subject to revocation if the operator has used or maintained, or permitted the use or maintenance of, the premises on which the establishment is located and/or has operated or permitted the operation of the business in violation of any condition imposed pursuant to the conditional use permit, or in violation of the performance standards set forth in section 17.42.110 of this chapter, or otherwise in a manner that constitutes a public nuisance and/or a threat to public health, safety and welfare. The planning commission shall set a public hearing to consider such revocation of said conditional use permit in accordance with the applicable provisions of this code. A decision of the planning commission pursuant to this section shall be appealable to the City Council in accordance with Chapter 17.36 of this code. The planning commission's decision shall be final and binding if an appeal is not timely filed.
 - 1. An administrative citation issued pursuant to section 17.42.160 of this chapter that has been deemed final and binding may be used as prima facie evidence of unlawful public nuisance activities and/or conditions in any subsequent revocation proceeding.

17.42.130 – Deemed approved status: Expiration, revocation

- A. The “deemed approved” status of an alcoholic beverage establishment shall expire if the use is discontinued for ninety (90) consecutive days.
- B. The “deemed approved” status of an alcoholic beverage establishment is subject to revocation if the operator has used or maintained, or permitted the use or maintenance of, the premises on which the establishment is located and/or has operated or permitted the operation of the business in violation of the performance standards set forth in section 17.42.110 of this chapter or otherwise in a manner that constitutes a public nuisance and/or a threat to public health, safety and welfare. The planning commission shall set a public hearing to consider such revocation of said deemed approved status in accordance with the applicable provisions of this code. A decision of the planning commission decision pursuant to this section shall be appealable to the City Council in accordance with Chapter 17.36 of this code. The planning commission's decision shall be final and binding if an appeal is not timely filed.

1. An administrative citation issued pursuant to section 17.42.160 of this chapter that has been deemed final and binding may be used as prima facie evidence of unlawful public nuisance activities and/or conditions in any subsequent revocation proceeding.
- C. An alcoholic beverage establishment whose “deemed approved” status has expired or been revoked shall be prohibited from engaging in the sales of alcoholic beverages without first obtaining a conditional use permit. In the event the planning commission or city council makes the determination that a conditional use permit shall be granted, said alcoholic beverage establishment shall be subject to the conditions of approval set forth in sections 17.42.070 and 17.42.080 of this chapter, including, but not limited to, the establishment of minimum single sizes of alcoholic beverages.

17.42.140 - Temporary alcohol sales.

Any event sponsor or applicant that anticipates a temporary event with alcohol sales shall obtain a temporary use permit. The application is to be filed with the planning department at least 60 days in advance of the event.

The event sponsor is the entity determined by the city to be liable for protecting public health and safety of event participants (those who attend the event), of event operators (those who create and execute the event), and of all others affected by the actions of event participants and event operators.

- A. The planning director shall review and approve requests for temporary alcohol sales through a director's review application.
- B. Conditions for a director's review for a temporary sales:
 1. The applicant shall obtain property owner's authorization.
 2. The applicant shall obtain a business license and any other permits applicable for the event.
 3. The applicant shall submit a site plan showing the event, location of parking area(s), lighting (if any), and areas that alcohol is to be sold.
 4. The applicant shall have control over points of access to the location where alcoholic beverages are dispensed and consumed.
 5. The applicant shall have control and containment of individuals who consume alcoholic beverages.
 6. Los Angeles sheriff's department shall review the application to determine the number of deputies required for security of the event based on the type and size of the event.
 7. All alcoholic beverage servers shall have in their possession proof of completing "responsible beverage service" training from the State ABC.
 8. A temporary alcoholic beverage control license is required for the duration of this event. A copy of the temporary license is to be submitted to the planning director prior to the start of the event.

9. The applicant shall specify the hours of operation of the event and the hours of sale of alcoholic beverages.
 10. The applicant shall provide liability insurance in the amount determined by the city attorney based on the size and type of the event naming the city of Lancaster as additionally insured.
 11. The site shall be restored to the original condition. Site shall be free of debris, all trash receptacles removed, temporary fencing removed, and all disturbed asphalt shall be restored to the original condition. Disturbed landscape areas are also to be restored to the original condition. The applicant shall be financially responsible for any damage to the parking lot surface and landscape areas resulting from the event.
 12. The planning director may require a cash deposit to ensure compliance with the conditions of approval.
 13. The planning director may impose any additional conditions determined necessary to protect the public health, safety, and welfare.
- C. Approval of a special event permit pursuant to Chapter 9.40 of this code shall be deemed as compliance with the requirements of this section.

17.42.150 – Violation, penalty, remedies.

- A. Violations of this chapter shall constitute a misdemeanor and shall be punishable in the manner provided in Section 1.12.020A.
- B. In addition to or in lieu of prosecution in a criminal action, the city attorney may initiate civil proceedings for the abatement, removal and enjoinder of any public nuisance as set forth in this chapter, in any manner provided by law, and shall take such other steps, and shall apply to such other court or courts as may have jurisdiction to grant such relief as will abate or remove such alcoholic beverage establishments, and restrain and enjoin any person from using property contrary to the provisions of this chapter.
- C. In addition to or in lieu of any administrative, civil or criminal remedies set forth in this chapter, the administrative citation provisions of section 17.42.160 may be utilized to abate or cause the abatement of uses, conditions and/or activities that constitute a nuisance pursuant to section 17.42.110 of this code.
- D. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

17.42.160 Administrative Citations.

- A. Any enforcing officer may issue an administrative citation to a responsible person when the officer has determined, through personal observation or after undertaking standard law enforcement investigatory actions, that the person has used or maintained, or permitted the use or maintenance of property on which an alcoholic beverage establishment is located, and/or who has operation or permitted the operation of the business, in a manner that constitutes a public nuisance pursuant to section 17.42.110 of this chapter. An officer shall not issue an administrative citation to a responsible person when the officer has determined, based on the totality of the circumstances, that said person has taken all reasonable steps to attempt to prevent the nuisance.
 1. A responsible person who is present at the property at the time an officer determines the existence of a public nuisance shall be deemed to have actual or constructive knowledge of such nuisance.
 2. An owner of the property on which the alcoholic beverage establishment is located, who is not also an operator of the business, may be deemed by an enforcing officer to have actual or constructive knowledge of the nuisance use, condition or activity: (i) if such person has previously been given verbal warning and/or an administrative citation or other written notice concerning the violations; or (ii) based on the totality of the circumstances as determined by the enforcing officer.
- B. Within five (5) days after issuance of a citation, an officer shall submit a copy of the citation and a written statement of facts to the City Manager. Alternatively, the officer may elect to submit the written statement of facts to the City Manager, who may then issue the citation.
- C. An administrative citation may be personally given to the responsible person, or the responsible person may be served by first class mail to an address which is either: (i) indicated on any form of identification presented to the officer, or (ii) discovered by the officer during the course of his or her standard law enforcement investigatory actions. The date a citation is placed in a U.S. Postal Service mail receptacle shall be the date of service. A declaration of service shall be made by the person mailing the administrative citation showing the date and manner of service by mail and reciting the name and address of the citation addressee. Failure of any responsible person to receive an administrative citation by mail shall not invalidate any citation issued pursuant to this chapter.
- D. The citation shall be in a City-approved format, and shall include the following information:
 1. The date, location and approximate time of the condition and/or activity that constituted a public nuisance pursuant to section 17.42.110 of this chapter;
 2. A brief description of the condition and/or activity that constituted a public nuisance;
 3. A statement describing the right to appeal the citation;

4. A statement advising that the fine shall be paid to the City within thirty (30) days from the date of the administrative citation, procedure for payment, and the consequences of failure to pay.
- E. The penalty amounts of administrative citations issued pursuant to this chapter shall be as follows:
 1. For the first administrative citation, the penalty shall be five hundred dollars (\$500.00);
 2. For the second and any subsequent administrative citation, the penalty shall be one thousand dollars (\$1,000.00).
- F. The failure of any person to pay a penalty assessed by administrative citation within the time specified on the citation constitutes a debt to the city, which may be collected in accordance with Chapter 1.16 of this Code or in any other manner allowable by law.

17.42.170 Right of appeal from an administrative citation.

- A. A person who has been issued an administrative citation pursuant to this chapter may contest the citation by filing a written appeal on a City-approved form with the City Manager within ten (10) calendar days from the date of the citation. The basis for the appeal must be specified in detail on the appeal form. There shall be no filing fee for the appeal, however, a deposit in the amount of the citation must be paid at the time the appeal is filed. If the citation is dismissed as a result of the appeal hearing, the deposit shall be returned to the appellant within thirty (30) days from the date of the written appeal decision.
- B. Failure of the City Manager to receive a timely appeal constitutes a waiver of the right to contest a citation; in this event, the citation is final and binding.
- C. As soon as practicable after a timely appeal is filed, the City Manager shall fix a date, time and place for a hearing. The hearing shall be conducted by an independent and impartial hearing officer. Written notice of the time and place for the hearing shall be served by first class mail, at the return address indicated on the appeal form, at least ten (10) calendar days prior to the date of the hearing.
- D. An appellant may request, in writing, that the City Manager reschedule the hearing if the request is made at least twenty-four (24) hours prior to the hearing. The City Manager shall grant one continuance of the hearing date.
- E. Failure of an appellant to appear at the scheduled hearing shall constitute the appellant's waiver of the right to appeal and a forfeiture of the citation amount deposited at the time the appeal was filed.

- F. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. The City bears the burden of proof to establish, by a preponderance of evidence, that the appellant is a responsible person who used or maintained, or permitted the use or maintenance, of property on which an alcoholic beverage establishment is located, and/or who operated, or permitted the operation of, the business, in a manner that constituted a public nuisance. The officer issuing the administrative citation and/or submitting the written statement of facts shall not be required to appear at the hearing. The hearing officer shall accept testimony by declaration under penalty of perjury relating to the condition or activity that was the grounds for the issuance of the citation, as set forth in the issuing officer's statement of facts, and shall consider any other relevant evidence concerning the condition or activity that was the grounds for the issuance of the citation that the City Manager may present at the hearing. The hearing officer shall also take the testimony of the appellant, and/or his or her witnesses, and will consider any other credible relevant rebuttal evidence the appellant may wish to present. The appellant may represent himself or herself or be represented by anyone of his or her choice, including counsel, at his or her sole expense. The appellant may bring an interpreter to the hearing at his or her sole expense.
- G. The hearing officer shall make findings based on the record of the hearing, and shall prepare a written decision, based on those findings, to either uphold or dismiss the citation. A copy of the written decision shall be served on the appellant by first class mail within ten (10) days after the hearing. If the citation is dismissed, the City shall refund the amount of the citation deposit to the appellant within thirty (30) days from the date of the decision.
- H. The decision of the hearing officer is final and conclusive, subject only to review by the superior court in accordance with the time limits set forth in Government Code Section 53069.4 and/or Code of Civil Procedure Section 1094.6.

17.42.160 - Severability.

If any part or provision of this chapter is found to be invalid or unenforceable by a court of law, such invalidity shall not affect any other part or provision herein, and all remaining provisions of this chapter will be valid and enforceable to the fullest extent permitted by law.