

ORDINANCE NO. 2888

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING AMENDMENT NO. A-021-2017, TO AMEND PORTIONS OF CHAPTERS 9.04 (DEFINITIONS) AND 9.18 (MIXED USE REGULATIONS AND DEVELOPMENT STANDARDS) OF TITLE 9 OF THE CITY OF GARDEN GROVE MUNICIPAL CODE PERTAINING TO USES WITHIN THE CIVIC CENTER MIXED USE ZONES THAT INVOLVE ENTERTAINMENT AND/OR ALCOHOL SALES OR CONSUMPTION AND PERMISSIBLE ENCROACHMENTS WITHIN SETBACKS

City Attorney Summary

This Ordinance approves text amendments to portions of Chapters 9.04 (Definitions) and 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code to update the definitions, operating conditions, and development standards in the City's Land Use Code pertaining to (i) uses within the City's Civic Center Mixed Use zoning districts that involve entertainment and/or alcohol sales or consumption and (ii) permissible encroachments into the setbacks in the Civic Center Mixed Use zoning districts. Currently, restaurant uses that include alcohol sales or entertainment are generally permitted in Mixed Use zoning districts, subject to approval of a conditional use permit. In addition, outdoor dining areas for joint use between businesses are permitted in Mixed Use zoning districts, subject to certain development standards. However, the Land Use Code currently contains conflicting provisions regarding alcohol consumption within shared or communal dining areas serving more than one business and does not expressly address the provision of entertainment or other incidental activities in such joint use areas. This Ordinance expressly permits communal dining areas serving more than one business in which entertainment and/or other similar activities incidental to the primary activity of dining are provided or conducted and/or where alcohol is served and/or consumed in the CC-1 (Civic Center East) and CC-3 (Civic Center Core) Mixed Use zoning districts, subject to specified development standards and the approval of a conditional use permit. This Ordinance also amends the Municipal Code to permit parking spaces and turning aisles to parking spaces to encroach into required setbacks within the CC-1 (Civic Center East), CC-2 (Civic Center Main Street), and CC-3 (Civic Center Core) zoning districts, subject to site plan approval and the provision of a landscape buffer.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, Amendment No. A-021-2017 was initiated by the City of Garden Grove and is a zoning text amendment to portions of Chapters 9.04 (Definitions) and 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code pertaining to uses within the Civic Center Mixed Use zoning districts that involve entertainment and/or alcohol sales or consumption and permissible encroachments within setbacks;

WHEREAS, following a Public Hearing held on November 2, 2017, the Planning Commission adopted Resolution No. 5904-17 recommending approval of Amendment No. A-021-2017;

WHEREAS, pursuant to a legal notice, a Public Hearing regarding the proposed adoption of this Ordinance was held by the City Council on November 14, 2017, and all interested persons were given an opportunity to be heard;

WHEREAS, the City Council gave due and careful consideration to the matter; and

WHEREAS, the City Council hereby makes the following findings regarding Amendment No. A-021-2017:

A. The Amendment is internally consistent with the goals, objectives and elements of the City's General Plan.

B. The Amendment will promote the public interest, health, safety and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1: The above recitals are true and correct.

SECTION 2: The City Council finds that the proposed Ordinance is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3: Amendment No. A-021-2017 is hereby approved pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 5904-17, a copy of which is on file in the Office of the City Clerk, and which is incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 4: Subdivision C of Section 9.04.060 (Definitions) of Chapter 9.04 (General Provision) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to add a definition for "Communal Dining with Entertainment and/or Alcohol" (additions shown in ***bold-italics***):

"Communal Dining with Entertainment and/or Alcohol" means a communal dining area or areas serving more than one business, either within a wholly enclosed building or within a confined outdoor space, in which "entertainment" and/or other similar incidental events or

activities secondary to the primary activity of dining are provided or conducted and/or alcohol is served and/or consumed. A "confined outdoor space" is a controlled area or group of areas with monitored entrances and exits that is enclosed by a perimeter barrier.

SECTION 5: Table 9.18-1, "Use Regulations for the Mixed Use Zones" in Section 9.18.020 (Uses Permitted) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to add "Communal Dining with Entertainment and/or Alcohol" as a conditionally permitted use, in the CC-1 (Civic Center East) and CC-3 (Civic Center Core) zones, in alphabetical order, under Eating Establishment/Restaurant (additions shown in **bold-italics**):

**Table 9.18-1
 Use Regulations for the Mixed Use Zones**

Permitted Uses	GGMU-1,-2,-3	CC-1	CC-2	CC-3	CC-OS	NMU	AR	Additional Regulations and Comments
Eating Establishment/Restaurant	See Section 9.18.060 (Alcohol Beverage Sales) regarding on-sale and off-sale of alcohol.							
Communal Dining with Entertainment and/or Alcohol	-	C	-	C	-	-	-	See Section 9.18.090.040 and Section 9.18.090.060

SECTION 6: Subdivision F (Joint Use Areas) of Section 9.18.030.300 (Outdoor Dining at Eating Establishment/Restaurant) of Section 9.18.030 (Specific Uses - Special Operating Conditions and Development Standards) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows (deletions shown in ~~strikethrough~~, additions shown in **bold-italics**):

- F. Joint Use Areas. Outdoor dining areas for joint use between businesses shall be separated from pedestrian and vehicular pathways with low walls and/or landscaping. Joint use outdoor dining areas are not required to be located immediately adjacent to an establishment, but shall be located within 25 feet of at least one establishment participating in the joint use area. Where adjacent to a public right-of-way, the area shall be delineated as required by subsection E (Delineation of Area) of this section. No alcohol shall be served in any outdoor dining area that serves more than one business, **unless authorized pursuant to a conditional use permit in accordance with the provisions set forth in Sections 9.18.090.040, Additional Regulations Specific to the CC-1 Zone, and 9.18.090.060, Additional Regulations Specific to the CC-3 Zone, of this Code.**

SECTION 7: Subdivision F.9. (Conditional Use Permit Required for Uses Involving Entertainment and/or Alcohol Sales) of Section 9.18.090.040 (Additional

Regulations Specific to the CC-1 Zone) of Section 9.18.090 (Development Standards Specific to Individual Mixed Use Zones) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows (additions shown in ***bold-italics***):

9. Conditional Use Permit Required for Uses Involving Entertainment and/or Alcohol Sales. Any home that converts from a residential use to a commercial use that will include entertainment and/or alcohol sales shall be appropriately buffered from adjacent residential uses, be subject to special operating conditions, and require review and approval of a conditional use permit. If entertainment and/or consumption of alcohol is conducted outdoors, buffering measures shall include, without limitation, sound attenuation walls and landscaping in order to protect adjacent residential uses. If the entertainment and/or alcohol sales ***or consumption*** is conducted, and the use does not meet the distance requirements for the subject uses as prescribed in Section 9.18.030 (Special Operating Conditions and Development Standards), a waiver of distance and location provisions may also be requested through the conditional use permit process. In conjunction with the approval of a conditional use permit, the hearing body may grant a waiver to any distance or location provision if it makes all of the following findings:
 - a. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed;
 - b. That the proposed use will not unreasonably interfere with the use and enjoyment of neighboring property or cause or exacerbate the development of urban blight;
 - c. That the use will not interfere with operation of other businesses or uses within the area;
 - d. That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation or revitalization;
 - e. That the establishment complies with all other distance and pedestrian and vehicular requirements of this code; and
 - f. That all applicable regulations of this code will be observed.

SECTION 8: Subdivision G (Shared Outside Eating Areas) of Section 9.18.090.040 (Additional Regulations Specific to the CC-1 Zone) of Section 9.18.090 (Development Standards Specific to Individual Mixed Use Zones) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

G. ***Communal Dining Areas.*** ~~Shared outside eating~~ ***Communal dining*** areas may be created between properties and uses. ~~No shared outside eating area where alcohol is allowed, shall have a separate entrance or exit. All outside eating areas that allow the consumption of alcohol shall only be permitted to have direct access to and from the establishments that serve the alcohol.~~ Outside eating ***communal dining*** areas shall be sufficiently buffered from adjacent residential uses in a manner that will protect the peaceful enjoyment of adjacent residentially developed properties. ***In addition to the other applicable requirements of this chapter, including those prescribed in Section 9.18.090.040.F.9 (Conditional Use Permit Required for Uses Involving Entertainment and/or Alcohol Sales), the following provisions shall apply to uses that include communal dining with entertainment and/or alcohol.***

1. ***A conditional use permit is required for communal dining with entertainment and/or alcohol.***
2. ***Entertainment shall only be permitted within a confined space with proper sound attenuation or within a wholly enclosed building.***
3. ***Outdoor communal dining areas where alcohol is served and/or consumed must be located in a controlled area or group of areas with monitored entrances and exits and enclosed by a perimeter barrier.***
4. ***The conditional use permit shall specify the requirements and the party or parties responsible for monitoring, managing and controlling the communal dining area(s).*** ~~No shared outside eating area where alcohol is allowed, shall have a separate entrance or exit. All outside eating areas that allow the consumption of alcohol shall only be permitted to have direct access to and from the establishments that serve the alcohol.~~

SECTION 9: Section 9.18.090.060 (Additional Regulations Specific to the CC-3 Zone) of Section 9.18.090 (Development Standards Specific to Individual Mixed Use Zones) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended to add new Subdivisions F (Conditional Use Permit Required for Uses Involving Entertainment and/or alcohol) and G (Communal Dining with Entertainment and/or Alcohol) as follows (additions shown in ***bold-italics***):

F. Conditional Use Permit Required for Uses Involving Entertainment and/or Alcohol Sales. Any mixed use development, or commercial development adjacent to a residential use(s), that will include entertainment and/or

alcohol sales, shall be appropriately buffered from adjacent residential uses, be subject to special operating conditions, and require review and approval of a conditional use permit. If entertainment and/or consumption of alcohol is conducted outdoors, buffering measures shall include, without limitation, sound attenuation walls and landscaping in order to protect adjacent residential uses. If the entertainment and/or alcohol sales or consumption is conducted, and the use does not meet the distance requirements for the subject uses as prescribed in Section 9.18.030 (Special Operating Conditions and Development Standards), a waiver of distance and location provisions may also be requested through the conditional use permit process. In conjunction with the approval of a conditional use permit, the hearing body may grant a waiver to any distance or location provision if it makes all of the following findings:

- a. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed;***
 - b. That the proposed use will not unreasonably interfere with the use and enjoyment of neighboring property or cause or exacerbate the development of urban blight;***
 - c. That the use will not interfere with operation of other businesses or uses within the area;***
 - d. That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation or revitalization;***
 - e. That the establishment complies with all other distance and pedestrian and vehicular requirements of this code; and***
 - f. That all applicable regulations of this code will be observed.***
- G. Communal Dining Areas. Communal dining areas may be created between properties and uses. Outside communal dining areas shall be sufficiently buffered from adjacent residential uses in a manner that will protect the peaceful enjoyment of adjacent residentially developed properties. In addition to the other applicable requirements of this chapter, including those prescribed in Section 9.18.090.060.F (Conditional Use Permit Required for Uses Involving Entertainment and/or Alcohol Sales),***

the following provisions apply to uses that include communal dining with entertainment and/or alcohol.

- 1. A conditional use permit is required for communal dining with entertainment and/or alcohol.***
- 2. Entertainment shall only be permitted within a confined space with proper sound attenuation or within a wholly enclosed building.***
- 3. Outdoor communal dining areas where alcohol is served and/or consumed must be located in a controlled area or group of areas with monitored entrances and exits and enclosed by a perimeter barrier.***
- 4. The conditional use permit shall specify the requirements and the party or parties responsible for monitoring, managing and controlling the communal dining area(s).***

SECTION 10: Subdivision C.2. (Setbacks Unobstructed) of Section 9.18.100.020 (Development Standards Applicable to All Mixed Use Zones) of Section 9.18.100 (Development and Design Standards Applicable to All Mixed Use Zones) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows (additions shown in ***bold-italics***):

2. Setbacks Unobstructed. Required setbacks shall be open and unobstructed from the ground to the sky except for trees and other plant material. No building, parking space, or turning aisle to any parking space shall occupy any portion of any required setback. ***Notwithstanding this Section, parking spaces, and turning aisles to parking spaces, within the CC-1 (Civic Center East), CC-2 (Civic Center Main Street), and CC-3 (Civic Center Core) zones may be located within required setbacks, subject to Site Plan approval, and shall require a landscaped buffer between the property line and parking space(s) and/or turning aisle(s) to any parking space(s) fronting along a street. Any landscaped buffer shall have a minimum depth of five feet. This excludes the depth of any driveway throat, which shall be as determined by the Traffic Engineering Division, Public Works Department.*** Easements for utilities (e.g., electrical, communications) are exempt from the requirements of this section.

SECTION 11: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section,

