

ORDINANCE NUMBER 2761 (CCS)

(City Council Series)

AN INTERIM ZONING ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA EXTENDING AND AMENDING REGULATIONS ESTABLISHED BY INTERIM ZONING ORDINANCE NUMBER 2754 (CCS) TO PROMOTE ECONOMIC RECOVERY IN THE CITY'S DOWNTOWN AREA, INCLUDING THE THIRD STREET PROMENADE AREA AND SANTA MONICA PLACE, AND PROVIDE OTHER MINOR AND CLERICAL AMENDMENTS TO THE ZONING ORDINANCE RELATED TO ECONOMIC RECOVERY

WHEREAS, on July 6, 2010, the City Council adopted the Land Use and Circulation Element of the City's General Plan ("LUCE"), which designates the proposed general distribution, location, and extent of land uses within the City; and

WHEREAS, on July 25, 2017, the City Council of the City of Santa Monica ("City Council") adopted the Downtown Community Plan ("DCP") which sets forth the City's vision of Downtown as a high quality, mixed-use district offering opportunities as a major public space framed by a mix of retail, restaurants, and services that form unique experiences enjoyable to both residents and visitors; and

WHEREAS, the DCP supports activities that enrich the Promenade, including street performances and events that enliven the street and provide memorable experiences for visitors, while also seeking to expand cultural opportunities, including live music venues and upgraded state-of-the art cinemas; and

WHEREAS, the DCP acknowledges that the Promenade is an essential component of the Downtown's economic sustainability and emphasizes the importance of reevaluating and refreshing the Promenade so that it remains attractive and exciting to residents and visitors alike; and

WHEREAS, DCP Goal LU3 contemplates that the Downtown will continue to be the economic center for the City, providing a diverse and flexible mix of uses that can meet future resident, business, and visitor demand; and

WHEREAS, on March 13, 2020, the City Manager, as the Director of Emergency Services (“Director of Emergency Services”), proclaimed the existence of a local emergency pursuant to Chapter 2.16 of the Santa Monica Municipal Code to ensure the availability of mutual aid and effectuate the City’s response to the novel coronavirus (“COVID-19”), and this local emergency was restated on March 14, 2020, through a revised declaration of local emergency to ensure compliance with all digital signature requirements (the “Executive Order”); and

WHEREAS, on March 16, 2020, the Director of Emergency Services issued a Third Supplement to the Executive Order, requiring the closure of a wide range of businesses including bars, nightclubs, on-premises restaurant service, movie theatres, live performance venues, gyms, fitness centers, spas, hair salons, massage parlors, and nail salons; and

WHEREAS, on March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20 directing all residents of the State of California to heed directives issued by the State Health Officer on the same date instructing all Californians to stay home except as needed to maintain continuity of operations of the federal critical infrastructure sectors; and

WHEREAS, on March 19, 2020, the Los Angeles County Department of Public Health issued an enhanced Health Officer Order, the Safer at Home Order for Control of

COVID-19, amending and superseding its earlier March 16, 2020 Order, closing all nonessential businesses, and limiting gatherings to 9 people or less; and

WHEREAS, after March 19, 2020, the Los Angeles Department of Public Health, on multiple occasions, amended and modified its Health Officer Order, recognizing the issues posed by community transmission of COVID-19 in Los Angeles County, and, in response, maintaining public health measures that have, at differing times, included strict limitations on public gatherings, required closures of certain businesses, and strict limitations and protocols for the operations of businesses permitted to remain open; and

WHEREAS, as of March 31, 2023, the local, state, and federal COVID-19 emergency declarations have concluded; and

WHEREAS, although the emergency orders have been lifted, the economic impacts of the COVID-19 closures of, and limitations on, businesses have been and continue to be devastating to the local Santa Monica economy; and the Downtown area is continuing to experience economic uncertainty; and

WHEREAS, as the commercial and economic landscape evolves, Downtown's economic recovery and competitive advantage will depend on its ability to deliver on a diverse range of unique dining, retail, and entertainment uses; and

WHEREAS, as restaurant and entertainment environments across the region and county continue to evolve, there is a need to adjust allowed uses and dining and entertainment options to enable economic recovery and provide increased flexibility to minimize vacancies on the Third Street Promenade and the Downtown areas; and

WHEREAS, the City has an important governmental interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, vacancy rates, in addition to economic impacts that threaten the health, safety, and economic welfare of its citizens and businesses, may lead to public safety impacts, including, but not limited to, increased calls for emergency services, and

WHEREAS, on October 25, 2022, City Council adopted an Ordinance amending the text of the City's Zoning Ordinance related to economic recovery in commercial districts Citywide and in the area including and immediately adjacent to the Third Street Promenade; and

WHEREAS, these zoning changes codified Emergency Interim Zoning Ordinances approved in response to the COVID-19 pandemic and focused on relaxing barriers that had been shown to create unnecessarily difficult processes for simple changes of use, inhibiting the establishing of common neighborhood-servicing uses; and

WHEREAS, on January 24, 2023, City Council held a discussion session requesting that the City develop strategies to revitalize the Third Street Promenade that included, but were not limited to, establishing an arts and entertainment district in the 1200 block of the Third Street Promenade, expanding outdoor dining opportunities, promoting available space and development opportunities, Zoning Ordinance amendments to expand allowable uses, and opportunities to partner with Downtown Santa Monica, Inc. on street performances; and

WHEREAS, the proposed Interim Zoning Ordinance includes zoning changes supporting a variety of potential commercial uses within Downtown; and

WHEREAS, the proposed changes focus on enabling additional outdoor uses and providing streamlined review for alcohol permits based on recent discussions with prospective businesses considering available tenant space within the Promenade areas; and

WHEREAS, pre-COVID-19, the City began discussions on the concept and feasibility of a utilizing the top levels of City-owned parking structures in the Downtown area for new uses, including a rooftop cinema, but such discussions ceased due to the pandemic commencing in March 2020; and

WHEREAS, as a part of the City's economic recovery measures post-COVID-19, Downtown Santa Monica, Inc., City staff, and a potential rooftop cinema operator have reengaged discussions on the concept;

WHEREAS, these public parking structures are the most appropriate locations to allow for certain uses, including the proposed rooftop cinema, due to their locations, structural capacity, and size; and

WHEREAS, allowing eligible businesses the flexibility to engage in new uses will facilitate business recovery and generate increased sales tax revenue for the City; and

WHEREAS, on July 25, 2023, due to the continued economic uncertainty arising out of the COVID-19 pandemic, and the high vacancy rate along the Promenade in the Downtown area, the City Council adopted Interim Zoning Ordinance No. 2754, which: (1) provides greater flexibility for restaurants that provide entertainment within the Third Street Promenade Area District; (2) expands Alcohol Exemption (AE) permits to additional uses to further streamline the review of alcohol permits while also correcting and refining existing AE permit condition; (3) enables the Director of Planning to consider commercial

uses that are not clearly defined in the Zoning Code; (4) extends terms for Temporary Use Permits; and (5) allows outdoor rooftop commercial uses on public parking structures owned by the City; and

WHEREAS, Interim Zoning Ordinance No. 2754 became effective September 22, 2023 and is set to expire on November 22, 2023;

WHEREAS, the City Council now desires to extend Interim Zoning Ordinance No. 2754 for the full 60 months in accordance with SMMC 9.46.090(C), with a new expiration date of November 22, 2028;

WHEREAS, as the City continues to support local businesses during this next phase of economic recovery following the pandemic, the proposed extension would allow adequate time for staff to further evaluate the 1200 block of the Promenade as a potential arts/entertainment district and evaluate the results of the land use changes included in the Interim Zoning Ordinance;

WHEREAS, the proposed extension would not preclude Council from revisiting the Interim Zoning Ordinance prior to its expiration to potentially amend the provisions or duration thereof where necessary;

WHEREAS, the City Council would also like to make other non-substantive clerical amendments and clarifying language to the Interim Zoning Ordinance, including the following: (1) ensuring the subject area is correctly identified as the “Third Street Promenade Area” by deleting any terms or reference to this area as a “District;” (2) providing greater clarity by noting that “[s]ervice of alcoholic beverages shall be incidental to the primary use” for Cultural Facilities and Instructional Services and for Commercial Entertainment and Recreation to ensure that alcohol service is not the primary use of

those establishments; and (3) providing greater clarity to the alcohol exemption operational standards for General Retail Sales, Small-Scale and Medium-Scale by: (a) clarifying that retail establishments such as wine shops may offer a tasting component during permitted hours, and (b) removing the requirement that sale of alcoholic beverages be incidental to use, in order to eliminate an inadvertent conflict with such establishment;

WHEREAS, the extension of and amendments to the interim zoning regulations set forth in Interim Zoning Ordinance No. 2754 support local business retention and promote new business opportunities within the Downtown, addressing the needs of the business community and residents and supporting small businesses by simplifying land use standards and streamlining review procedures; and

WHEREAS, the City Council finds and declares that a current and immediate threat to the public health, safety, and general welfare exists due to the devastating impact the COVID-19-mandated closures and limitations have had on the local economy, including, but not limited to, the high vacancy rate in the Third Street Promenade Area, and that the approval of additional use permits, variances, building permits or any other applicable entitlement for use which is required in order to comply with the current regulations would result in a threat to public health, safety, and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Interim Zoning Regulations. **(A)** Notwithstanding any provisions of Santa Monica Municipal Code Section 9.04.080 to the contrary, the following regulations related to Determining Floor Area shall apply:

9.04.080 Determining Floor Area

A. Excluded from Floor Area. Floor area does not include:

1. Stairways and stairwells;
2. Elevators, elevator equipment rooms, and elevator shafts;
3. Ramps to a subterranean or semi-subterranean parking structure or ramps between floors of a parking structure provided the ramp does not accommodate parking;
4. Loading spaces and docks used exclusively for loading and unloading as required by Section 9.28.080;
5. Unenclosed decks, balconies, porches, and platforms not used for commercial or restaurant activity;
6. In the Third Street Promenade Area, unenclosed rooftop areas used for commercial or restaurant activity (“unenclosed rooftop areas”), subject to the following specific standards:
 - a. Unenclosed rooftop areas shall be surrounded by a barrier not to exceed 42 inches in height with an allowable transparent barrier not to exceed 42 inches in height. The barrier shall be permanently affixed to the rooftop;
 - b. Unenclosed rooftop areas, including barrier, shall be set back a minimum five feet from the edges of the building;
 - c. Portable restrooms, storage sheds, or other similar temporary structures shall not be permitted on the rooftop;
 - d. Rooftop features such as sunshades, trellises, or canopies shall not exceed 10 feet in height with a maximum aggregate coverage of 50% of the unenclosed rooftop area;
 - e. Unenclosed rooftop areas shall not be accessible to the public

outside of their normal business operating hours.

7. Covered and uncovered courtyards, arcades, atria, paseos, walkways, and corridors located at or near the street level and are accessible to the general public provided they are not used as sales, display, storage, service, or production areas;

8. Parking areas located below finished grade or finished floor of habitable space where the vertical distance between finished grade and finished floor is 5 feet or less;

9. Semi-subterranean parking areas that meet the following criteria:

a. The parking area is located below finished grade along a minimum of one street frontage,

b. The portions of the parking area located above finished grade are a result of the site's slope and cannot feasibly be fully subterranean due to geological or physical site constraints, and

c. The facades of any of the visible portions of the parking area located above finished grade are appropriately treated and landscaped;

10. Mechanical equipment rooms, electrical rooms, telecommunication equipment rooms, and similar space located below grade

11. Enclosures constructed pursuant to Section 9.31.060, Automobile Repair, Major and Minor, for outdoor hoists in existence on the adoption of Ordinance Number 1452 (CCS);

12. Attics;

13. Accessory dwelling units and junior accessory dwelling units established in accordance with Section 9.31.025;

14. Commercial outdoor space permitted pursuant to SMMC 9.31.199, Outdoor Commercial Uses on Private Property, and SMMC 9.31.200, Outdoor Dining and Seating on Sidewalks, shall be excluded from floor area.

15. In the Third Street Promenade Area, any unenclosed rooftop parking areas on City-Owned Parking Structures as set forth in Section 9.10.050(a).

(B) Notwithstanding any provisions of Santa Monica Municipal Code Section 9.04.090 to the contrary, the following regulations related to Determining Floor Area Ratio shall apply:

9.04.090 Determining Floor Area Ratio

Floor Area Ratio (FAR) is the ratio of the floor area, excluding the areas described below, of all principal and accessory buildings on a site to the site area. To calculate FAR, floor area is divided by site area, and typically expressed as a decimal. For example, if the floor area of all buildings on a site totals 20,000 square feet, and the site area is 10,000 square feet, the FAR is expressed as 2.0. For parcels containing one or more zoning designations, only that portion zoned for commercial or industrial use shall be used as parcel area when calculating floor area ratio.

A. Floor Area Ratio Exclusions

1. Floor area devoted to basements;
2. Unenclosed decks, balconies, porches, outdoor dining areas permitted pursuant to Section 9.31.200, Outdoor Dining and Seating on Sidewalks, provided the dining areas have not more than a 42-inch high barrier surrounding the dining area and is visible from the public right-of-way, and other open spaces, and outdoor space permitted pursuant to Section 9.31.199, Outdoor Commercial Uses on Private Property.

3. In the Third Street Promenade Area, any unenclosed rooftop parking areas on City-Owned Parking Structures that are converted to outdoor rooftop commercial use in accordance with SMMC 9.10.050(a).

(C) Notwithstanding any provisions of Santa Monica Municipal Code Section 9.10.040 to the contrary, the following land use regulations shall apply in the Downtown Districts:

SMMC § 9.10.040 Land Use Regulation

Table 9.10.040 prescribes the land use regulations for Downtown Districts. The regulations for each district are established by letter designations below. These designations apply strictly to the permissibility of land uses; applications for buildings or structures may require discretionary review.

“P” designates permitted uses. Uses not listed in Table 9.10.040 may be permitted upon a determination by the Director, or designee, that the use is similar to, and not more intrusive or disruptive than, uses permitted in the District. Factors to be considered in making this determination shall include, but are not limited to, maximum parking requirements, operational characteristics, and prior determinations on similar uses.

“L(#)” designates limited uses, which are permitted by right, provided they comply with specific limitations listed at the end of the table.

“MUP” designates use classifications that are permitted after review and approval of a Minor Use Permit. Uses not listed in Table 9.10.040 may be permitted after review and approval of a Minor Use Permit upon a determination by the Director, or designee, that the use is similar to, and not more intrusive or disruptive than, a use that requires an MUP in the District. Factors to be considered in making this determination shall include, but are not limited to, maximum parking requirements, operational characteristics, and prior

determinations on similar uses.

“CUP” designates use classifications that are permitted after review and approval of a Conditional Use Permit. Uses not listed in Table 9.10.040 may be permitted after review and approval of a Conditional Use Permit upon a determination by the Director, or designee, that the use is similar to, and not more intrusive or disruptive than, a use that requires a CUP in the District. Factors to be considered in making this determination shall include, but are not limited to, maximum parking requirements, operational characteristics, and prior determinations on similar uses.

“—” designates uses that are not permitted.

Land uses are defined in Chapter 9.51 (“Use Classifications”) of Article 9 of the Santa Monica Municipal Code (“Zoning Ordinance”). Use classifications and sub-classifications not listed in the table are prohibited. Accessory uses are permissible when they are determined by the Zoning Administrator to be necessary and customarily associated with and appropriate, incidental, and subordinate to, the principal uses and which are consistent and not more disruptive than Permitted uses. The table also notes additional use regulations that apply to various uses. Section numbers in the right-hand column refer to other Sections of this Ordinance.

Use Classification	LT	NV	BC (Third Street Promenade Area)	BC (Excluding Third Street Promenade Area)	TA	OT	WT	Additional Regulations
Residential Uses								
Residential Housing Types	<i>See sub-classifications below.</i>							
<i>Accessory Dwelling Unit</i>	P	P	P	P	P	P	P	Section 9.31.025 Accessory Dwelling Units and Junior Accessory Dwelling Units

Use Classification	LT	NV	BC (Third Street Promenade Area)	BC (Excluding Third Street Promenade Area)	TA	OT	WT	Additional Regulations
<i>Junior Accessory Dwelling Unit</i>	P	P	P	P	P	P	P	Section 9.31.025 Accessory Dwelling Units and Junior Accessory Dwelling Units
<i>Multiple-Unit Dwelling</i>	P	P	L(1)	L(1)	P	P	P	Section 9.31.195, Multiple-Unit Dwelling Projects
<i>Senior Citizen Multiple-Unit Residential</i>	P	P	L(1)	L(1)	P	P	L(1)	Section 9.31.195, Multiple-Unit Dwelling Projects
<i>Single-Room Occupancy Housing</i>	L(1)	L(3)	L(1)	L(1)	L(1)	L(1)	L(1)	Section 9.31.330, Single Room Occupancy Structures
<i>Group Residential</i>	MUP	MUP, L(3)	MUP, L(1)	MUP, L(1)	MUP	MUP	MUP	
<i>Congregate Housing</i>	P	MUP, L(3)	L(1)	CUP, L(1)	MUP	MUP	MUP	Section 9.31.110, Congregate and Transitional Housing
<i>Senior Group Residential</i>	P	MUP, L(3)	MUP, L(1)	MUP, L(1)	MUP, L(1)	MUP, L(1)	MUP, L(1)	Section 9.31.310, Senior Group Residential
<i>Elderly and Long-Term Care</i>	P	L(3)	L(1)	L(1)	L(1)	L(1)	L(1)	
<i>Emergency Shelters</i>	L(6)/CUP	L(6)/CUP	CUP/L(1)	L(1), L(6)/CUP	L(6)/CUP	L(6)/CUP	L(6)/CUP	Section 9.31.130, Emergency Shelters
Family Day Care	<i>See sub-classifications below.</i>							
<i>Large</i>	L(1)	L(3)	L(1)	L(1)	L(1)	L(1)	L(1)	Section 9.31.140, Family Day Care, Large
<i>Small</i>	L(1)	L(3)	L(1)	L(1)	L(1)	L(1)	L(1)	
Residential Facilities	<i>See sub-classifications below.</i>							
<i>Residential Care, General</i>	P	L(3)	L(1)	L(1)	P	L(1)	L(1)	Section 9.31.270, Residential Care Facilities
<i>Residential Care, Limited</i>	P	L(3)	L(1)	L(1)	P	L(1)	L(1)	
<i>Residential Care, Senior</i>	P	L(3)	L(1)	L(1)	P	L(1)	L(1)	
<i>Hospice, General</i>	P	L(3)	L(1)	L(1)	P	L(1)	L(1)	
<i>Hospice, Limited</i>	P	L(3)	L(1)	L(1)	P	L(1)	L(1)	
<i>Supportive Housing</i>	P	L(3)	L(1)	L(1)	L(1)	L(1)	L(1)	
<i>Transitional Housing</i>	P	L(3)	L(1)	L(1)	L(1)	L(1)	L(1)	Section 9.31.11, Congregate and Transitional Housing
Public and Semi-Public Uses								
<i>Adult Day Care</i>	L(1)	L(3)	L(1)	L(1)	L(1)	L(1)	L(1)	
<i>Child Care and Early Education Facilities</i>	P	P	P	P	P	P	P	Section 9.31.120, Child Care and Early Education Facilities
<i>Colleges and Trade Schools, Public or Private</i>	CUP	L(1)	L(1)	L(1)	L(1)	L(1)	L(1)	
<i>Community Assembly</i>	L(7)/CUP	CUP	L(15), L(25)	P	CUP	L(1)	L(7)/CUP	

Use Classification	LT	NV	BC (Third Street Promenade Area)	BC (Excluding Third Street Promenade Area)	TA	OT	WT	Additional Regulations
Community Gardens	P	P	L(25)	P	P	P	P	
Cultural Facilities	P	P	P	P	P	P	P	
Hospitals and Clinics	P	P	L(1)	L(1)	P	-	P	
Park and Recreation Facilities, Public	P	P	P	P	P	P	P	
Public Safety Facilities	P	P	P	P	P	P	P	
Schools, Public or Private	CUP	L(3)	L(1)	P	P	-	CUP	
Social Service Centers	P	P	-	P	P	P	P	Section 9.31.350, Social Service Centers
Commercial Uses								
Animal Care, Sales, and Services	<i>See sub-classifications below.</i>							
<i>Grooming and Pet Stores</i>	L(5)/CUP	L(5)/CUP	P	L(5)/CUP	L(5)/CUP	L(5)/CUP	L(5)/CUP	No more than 10 dogs or cats can be kept overnight
<i>Pet Day Care Services</i>	MUP	MUP	-	MUP	MUP	MUP	MUP	
<i>Veterinary Services</i>	MUP	MUP	-	MUP	MUP	-	MUP	
Automobile/Vehicle Sales and Service	<i>See sub-classifications below.</i>							
<i>Alternative Fuels and Recharging Facilities</i>	CUP/L(19)	CUP/L(19)	-	-	CUP/L(19)	-	-	
<i>Automobile Rental</i>	L(10)	L(10)	L(10)	L(10)	L(10)	L(10)	L(10)	
<i>Automobile Storage Use</i>	-	-	-	-	-	-	-	
<i>New Automobile/Vehicle Sales and Leasing</i>	L(8), L(5)/CUP	L(8), L(5)/CUP	L(8), L(5)/CUP	L(8), L(5)/CUP	L(8), L(5)/CUP	-	-	
<i>Additions 7,500 sq ft or less to Automobile/Vehicle Sales and Leasing buildings existing as of 7/06/2010</i>	L(20)/MUP	-	-	-	-	-	-	Section 9.31.070 Automobile/Vehicle Sales, Leasing, and Storage
<i>Additions larger than 7,500 sq ft to Automobile/Vehicle Sales and Leasing buildings existing as of 7/06/2010</i>	L(20)/CUP	-	-	-	-	-	-	
<i>Automobile/Vehicle Repair, Major</i>	L(19)	-	-	-	-	-	-	
<i>Automobile/Vehicle Service and Repair, Minor</i>	L(19)	-	-	-	-	-	-	
<i>Automobile/Vehicle Washing</i>	L(19)	-	-	-	-	-	-	
<i>Service Station</i>	L(19)	L(19)	-	-	L(19)	-	-	
<i>Towing and Impound</i>	-	-	-	-	-	-	-	
Banks and Financial Institutions	<i>See sub-classifications below.</i>							
<i>Banks and Credit Unions</i>	L(4)/CUP	L(3), L(5)/CUP	-	-	L(4)/CUP	L(4)/CUP	L(4)/CUP	
<i>Check Cashing Businesses</i>	-	-	-	-	-	-	-	
Business Services	L(5)/CUP	L(5)/CUP	L(15)	L(5)/CUP	L(5)/CUP	L(5)/CUP	L(5)/CUP	
Commercial Entertainment and Recreation	<i>See sub-classifications below.</i>							
<i>Cinemas & Theaters, up to 99 seats</i>	-	CUP	L(24)	P	P	-	-	

Use Classification	LT	NV	BC (Third Street Promenade Area)	BC (Excluding Third Street Promenade Area)	TA	OT	WT	Additional Regulations
<i>Cinemas & Theaters, more than 99 seats</i>	-	-	L(24)	CUP	CUP	-	-	
<i>Convention and Conference Centers</i>	CUP	CUP	P	CUP	CUP	CUP	CUP	
<i>Large-Scale Facility</i>	L(21)/CUP	L(21)/CUP	L(21)/CUP, L(25)	L(21)/CUP	L(21)/CUP	L(21)/CUP	-	
<i>Small-Scale Facility</i>	L(5)/CUP	L(5)/CUP	L(5)/CUP, L(25)	L(5)/CUP	L(5)/CUP	L(5)/CUP	L(5)/CUP	Section 9.31.340 Small Scale Facility
<i>Fortunetelling</i>	P	P	P	P	P	P	P	
Eating and Drinking Establishments	<i>See sub-classifications below.</i>							
<i>Bars/Nightclubs/Lounges</i>	CUP	CUP	L(26)	CUP	CUP	CUP(10)	-	
<i>Restaurants, Full-Service, Limited Service & Take-Out (2,500 sq ft and smaller, including Outdoor Dining and Seating)</i>	P	P	L(22)	P	P	P	P	Section 9.31.040, Alcoholic Beverage Sales
<i>Restaurants, Full-Service, Limited Service & Take-Out (2,501 – 5,000 sq ft, including Outdoor Dining and Seating)</i>	P	P	L(22)	P	P	P	P	Section 9.31.280, Restaurants, Limited Service, and Take-Out Only
<i>Restaurants, Full-Service, Limited Service & Take-Out (greater than 5,000 sq ft, including Outdoor Dining and Seating)</i>	CUP	P	L(22)	P	P	P	CUP	Section 9.31.200, Outdoor Dining and Seating
<i>Food Hall (up to 175 seats)</i>	CUP	CUP	P	CUP	CUP	CUP	CUP	
Equipment Rental	-	-	-	-	L(5)/CUP	-	-	
Food and Beverage Sales	<i>See sub-classifications below.</i>							
<i>Convenience Market</i>	CUP	L(5)/CUP	L(5)/CUP	L(5)/CUP	L(5)/CUP	L(5)/CUP	-	Section 9.31.040, Alcoholic Beverage Sales
<i>Farmer's Market</i>	CUP	P	P	P	P	P	P	
<i>General Market</i>	L(12)/CUP	L(12)/CUP	L(12)/CUP	L(12)/CUP	L(12)/CUP	L(12)/CUP	L(12)/CUP	Section 9.31.040, Alcoholic Beverage Sales
<i>Liquor Stores</i>	CUP	CUP	L(26)	CUP	CUP	CUP	-	
Funeral Parlors and Mortuaries	CUP	-	-	-	-	-	-	
Instructional Services	L(5)/CUP	L(3), L(5)/CUP	L(1), L(5)/CUP	L(5)/CUP	L(5)/CUP	L(1), L(5)/CUP	L(1), L(5)/CUP	
Live-Work	L(13)	L(3)(13)	L(1)(13)	L(13)	L(13)	L(1)(13)	L(13)	Section 9.31.170, Live-Work Units
Lodging	<i>See sub-classifications below.</i>							
<i>Bed and Breakfast</i>	MUP	MUP	P	MUP	MUP	MUP	MUP	Section 9.31.090, Bed and Breakfasts
<i>Hotels and Motels</i>	CUP	CUP	P	CUP	CUP	CUP	CUP, L(19)	
Maintenance and Repair Services	L(5)/CUP	-	-	-	-	-	-	

Use Classification	LT	NV	BC (Third Street Promenade Area)	BC (Excluding Third Street Promenade Area)	TA	OT	WT	Additional Regulations
Nurseries and Garden Centers	L(5)/CUP	L(5)/CUP	-	L(5)/CUP	L(5)/CUP	-	L(5)/CUP	Section 9.31.220, Outdoor Retail Display and Sales
Offices	<i>See sub-classifications below.</i>							
<i>Business and Professional</i>	L(14)/CUP	L(3), L(5)/CUP	L(1)	L(1)	L(3), L(5)/CUP	L(1)	L(1)	
<i>Creative</i>	L(14)/CUP	L(3), L(5)/CUP	L(1)	L(1)	L(3), L(5)/CUP	L(1)	L(1)	
<i>Medical and Dental</i>	L(14)/CUP	L(3), L(5)/CUP	P	L(1)	L(3), L(5)/CUP	L(1)	L(1)	
<i>Walk-In Clientele</i>	L(14)/CUP	L(3), L(5)/CUP	L(1)	L(5)/CUP	L(3), L(5)/CUP	L(5)/CUP	L(5)/CUP	
Outdoor Newsstands	MUP	MUP	MUP	MUP	MUP	MUP	MUP	Section 9.31.210, Outdoor Newsstands
Parking, Public or Private	CUP	CUP	-	CUP	CUP, L(11)	-	CUP	
Personal Services	<i>See sub-classifications below.</i>							
<i>General Personal Services</i>	L(5)/CUP	L(5)/CUP	P	L(5)/CUP	L(5)/CUP	-	L(5)/CUP	Section 9.31.230, Personal Service
<i>Physical Training</i>	L(17), L(5)/CUP	L(17), L(5)/CUP	L(17), L(21)/CUP	L(17), L(5)/CUP	L(17), L(5)/CUP	L(17), L(5)/CUP	L(17), L(5)/CUP	
<i>Tattoo or Body Modification Parlor</i>	MUP	MUP	P	MUP	MUP	MUP	-	Section 9.31.230, Personal Service
Retail Sales	<i>See sub-classifications below.</i>							
<i>Building Materials Sales and Services</i>	P	-	-	-	-	-	-	Section 9.31.220, Outdoor Retail Display and Sales
<i>General Retail Sales, Small-Scale</i>	L(5)/CUP	L(5)/CUP	P	L(5)/CUP	L(5)/CUP	L(5)/CUP	L(5)/CUP	
<i>General Retail Sales, Medium-Scale</i>	CUP	CUP	P	CUP	CUP	-	CUP	
<i>General Retail Sales, Large-Scale</i>	-	-	-	-	-	-	-	
<i>Medical Marijuana Dispensaries</i>	CUP	-	-	-	-	-	-	Section 9.31.185, Medical Marijuana Dispensaries
<i>Pawn Shops</i>	-	-	-	-	-	-	-	
<i>Swap Meets</i>	-	-	-	-	-	-	-	
Industrial Uses								
Artist's Studio	P	P	L(2)	L(1)	P	P	P	
Commercial Kitchens	-	-	-	-	CUP	-	-	
Industry, Limited	-	-	L(2), L(23)	-	-	-	-	
Media Production	<i>See sub-classifications below.</i>							
<i>Support Facilities</i>	L(14)/CUP	L(3), L(5)/CUP	L(1)	L(1)	L(3), L(5)/CUP	L(1)	L(1)	
Transportation, Communication, and Utilities Uses								
Bus/Rail Passenger Stations	P	P	P	P	P	-	P	

Use Classification	LT	NV	BC (Third Street Promenade Area)	BC (Excluding Third Street Promenade Area)	TA	OT	WT	Additional Regulations
City Bike Share Facility	P	P	P	P	P	P	P	
Communication Facilities	<i>See sub-classifications below.</i>							
Antennas and Transmission Towers	-	-	-	-	-	-	-	
Equipment within Buildings	-	-	-	-	-	-	-	
Light Fleet-Based Services	-	-	-	-	MUP	-	-	
Utilities, Major	L(18)	-	-	-	-	-	-	
Utilities, Minor	P	P	P	P	P	P	P	
<p>Specific Limitations:</p> <ol style="list-style-type: none"> (1) Limited to upper floors, and on the ground floor where the entire tenant space shall be located at least 25 feet from the front property line, except for residential units shall be limited to upper floors only. (2) A minimum depth of 25 feet from the front parcel line adjacent to a street for the entire ground-floor street frontage shall be designed to accommodate interactive uses. For purposes of this limitation, interactive uses shall be commercial uses with an interactive element, including, but not limited to, retail sales, exhibitions, displays, demonstrations, or instruction. (3) Between 4th and 7th Court, permitted in mid-block parcels on the ground floor and upper floors. On all other parcels, permitted anywhere on the ground floor if the space has street frontage and was occupied by office on, or is vacant but was occupied by office in the 12 months preceding, the date this Ordinance is effective; otherwise, permitted on upper floors and on the ground floor where the entire tenant space including the primary entry is located at least 50 feet from the front property line. (4) Permitted except no ground floor tenant space shall exceed 20 linear feet of ground floor street frontage without a Conditional Use Permit. (5) Permitted if within buildings existing as of the date the ordinance codified in this Chapter is effective. Permitted in new buildings, except: <ol style="list-style-type: none"> (a) No individual ground floor tenant space shall occupy more than 7,500 square feet of floor area and/or exceed 50 linear feet of ground floor street frontage without a Conditional Use Permit. (b) Ground floor tenant spaces in the Santa Monica Place are not subject to size limitations. (6) Limited to shelters containing less than 55 beds; Conditional Use Permit required for emergency shelters with 55 or more beds. (7) Any community assembly facility abutting a residential district shall require approval of a Conditional Use Permit. (8) Limited to automobile/vehicle dealer showrooms only which must display one alternative fuel automobile/vehicle if such an automobile/vehicle is available in the dealer's fleet, and limited to six showrooms in the Third Street Promenade Area. (9) (Reserved) (10) Permitted as an ancillary use to support a primary use. (11) Limited to public parking facilities only. (12) General markets greater than 15,000 square feet require approval of a Conditional Use Permit, except general markets in the Mixed-Use Boulevard district greater than 25,000 square feet require approval of a Conditional Use Permit. (13) If the commercial use requires a MUP or CUP, an application shall be required in accordance with SMMC, Chapter 9.41. Even if the commercial use would otherwise be permitted, no such use shall be approved where, given the design or proposed design of the live-work unit, there would be the potential for adverse health impacts from the proposed use on the people residing in the unit. An example of a potential health impact is the potential for food contamination from users that generate airborne particulates in a unit with an unenclosed kitchen. (14) All new construction requires approval of a Conditional Use Permit or permitted if within buildings existing as of the date the ordinance codified in this Chapter is effective, except: <ol style="list-style-type: none"> (a) New additions of 50% or more additional square footage to an existing building at any one time, or incrementally, after the effective date of the ordinance codified in this Chapter, requires approval of a Conditional Use Permit. (b) No ground floor, street-fronting, non-office or non-media production support facility use, non-medical or non-dental office use tenant space shall be changed into an individual office use or a media production support facility use, or individual medical or dental office use occupying more than 7,500 square feet of floor area and/or exceeding 50 linear feet of street frontage without the approval of a Conditional Use Permit. (15) Limited to the ground floor with frontage along 2nd Court and 3rd Court alleys or to upper floors. (16) Limited to public parking facilities only. (17) Youth-serving personal services, physical training requires review and approval of passenger loading and drop-off plan by the Director. (18) Limited to electric distribution substations. 								

Use Classification	LT	NV	BC (Third Street Promenade Area)	BC (Excluding Third Street Promenade Area)	TA	OT	WT	Additional Regulations
<p>(19) Limited to legally established existing uses as of the date this Specific Plan is effective.</p> <p>(20) Auto dealerships existing as of July 6, 2010 are considered permitted uses. Expansions to existing dealerships conforming to the urban auto dealership format standards in Section 9.31.070, Automobile/Vehicle Sales, Leasing and Storage are permitted. Expansions to existing dealerships of 7,500 square feet or less that do not conform to the urban auto dealership format standards shall require an MUP. Expansions to existing dealerships larger than 7,500 square feet that do not conform to the urban auto dealership format standards shall require a CUP.</p> <p>(21) Except in Santa Monica Place, no individual Fitness Center tenant space shall exceed 100 linear feet of ground floor street frontage without the approval of a Conditional Use Permit.</p> <p>(22) Restaurant, Limited-Service and Take-Out establishments with frontage on the Third Street Promenade and the following characteristics shall be prohibited:</p> <p>(a) More than 150 locations nationwide at the time that the application for the establishment is deemed complete by the City; and</p> <p>(b) Characteristics, including but not limited to, orders placed at a walk-up window, counter, or machine; payment prior to food consumption; and food served with disposable, one-time, or limited-use wrapping, containers, or utensils.</p> <p>(23) Excludes commercial laundries and dry cleaning plants, monument works, medicinal cannabis, and medicinal cannabis products.</p> <p>(24) Permitted use. Additionally, outdoor rooftop cinemas/theaters are permitted, limited only to the rooftops on City-owned parking structures.</p> <p>(25) Permitted as an outdoor use limited only to the rooftops on City-owned parking structures.</p> <p>(26) Permitted, subject to obtaining an Alcohol Exemption pursuant to SMMC 9.31.040(D)(2). If no Alcohol Exemption is obtained, a Conditional Use Permit is required.</p>								

(D) Notwithstanding any provisions of Santa Monica Municipal Code to the contrary, the following regulations set forth in Section 9.10.050 related to Outdoor Rooftop Uses on City-Owned Parking Structures shall apply:

9.10.050 Outdoor Rooftop Commercial Uses on City-Owned Parking Structures

Any proposed conversion of parking area to accommodate an outdoor rooftop commercial use on the top-level of an existing City-Owned parking structure within the Third Street Promenade Area shall be subject to the following:

A. Excluded as Floor Area and from Floor Area Ratio. Any unenclosed rooftop parking areas on City-Owned Parking Structures that are converted to and utilized as outdoor rooftop commercial space as permitted in the district, including any new enclosed structures supportive of such permitted uses erected within the converted parking area including but not limited to, temporary or permanent restroom facilities, concession

stands, and storage structures, shall be excluded from floor area and floor area ratio requirements.

B. Allowable Height Projections. Maximum height projections as measured from the finished parking surface level, including any deck-leveling surfaces as required, shall be allowed as set forth in Section 9.21.060(A).

C. Applicability Certain Land Use and Zoning Related Provisions. Notwithstanding anything to the contrary in Chapters 9.65, Child Care Linkage Program, 9.66, Transportation Impact Fee Program, 9.67, Parks and Recreation Development Impact Fee Program, and 9.68, Affordable Housing Commercial Linkage Fee Program, for purposes of determining applicability, conversion of rooftop parking area on City-owned parking structures to outdoor rooftop commercial use shall not be considered a “Project” and shall not be subject to associated impact fees.

(E) Notwithstanding any provisions of Santa Monica Municipal Code Section 9.21.060 to the contrary, the following regulations related to Height Projections shall apply:

9.21.060 Height Projections

No structure shall project above the height limits established in this Article except as specified in this Section.

A. Building-Mounted and Attached Structures. Table 9.21.060 establishes the maximum permitted projection(s) above the height limit of a building and into the daylight plane for structures that are typically mounted or attached to a building. These projections are by right, with no discretionary permit required. Table 9.21.060 also establishes limitations in the horizontal coverage of permitted projections. Some allowances apply in all Zoning Districts while others are limited to specified Zoning Districts. In the Single-Unit

Residential (R1) District, allowed height projections into the minimum side setback areas above 23 feet shall be permitted. None of these projections shall permit occupiable space above the height limit. The total aggregate coverage of projections shall not exceed 30% of a roof's area. This limitation shall not apply to solar energy systems (see Section 9.21.150).

TABLE 9.21.060: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS AND DAYLIGHT PLANE		
<i>Structure</i>	<i>Maximum Aggregate Coverage of Building's Roof Area (%); Other Locational Restrictions</i>	<i>Maximum Vertical Projection (ft.) Above the Height Limit*</i>
Projections Allowed in All Zoning Districts:		
Skylights	No limit	1 ft.
Skylights on flat roofs	30%; May not be located within 5 ft. of any edge of the roof	5 ft.
Chimneys, vent stacks	5%	5 ft.
Windscoops	5%	5 ft.
Solar energy systems located on a rooftop	See Section 9.21.150	See Section 9.21.150
Antennas		
<i>One standard television receive-only nonparabolic antenna and one vertical whip Antenna</i>	10%; May not be located between the building and any street-facing parcel line	25 ft.
Other antennas	See Chapter 9.32, Telecommunications Facilities	
TABLE 9.21.060: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS AND DAYLIGHT PLANE		
<i>Structure</i>	<i>Maximum Aggregate Coverage of Building's Roof Area (%); Other Locational Restrictions</i>	<i>Maximum Vertical Projection (ft.) Above the Height Limit*</i>
Parapets, fire escapes, catwalks, and open guard rails required by law	As required by law	As required by law
Projections Allowed in All Districts Except R1 and OP-1 Districts:		
Non-occupiable features such as steeples, spires, towers, domes, and cupolas	10%	10 ft.
Rooftop features for outdoor living areas, such as sunshade, open railings, trellises, and landscaping	25%	10 ft.
Elevator shafts	15%	18 ft.* above the roofline
Stairwells	25%	14 ft.* above

		the roofline
Mechanical rooms and enclosures	25%	12 ft.* above the roofline
Ventilating fans, water tanks, cooling towers, or other equipment required to operate and maintain a building, along with screening of such equipment required by Section 9.21.140, Screening	Total area enclosed by all screening may not exceed 30% of roof area	12 ft.
Projections Allowed for Outdoor Rooftop Commercial Uses on City-Owned Parking Structures Located in the Third Street Promenade Area:		
Outdoor cinema and theater screens.	None	25 ft. above the finished parking surface level, including deck-leveling surfaces as required.
Concession stands, restroom facilities, storage structures, shade structures, or similar structures associated with rooftop cinemas/theaters,	None	15 ft. above the finished parking surface level, including deck-leveling surfaces as required.
Structures associated with rooftop community assembly, community gardens, and small/large-scale commercial entertainment and recreation facilities	None	15 ft. above the finished parking surface level, including deck-leveling surfaces as required.

(F) Notwithstanding any provisions of Santa Monica Municipal Code Section 9.28.040 to the contrary, the following regulations related to Calculating Off-Street Parking and Loading Spaces shall apply:

9.28.040 Calculating Off-Street Parking and Loading Spaces

A. **Rules for Calculating Required Spaces.** The following rules shall be followed for calculating the amount of off-street parking and loading spaces.

1. **Rounding.** Fractional space requirements totaling 0.5 or above shall be rounded up to the next whole space after calculating the total number of required spaces. Rounding up shall not apply to loading spaces; however, a minimum of one space shall be provided.

2. **Residential Uses.** For purposes of calculating off-street parking

requirements for dwelling units, all private living spaces including, but not limited to, dens, studios, family rooms, studies and lofts shall be considered as “bedrooms” except that a maximum of one such room per unit shall not count as a bedroom if it is less than 100 square feet in area. Kitchens, bathrooms, and one living room per unit shall not be considered bedrooms. Semiprivate rooms shall not count as bedrooms if they have no doors and a minimum 7-foot opening to adjacent living space. A loft or mezzanine shall not count as a bedroom if the maximum width of the loft or mezzanine is less than 7 feet.

3. ***Non-residential Uses.*** Unless otherwise specified, the floor areas used to calculate the number of off-street parking and loading spaces required for non-residential uses shall include:

a. All floor area located above or below grade devoted to office, retail, service, or other activities and uses, storage areas, restrooms, lounges, lobbies, kitchens, and interior hallways and corridors, unless exempted by this Chapter; and

b. All outdoor areas that will accommodate a permanent activity that will generate a demand for parking facilities in addition to that which is provided for principal activities and uses within the building or structure.

4. ***Multiple Uses.*** When two or more principal uses are located on the same parcel, the estimated parking demand shall be the sum of the estimated demand of the various individual uses computed separately, in accordance with this Section, unless shared parking is approved pursuant to Section 9.28.180.

5. **Exclusions.** Floor area devoted to the following shall not be included when determining required parking and loading spaces:

- a. Automobile parking;
- b. Loading areas;
- c. Driveways, drive aisles, ramps;
- d. Bicycle parking;
- e. Showers or locker areas not associated with a physical training, personal service or instructional service; and
- f. Outdoor dining areas and other outdoor space permitted pursuant to Section 9.31.199, Outdoor Commercial Uses on Private Property, and Section 9.31.200, Outdoor Dining and Seating on Sidewalks.

(G) Notwithstanding any provisions of Santa Monica Municipal Code Section 9.31.040 to the contrary, the following regulations related to Alcoholic Beverage Sales shall apply:

9.31.040 Alcoholic Beverage Sales

A. Purpose.

1. To limit the potential for community problems such as public drunkenness, drunk driving, traffic accidents, violent crime, noise, and nuisance from an overabundance or overconcentration of the availability of alcohol and its consumption. To regulate traditional alcohol outlets, including bars, restaurants, liquor stores, and supermarkets, as well as new types of alcohol outlets, to ensure that public health, safety, and welfare are not threatened.

2. To establish control measures that will permit the City to review and approve new alcohol outlets on a case-by-case basis and to condition that approval based on the specific type of alcohol outlet, neighborhood location, and potential problems involved.

B. Conditional Use Permit Required. No person shall dispense for sale or other consideration, alcoholic beverages, including beer, wine, malt beverages, and distilled spirits, for on-site or off-site consumption without first obtaining a Conditional Use Permit unless the proposed use has received an Alcohol Exemption Zoning Conformance Permit in accordance with subsection D or is otherwise determined to be exempt after a Zoning Conformance Review in accordance with subsection E.

C. Findings for Approval of Conditional Use Permit. The Planning Commission, or the City Council on appeal, may approve the dispensing, for sale or other consideration, alcoholic beverages, including beer, wine, malt beverages, and distilled spirits for on-site or off-site consumption only if, in addition to the required findings for Conditional Use Permits contained in Section 9.41.060, Required Findings (for a Conditional Use Permit), all of the following findings can be made in an affirmative manner:

1. The proposed alcohol sales will not adversely affect the welfare of neighborhood residents in a significant manner;

2. The proposed alcohol sales will not contribute to an undue concentration of alcohol outlets in the area;

3. The proposed alcohol sales will not detrimentally affect nearby neighborhoods, considering the distance of the alcohol outlet to residential buildings, churches, schools, hospitals, playgrounds, parks, and other existing alcohol outlets; and

4. The sale of alcohol will not increase traffic congestion or generate a demand for parking that will adversely affect surrounding businesses and residents.

D. Alcohol Exemption Zoning Conformance Permit.

1. ***Citywide Excluding Third Street Promenade Area, Santa Monica Place, and Santa Monica Pier.*** Except as provided in paragraphs 2 and 3, below, limited and full-service restaurants that offer alcoholic beverages incidental to meal service that are located citywide, excluding in the Third Street Promenade Area and the area bounded by 2nd Street to the west, Broadway to the north, 4th Street to the east, and Colorado to the south, shall be exempt from the provisions of the Conditional Use Permit requirement of subsection B of this Section if such a permit is approved in writing by the Director and if the applicant agrees in writing to comply with all of the following criteria and conditions:

a. If a counter service area is provided, food service shall be available at all hours the counter is open for patrons, and the counter area shall not function as a separate bar area;

b. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted;

c. Customers shall be permitted to order meals at all times and at all locations where alcohol is being served. The establishment shall serve food to patrons during all hours the establishment is open for customers;

d. The premises shall maintain a kitchen or food-serving area in which a variety of food is prepared on the premises;

e. Sale of alcoholic beverages for consumption beyond the premises shall be permitted if authorized by the premises' California Alcoholic Beverage Control ("ABC") license;

f. No video or other amusement games shall be permitted on the premises;

g. Entertainment may only be permitted in the manner set forth in Section 9.31.290, Restaurants with Entertainment;

h. The primary use of any outdoor dining area shall be for seated meal service. Patrons who are standing in the outdoor seating area shall not be served;

i. The operation shall at all times be conducted in a manner not detrimental to surrounding properties by reason of lights, noise, activities or other actions. The operator shall control noisy patrons leaving the restaurant;

j. The permitted hours of alcoholic beverage service shall be 8:00 a.m. to 12:00 a.m. with complete closure and all employees vacated from the building by 1:00 a.m. All alcoholic beverages must be removed from the outdoor dining area no later than 11:00 p.m. Sunday through Thursday. No after-hours operation is permitted;

k. Liquor bottle service shall be prohibited. Wine and beer bottle service shall not be available to patrons unless full meal service is provided concurrent with the bottle service. For purposes of this paragraph, "bottle service" means the service of any full bottle of liquor, wine, or beer of more than 375 ml, along with glass ware, mixers, garnishes, etc., in which patrons are able to then make their

own drinks or pour their own wine or beer. All food items shall be available from the premises' full service menu;

l. No organized queuing of patrons at the entry or checking of identification to control entry into and within the establishment shall be permitted. There shall not be any age limitation imposed restricting access to any portion of the restaurant;

m. The premises shall not organize or participate in organized "pub-crawl" events where participants or customers pre-purchase tickets or tokens to be exchanged for alcoholic beverages at the restaurant;

n. Establishments with amplified music shall be required to comply with Chapter 4.12, Noise, of the Santa Monica Municipal Code;

o. Prior to occupancy, a security plan shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues;

p. Prior to occupancy, the operator shall submit a plan for approval by the Director regarding employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol-awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete an ABC-sponsored alcohol awareness training program within 90 days of the effective date of the exemption determination. In the case of new employees, the employee shall attend the alcohol awareness training within 90 days of hiring. In the event the ABC

no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved by the Director. The operator shall provide the City with an annual report regarding compliance with this requirement. The operator shall be subject to any future Citywide alcohol awareness training program affecting similar establishments;

q. Within 30 days from the date of approval of this exemption, the applicant shall provide a copy of the signed exemption to the local office of the State ABC;

r. Prior to occupancy, the operator shall submit a plan describing the establishment's designated driver program, which shall be offered by the operator to the establishment's patrons. The plan shall specify how the operator will inform patrons of the program, such as offering on the menu a free non-alcoholic drink for every party of 2 or more ordering alcoholic beverages;

s. Notices shall be prominently displayed urging patrons to leave the premises and neighborhood in a quiet, peaceful, and orderly fashion and to please not litter or block driveways in the neighborhood;

t. Employees of the establishment shall walk a 100-foot radius from the facility at some point prior to 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons; and

u. The exemption shall apply to approved and dated plans, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans, except as otherwise specified in

these conditions of approval. Minor amendments to the plans shall be subject to approval by the Director;

v. In the event of a conflict between the regulations of this Section and regulations issued by the ABC, the ABC regulations shall control and be deemed to have modified contrary provisions of this Section.

2. ***Third Street Promenade Area and Santa Monica Place.*** Notwithstanding the provisions of paragraph 1, above, in the Third Street Promenade Area and the area bounded by 2nd Street to the west, Broadway to the north, 4th Street to the east, and Colorado to the south, the following uses that offer alcoholic beverages incidental to the primary use, including bars/nightclubs/lounges that primarily serve alcoholic beverages, shall be exempt from the provisions of the Conditional Use Permit requirement of subsection B of this Section if such a permit is approved in writing by the Director and if the applicant agrees in writing to comply with all of the following criteria and conditions established for each use:

a. Restaurants (Full-Service and Limited Service and Take Out) and Food Halls

i. The permitted hours of alcoholic beverage service shall be 8:00 a.m. to 2:00 a.m. daily.

ii. From 8:00 a.m. until at least 10:00 p.m., food service shall be available at all times when alcohol is being served.

iii. Sale of alcoholic beverages for consumption beyond the premises shall be permitted if authorized by the premises' California Alcoholic Beverage Control ("ABC") license.

iv. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.

v. Entertainment may only be permitted in the manner set forth in Section 9.31.290(D), Restaurants with Entertainment;

vi. Except as may be permitted by a Temporary Use Permit issued in accordance with Santa Monica Municipal Code Chapter 9.44, Temporary Use Permits, alcohol shall not be served in any disposable containers such as disposable plastic or paper cups.

vii. The premises shall at all times conduct operations in a manner not detrimental to surrounding properties by reason of lights, noise, activities or other actions. The operator of the premises shall control noisy patrons leaving the premises.

viii. Premises with amplified music shall be required to comply with Chapter 4.12, Noise, of the Santa Monica Municipal Code, except that Section 4.21.140 Nightclubs, Bars and Establishments with Amplified Music shall not apply.

ix. Prior to occupancy, a security plan for the premises shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues.

x. Prior to occupancy, the operator of the premises shall submit a plan for approval by the Director regarding employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol-awareness training program for all employees having contact with the public and shall state

management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete an ABC-sponsored alcohol awareness training program within 90 days of the effective date of the exemption determination. In the case of new employees, the plan shall require all such new employees to attend an ABC-sponsored alcohol awareness training program within 90 days of hiring. In the event the ABC no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved by the Director. The operator of the premises shall provide the City with an annual report regarding compliance with this requirement. The operator of the premises shall be subject to any future Citywide alcohol awareness training program affecting similar establishments.

xi. Within 30 days from the date of approval of the exemption, the applicant shall provide a copy of the signed exemption to the local office of the ABC.

xii. Prior to occupancy, the operator of the premises shall submit a plan describing the premises' designated driver program, which shall be offered by the operator to the premises' patrons. The plan shall specify how the operator will inform patrons of the program, such as by offering on the menu a free non-alcoholic drink for every party of 2 or more ordering alcoholic beverages.

xiii. Notices shall be prominently displayed urging patrons to leave the premises and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood.

xiv. Employees of the premises shall walk a 100-foot radius from the premises at some point prior to 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

xv. The exemption shall apply to approved and dated plans, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans. Minor amendments to the plans shall be subject to approval by the Director.

xvi. In the event of a conflict between the regulations of this Section and regulations issued by the ABC, the ABC regulations shall control and be deemed to have modified contrary provisions of this Section.

b. Bars/Nightclubs/Lounges

i. The permitted hours of alcoholic beverage service shall be 8:00 a.m. to 2:00 a.m. daily.

ii. Sale of alcoholic beverages for consumption beyond the premises shall be permitted if authorized by the premises' California Alcoholic Beverage Control ("ABC") license.

iii. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.

iv. The premises shall at all times conduct operations in a manner not detrimental to surrounding properties by reason of lights, noise, activities or other actions. The operator of the premises shall control noisy patrons leaving the premises.

v. Premises with amplified music shall be required to comply with Chapter 4.12, Noise, of the Santa Monica Municipal Code, except that Section 4.21.140 Nightclubs, Bars and Establishments with Amplified Music shall not apply.

vi. Prior to occupancy, a security plan for the premises shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues.

vii. Prior to occupancy, the operator of the premises shall submit a plan for approval by the Director regarding employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol-awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete an ABC-sponsored alcohol awareness training program within 90 days of the effective date of the exemption determination. In the case of new employees, the plan shall require all such new employees to attend an ABC-sponsored alcohol awareness training program within 90 days of hiring. In the event the ABC no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved

by the Director. The operator of the premises shall provide the City with an annual report regarding compliance with this requirement. The operator of the premises shall be subject to any future Citywide alcohol awareness training program affecting similar establishments.

viii. Within 30 days from the date of approval of this exemption, the applicant shall provide a copy of the signed exemption to the local office of the ABC.

ix. Prior to occupancy, the operator of the premises shall submit a plan describing the premises' designated driver program, which shall be offered by the operator to the premises' patrons. The plan shall specify how the operator will inform patrons of the program, such as by offering on the menu a free non-alcoholic drink for every party of 2 or more ordering alcoholic beverages.

x. Notices shall be prominently displayed urging patrons to leave the premises and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood.

xi. Employees of the premises shall walk a 100-foot radius from the premises at some point prior to 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

xii. The exemption shall apply to approved and dated plans, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans. Minor amendments to the plans shall be subject to approval by the Director.

xiii. In the event of a conflict between the regulations of this Section and regulations issued by the ABC, the ABC regulations shall control and be deemed to have modified contrary provisions of this Section.

c. Convenience Markets and Liquor Stores

i. The permitted hours of alcoholic beverage sales shall be 8:00 a.m. to 10:00 p.m. daily.

ii. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.

iii. The premises shall at all times conduct operations in a manner not detrimental to surrounding properties by reason of lights, noise, activities or other actions. The operator of the premises shall control noisy patrons leaving the premises.

iv. Prior to occupancy, a security plan for the premises shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues.

v. Within 30 days from the date of approval of this exemption, the applicant shall provide a copy of the signed exemption to the local office of the ABC.

vi. Employees of the premises shall walk a 100-foot radius from the premises at some point prior to 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

vii. The exemption shall apply to approved and dated plans, a copy of which shall be maintained in the files of the City Planning Division. Project

development shall be consistent with such plans. Minor amendments to the plans shall be subject to approval by the Director.

viii. In the event of a conflict between the regulations of this Section and regulations issued by the ABC, the ABC regulations shall control and be deemed to have modified contrary provisions of this Section.

d. Cultural Facilities and Instructional Services

i. The permitted hours of alcoholic beverage service shall be 8:00 a.m. to 2:00 a.m. daily.

ii. Service of alcoholic beverages shall be incidental to the primary use.

iii. Sale of alcoholic beverages for consumption beyond the premises shall be permitted if authorized by the premises' California Alcoholic Beverage Control ("ABC") license.

iv. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.

v. The premises shall at all times conduct operations in a manner not detrimental to surrounding properties by reason of lights, noise, activities or other actions. The operator of the premises shall control noisy patrons leaving the premises.

vi. Prior to occupancy, a security plan for the premises shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues.

vii. Prior to occupancy, the operator of the premises shall submit a plan for approval by the Director regarding employee alcohol awareness training

programs and policies. The plan shall outline a mandatory alcohol-awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete an ABC-sponsored alcohol awareness training program within 90 days of the effective date of the exemption determination. In the case of new employees, the plan shall require all such new employees to attend an ABC-sponsored alcohol awareness training program within 90 days of hiring. In the event the ABC no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved by the Director. The operator of the premises shall provide the City with an annual report regarding compliance with this requirement. The operator of the premises shall be subject to any future Citywide alcohol awareness training program affecting similar establishments.

viii. Within 30 days from the date of approval of the exemption, the applicant shall provide a copy of the signed exemption to the local office of the ABC.

ix. Employees of the premises shall walk a 100-foot radius from the premises at some point prior to 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

x. The exemption shall apply to approved and dated plans, a copy of which shall be maintained in the files of the City Planning Division. Project

development shall be consistent with such plans. Minor amendments to the plans shall be subject to approval by the Director.

xi. In the event of a conflict between the regulations of this Section and regulations issued by the ABC, the ABC regulations shall control and be deemed to have modified contrary provisions of this Section.

e. Outdoor Rooftop Commercial Uses: Cinemas, Community Assembly, Small/Large-Scale Commercial Entertainment and Recreation Facilities

i. The permitted hours of alcoholic beverage service shall be 8:00 a.m. to 2:00 a.m. daily.

ii. The premises shall at all times conduct operations in a manner not detrimental to surrounding properties by reason of lights, noise, activities or other actions. The operator of the premises shall control noisy patrons leaving the premises.

iii. Premises with amplified sound or music shall be required to comply with Chapter 4.12, Noise, of the Santa Monica Municipal Code, except that Section 4.21.140 Nightclubs, Bars and Establishments with Amplified Music shall not apply.

iv. Prior to occupancy, a security plan for the premises shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues.

v. Prior to occupancy, the operator of the premises shall submit a plan for approval by the Director regarding employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol-awareness

training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete an ABC-sponsored alcohol awareness training program within 90 days of the effective date of the exemption determination. In the case of new employees, the plan shall require all such new employees to attend an ABC-sponsored alcohol awareness training program within 90 days of hiring. In the event the ABC no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved by the Director. The operator of the premises shall provide the City with an annual report regarding compliance with this requirement. The operator of the premises shall be subject to any future Citywide alcohol awareness training program affecting similar establishments.

vi. Within 30 days from the date of approval of the exemption, the applicant shall provide a copy of the signed exemption to the local office of the ABC.

vii. Prior to occupancy, the operator of the premises shall submit a plan describing the premises' designated driver program, which shall be offered by the operator to the premises' patrons. The plan shall specify how the operator will inform patrons of the program, such as by offering on the menu a free non-alcoholic drink for every party of 2 or more ordering alcoholic beverages.

viii. Notices shall be prominently displayed urging patrons to leave the premises and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood.

ix. Employees of the premises shall walk a 100-foot radius from the premises at some point prior to 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

x. The exemption shall apply to approved and dated plans, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans. Minor amendments to the plans shall be subject to approval by the Director.

xi. In the event of a conflict between the regulations of this Section and regulations issued by the ABC, the ABC regulations shall control and be deemed to have modified contrary provisions of this Section.

f. Commercial Entertainment and Recreation: Small-Scale Facilities and Large-Scale Facilities

i. The permitted hours of alcoholic beverage service shall be 8:00 a.m. to 2:00 a.m. daily.

ii. Service of alcoholic beverages shall be incidental to the primary use.

iii. Sale of alcoholic beverages for consumption beyond the premises shall be permitted if authorized by the premises' California Alcoholic Beverage Control ("ABC") license.

iv. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.

v. The premises shall at all times conduct operations in a manner not detrimental to surrounding properties by reason of lights, noise, activities or other actions. The operator of the premises shall control noisy patrons leaving the premises.

vi. Premises with amplified music shall be required to comply with Chapter 4.12, Noise, of the Santa Monica Municipal Code, except that Section 4.21.140 Nightclubs, Bars and Establishments with Amplified Music shall not apply.

vii. Prior to occupancy, a security plan for the premises shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues.

viii. Prior to occupancy, the operator of the premises shall submit a plan for approval by the Director regarding employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol-awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete an ABC-sponsored alcohol awareness training program within 90 days of the effective date of the exemption determination. In the case of new employees, the plan shall require all such new employees to attend an ABC-sponsored alcohol awareness training program within 90 days of hiring. In the event the ABC no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved

by the Director. The operator of the premises shall provide the City with an annual report regarding compliance with this requirement. The operator of the premises shall be subject to any future Citywide alcohol awareness training program affecting similar establishments.

ix. Within 30 days from the date of approval of the exemption, the applicant shall provide a copy of the signed exemption to the local office of the ABC.

x. Prior to occupancy, the operator of the premises shall submit a plan describing the premises' designated driver program, which shall be offered by the operator to the premises' patrons. The plan shall specify how the operator will inform patrons of the program, such as by offering on the menu a free non-alcoholic drink for every party of 2 or more ordering alcoholic beverages.

xi. Notices shall be prominently displayed urging patrons to leave the premises and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood.

xii. Employees of the premises shall walk a 100-foot radius from the premises at some point prior to 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

xiii. The exemption shall apply to approved and dated plans, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans. Minor amendments to the plans shall be subject to approval by the Director.

xiv. In the event of a conflict between the regulations of this Section and regulations issued by the ABC, the ABC regulations shall control and be deemed to have modified contrary provisions of this Section.

g. Retail Sales: General Retail Sales, Small-Scale and Medium-Scale

i. The permitted hours of alcoholic beverage sales for off-site consumption and or on-site tasting shall be 8:00 a.m. to 2:00 a.m. daily.

ii. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.

iii. The premises shall at all times conduct operations in a manner not detrimental to surrounding properties by reason of lights, noise, activities or other actions. The operator of the premises shall control noisy patrons leaving the premises.

iv. Premises with amplified music shall be required to comply with Chapter 4.12, Noise, of the Santa Monica Municipal Code.

v. Prior to occupancy, a security plan for the premises shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues.

vi. Prior to occupancy, the operator of the premises shall submit a plan for approval by the Director regarding employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol-awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to

complete an ABC-sponsored alcohol awareness training program within 90 days of the effective date of the exemption determination. In the case of new employees, the plan shall require all such new employees to attend an ABC-sponsored alcohol awareness training program within 90 days of hiring. In the event the ABC no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved by the Director. The operator of the premises shall provide the City with an annual report regarding compliance with this requirement. The operator of the premises shall be subject to any future Citywide alcohol awareness training program affecting similar establishments.

vii. Within 30 days from the date of approval of the exemption, the applicant shall provide a copy of the signed exemption to the local office of the ABC.

viii. Prior to occupancy, the operator of the premises shall submit a plan describing the premises' designated driver program, which shall be offered by the operator to the premises' patrons. The plan shall specify how the operator will inform patrons of the program, such as by offering on the menu a free non-alcoholic drink for every party of 2 or more ordering alcoholic beverages.

ix. Notices shall be prominently displayed urging patrons to leave the premises and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood.

x. Employees of the premises shall walk a 100-foot radius from the premises at some point prior to 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

x. The exemption shall apply to approved and dated plans, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans. Minor amendments to the plans shall be subject to approval by the Director.

xii. In the event of a conflict between the regulations of this Section and regulations issued by the ABC, the ABC regulations shall control and be deemed to have modified contrary provisions of this Section.

3. ***Santa Monica Pier.*** Notwithstanding the provisions of paragraph 1, above, limited and full service restaurants, bars/nightclubs/lounges, food halls, and small and medium scale general retail sales on the Santa Monica Pier shall be exempt from the provisions of the Conditional Use Permit requirement of subsection B of this Section if such a permit is approved in writing by the Director and if the applicant agrees in writing to comply with all of the following criteria and conditions:

a. The permitted hours of alcoholic beverage service shall be 8:00 a.m. to 2:00 a.m. daily.

b. From 8:00 a.m. until at least 10:00 p.m., food service shall be available at all times when alcohol is being served.

c. Sale of alcoholic beverages for consumption beyond the premises shall be permitted if authorized by the premises' California Alcoholic Beverage Control ("ABC") license.

d. Window or other signage visible from the public right-of-way that advertises beer or alcohol shall not be permitted.

e. Except as may be permitted by a Temporary Use Permit issued in accordance with Santa Monica Municipal Code Chapter 9.44, Temporary Use Permits, alcohol shall not be served in any disposable containers such as disposable plastic or paper cups.

f. The premises shall at all times conduct operations in a manner not detrimental to surrounding properties by reason of lights, noise, activities or other actions. The operator of the premises shall control noisy patrons leaving the premises.

g. Liquor bottle service shall be prohibited. Wine and beer bottle service shall not be available to patrons unless food service is provided concurrent with the bottle service. For purposes of this paragraph, "bottle service" means the service of any full bottle of liquor, wine, or beer of more than 375 ml, along with glass ware, mixers, garnishes, or other items used for the mixing of drinks, which patrons are able to then use to make their own drinks or pour their own wine or beer.

h. The premises shall not organize or participate in organized "pub-crawl" events where participants or customers pre-purchase tickets or tokens to be exchanged for alcoholic beverages at the premises.

i. Premises with amplified music shall be required to comply with Chapter 4.12, Noise, of the Santa Monica Municipal Code.

j. Prior to occupancy, a security plan for the premises shall be submitted to the Chief of Police for review and approval. The plan shall address both physical and operational security issues.

k. Prior to occupancy, the operator of the premises shall submit a plan for approval by the Director regarding employee alcohol awareness training programs and policies. The plan shall outline a mandatory alcohol-awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete an ABC-sponsored alcohol awareness training program within 90 days of the effective date of the exemption determination. In the case of new employees, the plan shall require all such new employees to attend an ABC-sponsored alcohol awareness training program within 90 days of hiring. In the event the ABC no longer sponsors an alcohol awareness training program, all employees having contact with the public shall complete an alternative program approved by the Director. The operator of the premises shall provide the City with an annual report regarding compliance with this requirement. The operator of the premises shall be subject to any future Citywide alcohol awareness training program affecting similar establishments.

l. Within 30 days from the date of approval of this exemption, the applicant shall provide a copy of the signed exemption to the local office of the ABC.

m. Prior to occupancy, the operator of the premises shall submit a plan describing the premises' designated driver program, which shall be offered by the operator to the premises' patrons. The plan shall specify how the operator will inform patrons of the program, such as by offering on the menu a free non-alcoholic drink for every party of 2 or more ordering alcoholic beverages.

n. Notices shall be prominently displayed urging patrons to leave the premises and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood.

o. Employees of the premises shall walk a 100-foot radius from the premises at some point prior to 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

p. The exemption shall apply to approved and dated plans, a copy of which shall be maintained in the files of the City Planning Division. Project development shall be consistent with such plans, except as otherwise specified in these conditions of approval. Minor amendments to the plans shall be subject to approval by the Director.

q. In the event of a conflict between the regulations of this Section and regulations issued by the ABC, the ABC regulations shall control and be deemed to have modified contrary provisions of this Section.

4. With respect to the Director's decision for Alcohol Exemption Zoning Conformance Permits for restaurants with over 50 seats and subject to subsection D(1) above, within 2 business days from the date when the determination has been made concerning the application and posted on the City's website, the Director shall transmit

a notice of determination that summarizes the determination and provides a website link to the Statement of Official Action to the applicant at the address shown on the application and to all property owners and residential and commercial tenants within a radius of 750 feet from the exterior boundaries of the property involved in the application.

E. Zoning Conformance Review.

1. When an existing alcohol outlet without a Conditional Use Permit changes ownership or undergoes an interior remodel, it shall be subject to Zoning Conformance review in accordance with the following:

a. Except as provided in paragraph b, below, an existing alcohol outlet that was lawfully established and is nonconforming solely due to the lack of an approved Conditional Use Permit is exempt from the requirements of this Section if the licensed premises have remained in continuous operation without substantial change in mode or character of operation. Approval of a Conditional Use Permit shall be required for a change in the licensed classification. The operation of an existing nonconforming alcohol outlet shall be considered lapsed and a Conditional Use Permit shall be required where operations have been discontinued for a period of over one year.

i. The one-year period to determine that a nonconforming alcohol outlet has been abandoned shall commence when the use ceases and any one of the following occurs:

- (1) The business license lapses;
- (2) The site is vacated;
- (3) The lease is terminated;

(4) Utilities are terminated; or

(5) A conforming use that meets the applicable requirements of this Article is lawfully established in the space previously occupied by the nonconforming alcohol outlet.

ii. Once the one-year period has commenced under subsection (E)(1)(a)(i) that period shall only be terminated if the nonconforming alcohol outlet is fully licensed, permitted, and operational for 60 continuous days. Operational shall mean that the nonconforming alcohol outlet is open for business to the public and provides services typically associated with the nonconforming alcohol outlet during the hours and days that are customary for that nonconforming alcohol outlet.

iii. Cessation of use due to remodeling shall not be considered abandonment so long as building permits are active in accordance with Chapter 8.08 of the Municipal Code. However, if the building permit expires before the use resumes, the one-year period under subsection (E)(1)(a)(i) shall relate back and commence with the cessation of use.

iv. Any existing premises where operations have been discontinued for these time periods shall be required to obtain a Conditional Use Permit prior to resuming business whether or not a Conditional Use Permit was obtained in the past for the premises.

v. A substantial change in mode or character of operation shall include, but is not limited to, a change in operational hours that extends

past 11:00 p.m. Sunday through Thursday and midnight on Friday and Saturday, a 5% increase in the floor area of the premises, a 10% increase in the shelf area used for the display of alcoholic beverages, queuing outside the establishment, age requirements for entry, checking identification at the door, implementing a cover charge, offering bottle service, or a 5% increase in the number of seats in any restaurant that serves alcoholic beverages, but in no case shall the increase exceed any established seating limitation in the underlying zoning district.

(1) “Bottle service” shall mean the service of any full bottle of liquor, wine, or beer, of more than 375 ml, along with glass ware, mixers, garnishes, etc., in which patrons are able to then make their own drinks or pour their own wine or beer.

(2) “Cover charge” shall mean requiring payment of customers before they may enter the establishment.

b. Notwithstanding the provisions of paragraph a, above, when an existing alcohol outlet (i) located within the Third Street Promenade Area and (ii) without a Conditional Use Permit changes ownership or undergoes an interior remodel, it shall be subject to Zoning Conformance review to confirm consistency with current operations, except that an existing alcohol outlet that was lawfully established and is nonconforming solely due to the lack of an approved Conditional Use Permit shall not be subject to a zoning conformance review if the licensed premises have remained in continuous operation without substantial

change in mode or character of operation. As used in this paragraph, a substantial change in mode or character of operation shall include, but is not limited to: a 5% increase in the floor area of the premises; a 10% increase in the shelf area used for the display of alcoholic beverages; implementing a cover charge, that is, requiring payment from customers before they may enter the premises; or a 5% increase in the number of seats in any restaurant that serves alcoholic beverages, but in no case shall the increase exceed any established seating limitation in the underlying zoning district.

2. When an existing alcohol outlet with a Conditional Use Permit changes ownership or undergoes an interior remodel, it shall be subject to Zoning Conformance review to ensure compliance with the existing CUP.

(H) Notwithstanding any provisions of Santa Monica Municipal Code Section 9.31.290 to the contrary, the following regulations related to Restaurants with Entertainment shall apply:

9.31.290 Restaurants with Entertainment

A. Except as provided in subsection B, below, restaurants may provide entertainment including but not limited to music, DJs, song, dance, stand-up comedy, and poetry readings for the patrons' enjoyment if they meet the following standards.

1. There is sit down meal service provided at all times while the entertainment is taking place.
2. There is no permanent or temporary dance floor or dance area for patrons.
3. There is no cover charge or minimum drink purchase requirement.
4. The entertainment is provided only in the dining areas.

5. No more than three television screens including video projectors or similar audio/visual devices shall be utilized on the premises. None of these televisions or projection surfaces shall exceed 60 inches measured diagonally. No billiard/pool tables, video games, bowling, darts, and other similar entertainment activities may be provided.

6. Liquor bottle service shall be prohibited. Wine and beer bottle service shall not be available to patrons unless full meal service is provided concurrent with the bottle service. All food items shall be available from the full service menu. Bottle service shall mean the service of any full bottle of liquor, wine, or beer of more than 375 ml, along with glass ware, mixers, garnishes, etc., in which patrons are able to then make their own drinks or pour their own wine or beer.

7. No organized queuing of patrons at the entry or checking of identification to control entry into and within the establishment shall be permitted. There shall not be any age limitation imposed restricting access to any portion of the restaurant.

8. The establishment shall not organize or participate in organized “pub-crawl” events where participants or customers pre-purchase tickets or tokens to be exchanged for alcoholic beverages at the restaurant.

9. Establishments with amplified music shall comply with Section 4.12.140.

B. Third Street Promenade Area and Santa Monica Place. Notwithstanding the provisions of subsection A, restaurants located in the Third Street Promenade Area and the area bounded by 2nd Street to the west, Broadway to the north, 4th Street to the east, and Colorado to the south, may provide entertainment including but not limited to music, DJs, song, dance, stand-up comedy, and poetry readings for the patrons’ enjoyment if they meet the following standards.

1. There is sit down meal service provided at all times while the entertainment is taking place.

2. The entertainment is provided indoors only within the dining areas.

3. Dancing shall be ancillary to the primary restaurant use and temporary dance areas may be provided within portion(s) of the dining area provided that seating for sit down meal service is available for patrons at all times while dancing is taking place.

4. There is no cover charge or minimum drink purchase requirement.

5. Establishment shall comply with SMMC Chapter 4.12 Noise, except that Section 4.21.140 Nightclubs, Bars and Establishments with Amplified Music shall not apply.

C. A restaurant with entertainment beyond the scope of the limitations set forth in subsections A or B above, as applicable, shall also be considered a Bar/Nightclub/Lounge as defined in Chapter 9.51, and such entertainment use shall be prohibited unless a separate Conditional Use Permit for that use has been obtained.

(I) Notwithstanding any provisions of Santa Monica Municipal Code Section 9.31.370 to the contrary, the following regulations related to Temporary Uses and Seasonal Sales shall apply:

SMMC 9.31.370 Temporary Uses and Seasonal Sales

A. This Section establishes standards and requirements for certain uses that are intended to be of limited duration of time and that will not permanently alter the character or physical facilities of the site where they occur. Temporary uses shall require approval of a Temporary Use Permit pursuant to Chapter 9.44 with the following exceptions:

1. Seasonal sales of holiday-related items such as Christmas trees, pumpkins and similar items that have a duration of not more than 45 consecutive calendar days and are conducted in conjunction with an established retail commercial business holding a valid City business license or conducted by a school or place of worship;

2. Temporary carnivals, fairs, and festivals with a duration of not more than 3 days when conducted by a school or place of worship on land owned by the school or place of worship;

3. Art displays under the sponsorship of any recognized art organization or accredited school on any parking lot in any commercial or industrial district provided that the art display is on a Saturday, Sunday, or holiday when the place or places of business, which have control of the parking lot are not open for business on the day the art display is to occur;

4. Trailers that provide residences for security personnel associated with any approved construction site;

5. Construction offices where approved construction projects are being diligently completed;

6. Yard sales limited to 2 per calendar year, for each dwelling unit, for a maximum of 2 days each;

7. Events which occur in theaters, meeting halls, or other permanent public assembly facilities;

8. Private social gatherings in private residences.

B. Temporary Uses Requiring a Temporary Use Permit. Temporary uses may be permitted with the approval of a Temporary Use Permit, pursuant to Chapter 9.44,

Temporary Use Permits, subject to compliance with the standards. Additional or more stringent requirements may be established through the Temporary Use Permit process in order to prevent the use from becoming a nuisance with regard to the surrounding neighborhood or the City as a whole.

1. ***Stand-Alone Seasonal Sales.*** Seasonal sales of holiday related items such as Christmas trees, pumpkins, and similar items conducted for a period not to exceed 45 consecutive calendar days.

2. ***Temporary Outdoor Sales.*** Temporary outdoor sales conducted by an established retail commercial business holding a valid City business license, including, but not limited to, grand opening events, sidewalk sales, and other special sales events subject to the following standards:

a. Temporary outdoor sales shall be conducted by an established retail commercial business holding a valid City business license for the same site.

b. Outdoor display and sales areas must be located on a paved or concrete area on the same parcel as the structure(s) containing the business with which the temporary sale is associated.

c. Location of the displayed merchandise must not disrupt the normal circulation of the site, nor encroach upon driveways, pedestrian walkways, or required landscaped areas, or obstruct sight distances or otherwise create hazards for vehicle or pedestrian traffic.

d. ***Number of Events.*** No more than 4 events shall be allowed on any 1 site within any 12-month period, except sidewalk sales located on the public right-of-way shall be limited to 2 events for periods not exceeding 3 consecutive days

each within any 12-month period. Business Improvement Districts and Areas shall be exempt from the limitations on number of events.

3. **Special Events.** Other short-term special events, outdoor sales, art sales, and displays that do not exceed 3 consecutive days, may be permitted in accordance with the following standards:

a. *Location.* Events are limited to nonresidential districts.

b. *Number of Events.* No more than 4 events shall be allowed on any 1 site within any 12-month period.

c. *Recreational Special Events.* Short-term recreational special events shall be part of an existing Commercial Recreation or Personal Service use located on the same site.

d. *Carnivals, Fairs, and Festival Events.* Carnivals, fairs, and festival events are also subject to the following standards:

i. *Location.* Events are limited to areas within commercial or employment districts, or on land owned by a school or place of worship.

ii. *Time Limit.* When located adjacent to a Residential District, the hours of operation shall be limited to 8:00 a.m. to 9:00 p.m.

4. **Other Temporary Uses.** The following temporary uses may also be permitted subject to the approval of a Temporary Use Permit when conducted for a period not to exceed 180 consecutive calendar days:

a. Circuses and carnivals subject to compliance with Article 6 of the Municipal Code;

b. Fairs, festivals, and concerts, when not held within premises designed to accommodate such events, such as auditoriums, stadiums, or other public assembly facilities;

c. Off-site contractors' construction yards;

d. Similar temporary uses or other temporary uses supportive of economic recovery, which the Director has determined will be compatible with the purposes of the district and surrounding land uses.

e. The Zoning Administrator may approve a single extension of a Temporary Use Permit under this subsection for an additional 180 days, subject to any additional operational conditions as deemed necessary, and subject to a finding that the operation of the approved temporary use at the location and within the time period specified operated in a manner that did not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare. Any proposed extension exceeding 180 days not meeting the requirements of this subsection shall be subject to Minor Use Permit approval pursuant to Subsection C below.

C. Temporary Uses Requiring a Minor Use Permit. Other special events, temporary uses, outdoor sales, and displays not specifically limited under this Section that exceed 180 consecutive calendar days shall require the approval of a Minor Use Permit pursuant to Chapter 9.41, Minor Use Permits and Conditional Use Permits.

(J) Notwithstanding any provisions of Santa Monica Municipal Code Section 9.44.060 to the contrary, the following regulations related to Temporary Uses Requiring a Minor Use Permit shall apply:

SMMC 9.44.060 Temporary Uses Requiring a Minor Use Permit


Other special events, temporary uses, outdoor sales, and displays not specifically limited under Section 9.31.370 that exceed 180 consecutive calendar days shall require the approval of a Minor Use Permit pursuant to Chapter 9.41, Minor Use Permits and Conditional Use Permits

SECTION 2. Any provision of the Santa Monica Municipal Code or any appendix thereto inconsistent with the provisions of this Interim Zoning Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Interim Zoning Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Interim Zoning Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Interim Zoning Ordinance. The City Council hereby declares that it would have passed this Interim Zoning Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Interim Zoning Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Interim Zoning Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Interim Zoning Ordinance shall become effective 30 days after its adoption.

APPROVED AS TO FORM:

DocuSigned by:

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Douglas Sloan, City Attorney

Approved and adopted this 10th day of October, 2023.

DocuSigned by:
Gleam Davis
8FE4004DAD0B40B...

Gleam Davis, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2761 (CCS) had its introduction on September 26, 2023 and was adopted at the Santa Monica City Council meeting held on October 10, 2023, by the following vote:

AYES: Councilmembers de la Torre, Torosis, Brock, Parra, Zwick
Mayor Davis, Mayor Pro Tem Negrete

NOES: None

ABSENT: None

ATTEST:

DocuSigned by:
Denise Anderson-Warren
E2F85B056A714C3...

Denise Anderson-Warren, City Clerk

10/16/2023

Date

A summary of Ordinance No. 2761 (CCS) was duly published pursuant to California Government Code Section 40806.