

POLICY FORMAT: Conditional Use Permit

RESTRICTION TYPE: Alcohol Type

SUMMARY: Requires a new retailer to obtain an off-premises liquor license from the state Alcohol Beverage Control Board that includes a restriction prohibiting the sale of malt liquor and fortified wine. This sample language is based on a list of conditions included in Use Permit #08-1000061 in Berkeley, California.

SAMPLE POLICY LANGUAGE

CONDITIONS

Pursuant to Berkeley Municipal Code Section 23B.32.040D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Section 1. At All Times:

- (a) The applicant shall request that the state Alcohol Beverage Control Board (ABC) include the following conditions in the ABC license. The Use Permit to sell or serve alcoholic beverages (wine and beer) at this establishment will be operative only when the Permittee obtains an ABC license that includes the following restrictions. If the subject ABC license does not include these restrictions, then this Use Permit will not take effect and will be inoperative. These restrictions may only be changed with a Use Permit Modification approved by the Zoning Adjustments Board:
 - (1) No sales of fortified wine or malt liquor shall be allowed.
 - (2) The sale of wine or beer for off-site consumption shall not begin before 10:00 a.m. or extend beyond 12 midnight.

- (b) This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood, or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

POLICY FORMAT: City Ordinance

RESTRICTION TYPE: Container Size, Single Container

SUMMARY: The proposed ordinance requires all new off-premise retailers wishing to operate anywhere in a Planned City District to obtain a Conditional Use Permit that prohibits the sale of wines over a specified alcohol content, the sale of small containers of wine or distilled spirits, and the sale of single containers of malt beverages. This sample language is based on San Diego, California Municipal Code, Chapter 15, Article 6, Division 3, Section 156.0315.

SAMPLE POLICY LANGUAGE

PLANNED CITY DISTRICT

Section 1. Separately Regulated Uses

- (a) Establishments engaged in the sale of alcoholic beverages for off-premise consumption shall be required to obtain a Conditional Use Permit in accordance with Process Three. The following conditions of approval for an off-premise Conditional Use Permit shall apply:
 - (1) No wine or distilled spirits shall be sold in containers of less than 750 milliliters.
 - (2) No malt beverage products shall be sold in less than six-pack quantities per sale.
- (b) Any of the permits in sub-section (a) may be revoked after the holding of a public hearing if either of the following exists:
 - (1) Evidence is provided that there are violations of any conditions of approval.
 - (2) Evidence is provided that the use is creating a nuisance to the surrounding neighborhood.

POLICY FORMAT: License Conditions

RESTRICTION TYPE: Single Container, Container Size

SUMMARY: Prohibits the sale of single containers of malt liquor and beer, and prohibits the sale of liquor and wine in quantities smaller than one pint. This sample language is based on license conditions placed on a liquor store in Minneapolis, Minnesota.

SAMPLE POLICY LANGUAGE

CONDITIONS OF LICENSE

Name of Business:

Address:

License Number:

Your license, if granted, will be based on the following conditions:

- (1) The applicant shall not sell single cans or bottles of beer or malt liquor.
- (2) The applicant shall not sell any liquor or wine in quantities smaller than one (1) pint or the metric equivalent.
- (3) The applicant will not accept change in excess of \$3.00 for any beverage alcohol purchase.

I have read the conditions listed above. I agree with the conditions and understand that failure on my part or on the part of my company or employees to adhere to these conditions may be cause for future adverse license action by The City, including the suspension, revocation, or denial of my off-premise liquor license. These conditions will be effective for the duration the license operates at these premises, unless otherwise amended by The City.

POLICY FORMAT: Moratorium Zone

RESTRICTION TYPE: Single Container, Container Size

SUMMARY: Creates a Moratorium Zone within which off-premise retailers are prohibited from selling single containers of malt liquor or beer, and small containers of liquor. This sample language is based on District of Columbia Municipal Regulations, Title 23, Section 310, Chapter 3.

SAMPLE POLICY LANGUAGE

LIMITATIONS ON LICENSES

Section 1. MORATORIUM ZONE

- (a) The Moratorium Zone geographic boundaries shall consist of _____.
- (b) Within the Moratorium Zone, a licensee under an off-premise retail license shall not sell, give, offer, expose for sale, or deliver either: (1) an individual container of beer, malt liquor, or ale; or, (2) spirits (liquor) in sizes of half-pint or smaller.
- (c) Within the Moratorium Zone, a licensee under an off-premise retail license shall not divide a manufacturer's package of more than one container of beer, malt liquor, or ale, to sell an individual container from the package.
- (d) This section shall apply to new or transferred retail licenses issued during the moratorium period within the Moratorium Zone.
- (e) The section shall expire three years after the date of publication of the notice of final rulemaking.
- (f) Any licensee who is found in violation of any part of this section may be subject to such penalties as provided by Section 23-800.

POLICY FORMAT: Voluntary Agreement

RESTRICTION TYPE: Alcohol Content, Container Size, Single Container

SUMMARY: Prohibits retailers from selling single containers of beer or malt liquor for off-premise consumption. Prohibits the sale of malt liquor with an alcohol content of over 5% alcohol by volume in 40 oz. bottles, or any single serving container. Requires other provisions aimed at reducing nuisance issues. This sample language is based on voluntary agreements negotiated in Philadelphia, PA.

SAMPLE POLICY LANGUAGE

RESPONSIBLE BUSINESS PRACTICES AGREEMENT

ENTERED INTO THIS ____ DAY OF ____, BETWEEN:

NAME OF BUSINESS ____

LOCATION OF BUSINESS PREMISES ____

AND: ____;

ELECTED OFFICIAL

NEAR NEIGHBORS/BUSINESSES WITHIN 500 FEET

NON-PROFIT/RELIGIOUS/CHARITABLE INSTITUTION

COMMUNITY DEVELOPMENT CORPORATION/CIVIC ASSOCIATION

The foregoing parties have agreed to the following conditions to be placed on the business privilege license of the above-referenced business. These conditions shall be enforceable pursuant to the provisions of Section 19-2602 of the Philadelphia Code and shall be binding upon any and all successors in interest, assignees, alter egos and bona fide purchasers of the business entity and/or premises. Pursuant to receiving written notice regarding any initial violation of the below stated conditions, business owner shall have 30 days to cure the stated defect and come into compliance with the stated conditions.

1. This business will not sell single cans or single serving bottles of beer or malt liquor for consumption off the premises. Take out sales will consist of six packs or four packs of single servings.
2. This business will not sell malt liquor with an alcohol content of over 5% alcohol by volume in 40 oz. bottles or any single serving container.
3. This business will maintain sanitary restrooms for patrons in good working order with clearly visible signs indicating their availability.

4. This business will clearly post “NO LOITERING” and “MINORS MUST BE ACCOMPANIED BY PARENTS OR GUARDIANS” signs on the outside of the premises and make a good faith effort to enforce such signs, including but not limited to: contacting police, contacting appropriate city officials, and contacting community leaders.
5. This business will remove pay telephones from the exterior and interior of the premises.
6. This business will continue to comply with all applicable laws and current conditions.
7. This agreement shall become effective in 30 days.

As part of the execution of this agreement, business owner hereby acknowledges the following:

1. Business owner had the opportunity to consult with an attorney of choice to review all of the terms of this agreement;
2. Business owner’s attorney, if one has been retained by the business in relation to this matter, is welcome to participate in all aspects of the negotiation and execution of this agreement;
3. Councilperson _____ or his/her designee has discussed each and every term in this agreement with business owner and business owner understands the meaning of each and every term;
4. Business owner understands the consequences for breaching this agreement, which may include daily fines, an order to cease operations and the loss of the business privilege license; and
5. Business owner is entering into this agreement voluntarily without any coercion whatsoever.

POLICY FORMAT: Alcohol Impact Area (AIA): City Ordinance

RESTRICTION TYPE: Brands

SUMMARY: This sample policy language was adapted from an Alcohol Impact Area in Seattle, Washington. The Seattle policy was enacted in three stages. First, state law and administrative code was changed to enable the process (*see AIA State Administrative Code*). Next, the city passed two ordinances: the first established the Alcohol Impact Area and required a 6-month effort to solve the problem through voluntary means; the second showed that voluntary efforts had failed and asked the state Liquor Board to impose mandatory restrictions. Sample language for both ordinances is provided below.

CITY ORDINANCE #1: Creates an Alcohol Impact Area and requires voluntary efforts to address alcohol-related problems within the Alcohol Impact Area. This sample language is based on Seattle, Washington Ordinance 121487.

SAMPLE POLICY LANGUAGE

ALCOHOL IMPACT AREA

Section 1. The City Council finds:

- (a) Residents, business owners and community organizations within the proposed AIA have appealed to the City for relief from the adverse effects of public inebriation and the illegal activity associated with off-premises alcohol sales and consumption in the proposed AIA, and have requested the enactment of an ordinance establishing the ____ Alcohol Impact Area.
- (b) The records of the local police department and fire department, other emergency response records and other evidence document a pervasive pattern of public intoxication and/or public consumption of alcohol in the area.
- (c) This public intoxication and/or public consumption, and the illegal activity associated with it, are contributing to the deterioration of the quality of life within the area, and threaten the welfare, health, peace and safety of the area's visitors and occupants.

Section 2. Creation of the ____ Alcohol Impact Area.

- (a) The geographic area described below is declared to be the ____ Alcohol Impact Area (AIA): _____.
- (b) The City will notify off-premises licensees in the AIA about the public inebriation and public health concerns related to the sale of certain alcohol products.

- (c) The City will request off-premises licensees in the AIA to voluntarily adhere, for a period of at least six months, to certain business practices designed to reduce public inebriation and improve public health and safety in the area. These include restrictions on the sale of certain alcohol products, limitations on container sizes and packaging, and reduced hours of off-premises alcohol sales.
- (d) The Chief of Police and Fire Chief shall provide quarterly updates to the City Council regarding the effectiveness of voluntary efforts to address the public inebriation issues in the AIA.
- (e) Nine months from the effective date of this ordinance, the Chief of Police and Fire Chief shall provide a report to the City Council's public safety committee on the effectiveness of voluntary efforts to address public inebriation issues in the AIA. This report shall include crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records and other information which documents the impact of the voluntary efforts. Based on the information contained in the report, the Council may consider the adoption of legislation directing the Chief of Police to request the State Alcohol Beverage Control Board to impose mandatory restrictions on liquor licensees in the AIA. Such legislation must be adopted by Council before any representative of the City requests the State Alcohol Beverage Control Board to impose such restrictions.

CITY ORDINANCE #2: Finds that voluntary efforts have failed and asks the state Liquor Board to impose mandatory restrictions that prohibit off-premise retailers within the AIA from selling certain brands of malt liquor and fortified wine. This sample language is based on Seattle, Washington Ordinance 121999.

SAMPLE POLICY LANGUAGE

ALCOHOL IMPACT AREA

Section 1. The City Council finds:

- (a) In Ordinance 121487, the City Council created the _____Alcohol Impact Area (AIA) and directed that voluntary efforts to reduce the impact of public inebriation in the AIA be attempted for a period of 6 months and that a report on such efforts be submitted to the City Council.
- (b) Despite the best efforts by the City and community groups over a period of more than a year since the passage of Ordinance 121487, attempts to obtain voluntary restrictions on off-premises sales of alcohol in the AIA ***have failed:***
 - a. The low cost/high alcohol content products continue to be available throughout the AIA;

- b. Public inebriation and illegal activities associated with the sales and consumption of these products continue to contribute to the deterioration of the quality of life within the area and threaten the welfare, health, peace, and safety of the area's visitors and occupants, as demonstrated by crime statistics, police reports, emergency response data, detox reports, sanitation reports, public health records, and other information contained in [Attachment A](#);
 - c. Residents, business owners and community organizations have continued to appeal to the City for relief from these adverse effects.
- (c) Thus, the city should request that mandatory restrictions on the sales of alcohol by off-premises licensees in the AIA be imposed by the State Alcohol Beverage Control Board.

Section 2. Request to State Alcohol Beverage Control Board

The City Council shall request the State Alcohol Beverage Control Board to recognize the _____ Alcohol Impact Area created by Ordinance 121487 and to impose mandatory restrictions on the sale of the low cost/high alcohol products as set forth in [Attachment B](#).

Section 3. Effective Date

This ordinance shall take effect and be in force thirty (30) days from its approval by the City Council.

Attachment A

- Police calls for service including person down and adult liquor violations/drinking in public
- Relevant crime statistics, police reports, emergency response data, detox reports, sanitation reports, public health records, etc.
- Qualitative and anecdotal information from community meetings (stories, observations, etc.)
- Public comments taken from public hearings before the City Council
- Information regarding the voluntary compliance phase including requested participation through the good neighbor agreements and requested removal of products on the targeted product list
- A list of the products asked to be banned during the voluntary compliance phase
- A percentage of how many businesses signed voluntary agreements including locations of businesses
- Any data on changes in alcohol-related medical incidents in the area of the proposed alcohol impact area before and after voluntary compliance efforts
- Any other relevant data or data unique to the city
- Conclusions and Recommendations section stating that a problem still exists, there are successful models in place, and stating that components of a more effective strategy include mandatory restrictions, a product list, and a targeted geographic area.

Attachment B

The Licensee agrees to eliminate off-premises sales of the following alcohol products:

1. Beer and Malt Products

- Bull Ice
- Busch Ice Colt 45 Ice
- Colt 45 Malt Liquor
- Hamm's Ice Brewed Ale
- Hamm's Ice Brewed Beer
- Hurricane Ice Malt Liquor
- Keystone Ice
- King Cobra Malt Liquor
- Lucky Ice Ale Premium
- Lucky Ice Beer
- Magnum Malt Liquor
- Mickey's Iced Brewed Ale
- Mickey's Malt Liquor
- Miller High Life Ice
- Milwaukee Best Ice
- Milwaukee Best Premium Ice Beer
- Natural Ice
- Old Milwaukee Ice
- Olde English 800
- Olympia Ice
- Pabst Ice
- Rainier Ale
- Red Bull Malt Liquor
- Schmidt's Ice
- Special 800 Reserve
- St. Ide's Liquor and Special Brews
- Steel Reserve

2. Wine Products

- Cisco
- Gino's Premium Blend
- MD 20/20
- Night Train Express
- Richard's Wild Irish Rose
- Thunderbird

POLICY FORMAT: Alcohol Impact Area: State Administrative Code

SUMMARY: The proposed state administrative code grants authority to the city to designate an Alcohol Impact Area (AIA) and lays out the requirements for state recognition of the AIA. This sample language is based on Washington Administrative Code, Section 314-12-215.

SAMPLE POLICY LANGUAGE

ALCOHOL IMPACT AREA RULES

Section 1. Alcohol Impact Area definition.

An Alcohol Impact Area (AIA) is a geographic area within a city, town, or county that is adversely affected by public inebriation or illegal activity associated with alcohol sales or consumption. The area must be designated by ordinance by the local government subdivision and recognized by resolution of the state Alcohol Beverage Control Board before any enhanced processes described by these rules are applied.

Section 2. Guidelines for recognizing an Alcohol Impact Area.

The alcohol beverage control board, by resolution, may recognize an AIA adopted by a city, town, or county. To achieve recognition, the AIA must meet all of the following conditions:

- (a) The AIA comprises a geographic area that does not include the entire territory of the local jurisdiction;
- (b) The government subdivision has given a rationale, expressed in the ordinance, for the establishment of the proposed boundaries of the AIA;
- (c) The government subdivision has described the boundaries of the AIA in the ordinance in such a way that:
 - i. The board can determine which liquor licensees are in the proposed area; and
 - ii. The boundaries are understandable to the public at large
- (d) The AIA ordinance includes findings of fact which establish:
 - i. There is a pervasive pattern of public inebriation and/or public consumption of alcohol within the proposed AIA, as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records, or similar records; and
 - ii. Public inebriation or illegal activity associated with alcohol sales and/or consumption within the proposed AIA is contributing to the deterioration of the general quality of life within the area or threatens the welfare, health, peace, or safety of the area's visitors and occupants.

- (e) The AIA will take effect on the date of the board's resolution extending recognition to the AIA.

Section 3. Processes, conditions, and restrictions allowed within an AIA.

- (a) The board will apply a unique local license review process for liquor license applications, license assumptions, and license renewals within the AIA.
- (b) The board may place conditions or restrictions on the off-premises liquor licenses within the AIA. These restrictions must be reasonably related to reducing public inebriation or illegal activity associated with off-premises alcohol sales and/or consumption. These restrictions may include, but are not limited to:
 - i. Restrictions on the hours of operation for off-premises alcohol sale within the AIA;
 - ii. Restrictions on the off-premises sale of certain alcohol products within the AIA; and
 - iii. Restrictions on alcohol container sizes available for off-premises sale within the AIA.

Section 4. Circumstances required for restrictions.

The board may restrict the off-premises sale of alcohol within an AIA, subject to all of the following conditions:

- (a) Product restrictions must be requested by the government subdivision's law enforcement agency or public health authority;
- (b) The board must find that the off-premises sale of such alcohol products is reasonably linked to the problems associated with public inebriation; and
- (c) The government subdivision must have shown that voluntary efforts have failed to significantly reduce the impact of public inebriation, or that voluntary efforts need augmentation by license restrictions described in subsection (3) of this section.

Section 5. Voluntary efforts required.

Before the board will implement mandatory product restrictions, the government subdivision's voluntary efforts must include:

- (a) Notification of all off-premises licensees in the proposed AIA that behavior associated with alcohol sales is having an impact on public inebriation.
- (b) Documentation that the government subdivision has made reasonable efforts to implement voluntary agreements to promote business practices that reduce public

inebriation and promote public welfare, health, peace, and safety with off-premises licensees within the AIA.

- (c) Implementation of these voluntary agreements must have been attempted for at least six months before information is presented to the board that voluntary efforts have failed or need augmentation.

Section 6. If restrictions are approved for an AIA:

- (a) The board will notify the appropriate beer and wine distributors of the product restrictions placed on off-premises licensees within the AIA.
- (b) When product restrictions are placed on off-premises licensees within an AIA, no state liquor store or agency within the AIA may sell these restricted products.

Section 7. Process for liquor license applications and renewals in an AIA.

- (a) When the board receives an application for an off-premises liquor license, the board will establish an extended time period of sixty days for the government subdivision to comment on the application.
- (b) The government subdivision may submit comment before the end of this sixty-day period, but may request an extension of this period when unusual circumstances, explained in the request, require additional time for comment.
- (c) The requesting government subdivision will notify the licensee or applicant when an extension of the sixty-day comment period is requested.
- (d) For renewals, notice will be mailed to the government subdivision not less than ninety days before the current license expires.

Section 8. AIA effective dates

An AIA will remain in effect until:

- (a) The sponsoring government subdivision repeals the specific enabling ordinance that originally defined the specific AIA recognized by the board; or
- (b) The board repeals its recognition of an AIA as the result of a public hearing, called by the board acting on its own initiative or at the request of a community organization within the AIA, made after the AIA has been in effect for at least two years.

POLICY FORMAT: State Statute

RESTRICTION TYPE: Single Container, Container Size

SUMMARY: Prohibits off-premise retailers from selling single containers of malt beverages that are over 32 ounces. This sample language is based on Florida Statutes, Title 34, Chapter 563, Section 563.06. While not a local policy, this state law eliminates the need for local restrictions on 40 oz. bottles of malt liquor.

SAMPLE POLICY LANGUAGE

ALCOHOLIC BEVERAGES: BEER

Section 1. Malt beverages; size of containers

(a) Prohibition. All malt beverages packaged in individual containers sold or offered for sale by off-premise retail vendors in this state shall contain no more than 32 ounces of such malt beverages; provided, however, that nothing contained in this section shall affect malt beverages packaged in bulk or in kegs or in barrels or in any individual container containing 1 gallon or more of such malt beverage regardless of individual container type.

(b) Penalties. Any person, firm, or corporation, its agents, officers or employees, violating any of the provisions of this section, shall be guilty of a misdemeanor, punishable as provided in s. 775.082 or s. 775.083 and the retail license shall be subject to revocation or suspension.