



CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

Kevin McDonnell
Mayor

Brian Barnacle
Janice Cader-Thompson, Dist. 1
Mike Healy
Karen Nau, Dist. 3
Dennis Pocekay
John Shribbs, Dist. 2
Councilmembers

April 25, 2024

Via Email and Certified Mail

Patrick Ciocca
Attorney at Law
2901 Cleveland Avenue
Suite 201
Santa Rosa, CA 95403
(415) 265-4200
pmcesq@hotmail.com

Brian Tatko
Jamison's Roaring Donkey
146 Kentucky Street
Petaluma, CA 94952
briantatko@gmail.com

**Community Development
Department**
11 English Street
Petaluma, CA 94952
Fax (707) 778-4498

Building Division
Phone (707) 778-4301
E-Mail:
building@cityofpetaluma.org

To Schedule Inspections
Phone (707) 778-4479

Planning Division
Phone (707) 778-4470
E-Mail:
petalumaplanning@
cityofpetaluma.org

Housing Division
Phone (707) 778-4563
E-Mail:
housing@cityofpetaluma.org



Re: IZO 24.060(G) Notice of 20-day Suspension for Noncompliance with CUP for 146 Kentucky Street; Effective April 26, 2024

Dear Messrs. Tatko and Ciocca,

Please accept this letter as the City's Notice of 20-day Suspension of the previously approved Conditional Use Permit (CUP) authorizing an alcoholic beverage establishment land use at 146 Kentucky Street, currently operated by Notato LLC dba Jamison's Roaring Donkey (JRD), effective April 26, 2024, pursuant to Petaluma's Implementing Zoning Ordinance (IZO) section 24.060(G).

On Wednesday, November 1, 2023, I sent you official notice that you have failed to comply with the terms of the CUP by failing to provide an approved security plan (See Exhibit 1). In that Notice, I advised you that the City will suspend your CUP for 20 days if you do not cure the noncompliance. Thereafter, you provided draft security plans for review, but the Chief of Police has not approved them for several reasons, as described in Chief Miller's November 16, 2023 letter and assistant city attorney Jordan Green's January 29, 2024 letter (see Exhibits 2 and 3).

Based on the continuous public safety issues involving JRD's business practices and the fact that more than 20 days has lapsed since the City first issued its Notice of Noncompliance, the City is suspending the previously approved Conditional Use Permit (CUP) authorizing an alcoholic beverage establishment land use at 146 Kentucky Street, currently operated by Notato LLC dba Jamison's Roaring Donkey (JRD) for 20 days, effective April 26, 2024.

For reference purposes, Condition No. 5 of the CUP states:

Prior to commencement of use, the business owner shall submit to the Chief of Police a detailed security plan. The plan shall include, but not be limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff. The plan shall be submitted for review and approval by the Chief of Police. Such plan shall be amended prior to any change in operations include, but not limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff for review and approval by the Chief of Police within 14 days of the change in business operations.

IZO section 24.060(G) states:

Revocation. Upon a permittee's violation of any applicable provision of this Zoning Ordinance, or, upon a permittee's failure to comply with any terms or conditions of a use permit, the Director may send the permittee a certified letter informing the permittee of the facts constituting noncompliance and stating that the permittee has 20 calendar days from the date of the letter to comply with the requirements of this Zoning Ordinance and/or the terms and conditions of the use permit. If, after 20 calendar days have elapsed from the date of the notice, the permittee has failed to cure the permittee's noncompliance as required, the Director shall send a second certified letter to the permittee suspending the use permit and advising the permittee of the permittee's right to be heard by filing an appeal pursuant to Section 24.090. The suspension will be in effect for 20 calendar days from the date of the notice of suspension. If, after the 20-day suspension, the permittee still has not cured the permittee's noncompliance as required, or if the permittee has failed to file a timely appeal, the use permit shall be revoked and terminated and shall be null and void without further action by the City.

Pursuant to IZO section 24.060(G), you have a right to file an appeal pursuant to IZO section 24.090, attached to my November 1, 2023 notice, which is attached as Exhibit 1 to this notice.

If you have any questions, please feel free to contact me or assistant city attorney Jordan Green.

Respectfully,



Brian Oh
Director of Community Development
City of Petaluma

Attachments:

Exhibit 1: November 2, 2023 letter and its exhibits, including the CUP and IZO 24.060(G)

Exhibit 2: January 16, 2024 letter

Exhibit 3: January 29, 2024 letter

cc: Brian Miller, Chief of Police; Eric Danly and Jordan Green, City Attorney's Office



CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

Kevin McDonnell
Mayor

November 02, 2023

Councilmembers:
Janice Cader Thompson,
District 1
John Shribbs,
District 2
Karen Nau,
District 3
Brian Barnacle,
at-large
Mike Healy,
at-large
Dennis Pocekay,
at-large

Via Email and Certified Mail

[Sent via e-mail to:
pmcesq@hotmail.com;
briantatko@gmail.com]

Patrick Ciocca
Attorney at Law
2901 Cleveland Avenue
Suite 201
Santa Rosa, CA 95403
(415) 265-4200
pmcesq@hotmail.com

Brian Tatko
briantatko@gmail.com

RE: IZO 24.060(G) Notice of Noncompliance with CUP for 146 Kentucky Street

Dear Messrs. Tatko and Ciocca,

Please accept this letter at the City's Notice, pursuant to Petaluma's Implementing Zoning Ordinance (IZO) section 24.060(G) (attached as Ex. 1) that I find that you have failed to comply with the terms of the Conditional Use Permit (CUP), attached as Exhibit 2, for Jamison's Roaring Donkey (JRD). Condition No. 5 of the CUP states:

Prior to commencement of use, the business owner shall submit to the Chief of Police a detailed security plan. The plan shall include, but not be limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff. The plan shall be submitted for review and approval by the Chief of Police. Such plan shall be amended prior to any change in operations include, but not limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff for review and approval by the Chief of Police within 14 days of the change in business operations.

Despite repeated requests, the City does not have a submitted and approved security plan for Jamison's Roaring Donkey. On March 20, 2023, the City issued you an administrative citation for failing to comply with your CUP by failing to submit a detailed security plan. On March 25, 2023, the City issued you a second citation for failing to submit a detailed security plan. During our June 8th meeting with you, we discussed the fact that you have not submitted for approval a detailed security plan and urged you to do so as soon as possible. In our October 10th letter to you, we advised you to submit a security plan to the Chief of Police by October 20, 2023. It is November 02, 2023 and despite our repeated efforts, you continue to refuse to submit to the Chief of Police a detailed security plan, as required by your CUP.

Additionally, since the City sent you its October 10, 2023 letter, the City has continued to experience alcohol related problems arising out of JRD's business operations. For example, there have been continued incidents involving reported fights inside the establishment, assaults, disturbances, and DUI drivers. Additionally, patrons have made allegations of being assaulted by JRD security staff.

**Community Development
Department**
11 English Street
Petaluma, CA 94952
Fax (707) 778-4498

Building Division
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To Schedule Inspections
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Fax (707) 778-4498
E-Mail:
petalumapanning@cityofpetaluma.org

Housing Division
Phone (707) 778-4563
E-Mail:
housing@cityofpetaluma.org



Attachment 1

been imposed as conditions of approval to address any potential adverse operating characteristics which have the potential to create a nuisance.

4. The proposed Alcoholic Beverage Establishment with live entertainment has been reviewed under the provisions of the California Environmental Quality Act (CEQA Guidelines, and pursuant to Section 15061(b)(3) of the CEQA Guidelines has been found to be exempt per the general rule that there is no possibility that the activity may have a significant effect on the environment.
5. That the record of proceedings of the decision on the project is available for public review at the City of Petaluma Community Development Department, Planning Division, City Hall, 11 English Street, Petaluma, California.

Findings for the Determination of Public Convenience or Necessity:

1. The proposed use is within a census tract which, pursuant to State Assembly Bill 2897 which amended Section 23958 of the Business and Professions Code, is considered to have an undue concentration of retail liquor licenses. The Planning Commission finds that, pursuant to Section 23958.4(b)(2), this license should be issued to Anexie Inc., dba Infusions, because:
 - a. The sale of beer, wine and spirits will provide a convenience to the patrons;
 - b. The sale of beer, wine and spirits is necessary to ensure the economic viability of the business;
 - c. Although Anexie Inc., dba Infusions proposes to be located within a census tract which experiences an undue concentration of retail alcohol licenses, the sale of alcohol will not create a nuisance or be detrimental to the public health or welfare, as conditions relating to security will limit the potential for nuisances.
2. Per Resolution No. 96-56 N.C.S. the Police Department has reviewed the above referenced application requesting that a determination be made and the finding(s) forwarded to the State of California Alcoholic Beverage Control (ABC) that public convenience or necessity would be served by the issuance of an ABC license (Type 48 – On-Sale General Public Premise) to allow the retail sales of alcohol at 146 Kentucky Street. The Police Department reviewed the subject area for the period January 1, 2003 to the present, and finds that based on the reports generated, an increased burden for Police services is not anticipated at

6. Any proposed exterior changes to the building shall be subject to Site Plan and Architectural Review approval.
7. A Conditional Use Permit for an alcoholic beverage establishment with live entertainment may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the conditional use permit or add/modify conditions of approval.
8. The applicants/developers shall defend, indemnify, and hold harmless the City or any of its boards, commission, agents, officers, and employees from any claim, action or proceeding against the City, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project when such claim or action is brought within the time period provided for in applicable State and/or local statutes. The City shall promptly notify the applicants/developers of any such claim, action, or proceeding. The City shall coordinate in the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith.

Building Division:

9. A building permit shall be required for the tenant improvement.

From the Police Department:

Conditional Use Permit:

1. The operation of an alcoholic beverage establishment shall be the responsibility of the permittees personally (if the applicants are the permittee) or a manager or designated responsible employee of the permittee at all times. The permittee shall designate the names of all such managers and designated responsible employees in the application and shall advise the Police Chief and Community Development Director in writing whenever any change is made.
2. The permittees personally (if the applicants are the permittees) or a manager or a designated responsible employee shall be on the premises at all times during the conduct of business.
3. All employees and managers shall complete a program recognized by the Department of Alcoholic Beverage Control (ABC) at a qualified Responsible Beverage Service Program prior to the commencement of a new business or within ninety (90) days of hire for new employees. The permittees and/or manager of an alcoholic beverage establishment shall

Within fourteen (14) calendar days following the date of a decision of the Planning Commission (May 11, 2004), the decision may be appealed to the City Council by the applicant or by any other interested party. If no appeal is made within that time, the decision shall be final. An appeal shall be addressed to the City Council in writing and shall be filed with the City Clerk. The appeal shall state specifically the grounds for the appeal and the relief sought by the appellant. The appeal fee as specified by Resolution 2004-028 N.C.S. as adopted by the City Council shall accompany said appeal.

In any case where a conditional use permit has not been used within one (1) year after the date of granting thereof, the permit shall be revoked unless (30) days prior to the one (1) year expiration date, renewal of the permit for an additional period of not more than one (1) year shall be approved by the Community Development Department. If after the one (1) year extension period has expired, a conditional use permit has not been used, then without further action the permit shall be revoked and be null and void.

Should you have any questions regarding this letter, I may be reached Monday through Friday, 8AM to 5PM at (707) 778-4469.

Sincerely,



Jane K. Thomson
Code Enforcement Officer

c: Troy Wright, State of California Department of Alcoholic Beverage
Control, 50 D Street, Suite 130, Santa Rosa, CA 95404
Helen Issel, Tr. et al, P.O. Box 593, Sonoma, CA 95476
Police Department
Project File #04-CUP-0181-CR
s:\planningcommission\letters\146KentuckyInfusions

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE(S)

ABC 211 (6/99)

TO: Department of Alcoholic Beverage Control
50 D Street
Room 130
Santa Rosa, CA 95404
(707) 576-2165

File Number: **412347**
Receipt Number: **1464254**
Geographical Code: **4903**
Copies Mailed Date: **April 15, 2004**
Issued Date:

DISTRICT SERVING LOCATION: **SANTA ROSA**First Owner: **ANEXIE INC**Name of Business: **INFUSION**

Location of Business: **146 KENTUCKY ST**
PETALUMA, CA 94952

County: **SONOMA**Is premise inside city limits? **Yes**Census Tract **1507.01**

Mailing Address: **263 PHOTINIA PLACE**
(If different from **PETALUMA, CA 94952**
premises address)

Type of license(s): **48**Transferor's license/name: **345201 / HUFF & CROWD** Dropping Partner: Yes ☐ No ☒

License Type	Transaction Type	Fee Type	Master	Dup	Date	Fee
48 ON-SALE GENERAL: PERSON TO PERSON TRANSF	P40		Y	0	04/15/04	\$1,250.00
48 ON-SALE GENERAL: ANNUAL FEE	P40		Y	0	04/15/04	\$758.00
48 ON-SALE GENERAL: PREMISE TO PREMISE TRANS	P40		Y	0	04/15/04	\$100.00
48 ON-SALE GENERAL: STATE FINGERPRINTS	NA		N	1	04/15/04	\$39.00
Total						\$2,147.00

Have you ever been convicted of a felony? **No**

Have you ever violated any provisions of the Alcoholic Beverage Control Act, or regulations of the Department pertaining to the Act? **No**

Explain any "Yes" answer to the above questions on an attachment which shall be deemed part of this application.

Applicant agrees (a) that any manager employed in an on-sale licensed premise will have all the qualifications of a licensee, and (b) that he will not violate or cause or permit to be violated any of the provisions of the Alcoholic Beverage Control Act.

STATE OF CALIFORNIA County of **SONOMA**Date: **April 15, 2004**

Under penalty of perjury, each person whose signature appears below, certifies and says: (1) He is an applicant, or one of the applicants, or an executive officer of the applicant corporation, named in the foregoing application, duly authorized to make this application on its behalf; (2) that he has read the foregoing and knows the contents thereof and that each of the above statements therein made are true; (3) that no person other than the applicant or applicants has any direct or indirect interest in the applicant or applicant's business to be conducted under the license(s) for which this application is made; (4) that the transfer application or proposed transfer is not made to satisfy the payment of a loan or to fulfill an agreement entered into more than ninety (90) days preceding the day on which the transfer application is filed with the Department or to gain or establish a preference to or for any creditor or transferor or to defraud or injure any creditor of transferor; (5) that the transfer application may be withdrawn by either the applicant or the licensee with no resulting liability to the Department.

Applicant Name(s)

Applicant Signature(s)

ANEXIE INC

See 211 Signature Page

Troy Weigert

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CITY OF PETALUMA, CALIFORNIA

MEMORANDUM

Community Development Department, Planning Division, 11 English Street, Petaluma, CA 94952
(707) 778-4301 Fax (707) 778-4498 E-mail: planning@ci.petaluma.ca.us

DATE: 11 May 2004 AGENDA ITEM NO. CONSENT
TO: Planning Commission
FROM: Jane K. Thomson, Code Enforcement Officer
SUBJECT: Consideration of a Conditional Use Permit and
Determination of Public Convenience or Necessity for
Anexie Inc., dba Infusions at
146 Kentucky Street, APN 006-281-007
Project File No(s). 04-CUP-0181-CR

RECOMMENDATIONS

Staff recommends that the Planning Commission approve the Conditional Use Permit for an Alcoholic Beverage Establishment, and make the determination that public convenience or necessity would be served by the issuance of a Type 48 Alcoholic Beverage License to Anexie Inc., dba Infusions at 146 Kentucky Street, subject to the attached draft findings and conditions of approval.

PROJECT SUMMARY

Project Planner: Jane K. Thomson, Code Enforcement Officer

Project Applicant: Jan Rosen and Sylvie de Segur

Property Owner: Helen Issel, Tr. Et Al

Nearest Cross Street to Project Site: Washington Street

Property Size: 8,000 sq.ft. (entire building is 8,000 sq.ft., proposed bar/ounge is 3,500 sq.ft.)

Site Characteristics: Commercial Building

Existing Use: Vacant

Proposed Use: Alcoholic Beverage Establishment with Live Entertainment

Current Zoning: Central Commercial (C-C)

Proposed Zoning: Central Commercial (C-C)

1 Live Entertainment

2
3 The applicants propose to offer a limited amount of live entertainment, typically in the evening,
4 although live music would be offered for private parties/events. Although the bar/lounge will be
5 subject to the city's noise ordinance, staff recommends that the doors remain closed when live
6 entertainment is offered. This condition has been consistently imposed on other bars.

7
8 Other Activities

9
10 As indicated in their letter of application, the bar/lounge is proposed to be available during the day for
11 meetings, wine releases, seminars, fashion shows, and other such like events, hence the request that the
12 operating hours commence at 7AM.

13
14 The property is located in the downtown parking assessment district, therefore on-site parking is not
15 required.

16
17 Public Convenience or Necessity

18
19 From the Planning Division:

20
21 The Department of Alcoholic Beverage Control (ABC) has determined that an undue concentration of
22 facilities that are licensed to sell alcohol exists in the census tract in which the subject site is located.
23 This evaluation and determination is made exclusively by the ABC, based on their determination that
24 the ratio of on-sale retail licenses to population in the census tract or census division in which the
25 applicant premises are to be located, exceed that permitted. The ABC has informed the city that based
26 on the subject property's location in Census Tract 1507.01 (see attached map), which currently has 46
27 licenses where only 7 are permitted, State law requires the City to make the determination that the
28 issuance of an additional license in this census tract would serve the public convenience or necessity
29 (PCN determination).

30
31 Staff has considered the PCN request, and is able to support a determination that the issuance of an
32 additional license in this census tract would service the public convenience or necessity pursuant to the
33 provisions of Resolution 96-56 N.C.S. As required by the City Council, the project was referred to
34 both the Fire and Police Departments for their input. The following summarizes their responses:

35
36 Police Department: The Police Department reviewed the subject area for the period January 1, 2003 to
37 the present. Detective Frye's written comments from April 16, 2004 are attached, with the
38 recommendations included as conditions of approval.

39
40 Fire Department: The Fire Marshal's written comments from April 20, 2004 are attached, with the
41 recommendations included as conditions of approval.

42
43 General Plan Consistency:

44
45 The General Plan Land Use designation for this site is Community Commercial, which allows for retail
46 businesses and service establishments such as stores, bars, lounges, and offices. The proposed use is
47 consistent with this designation.

DRAFT FINDINGS

Anexie Inc., dba Infusions
146 Kentucky Street, AP No. 006-281-007
File # 04-CUP-0181-CR

Findings for the Conditional Use Permit:

1. The proposed Alcoholic Beverage Establishment with live entertainment, as conditioned, will conform to the requirements and intent of the General Plan, as the use is appropriate for the area in which it is proposed to be located, and is a small business as encouraged by the General Plan.
2. The proposed Alcoholic Beverage Establishment with live entertainment, is consistent with the requirements set forth in Zoning Ordinance Section 21-430.24(A)(1 through 13), as conditions have been imposed to regulate operating characteristics.
3. The proposed Alcoholic Beverage Establishment with live entertainment will not constitute a nuisance or be detrimental to the public welfare of the community, as a Conditional Use Permit will provide a benefit to the community by virtue of its presence, and provide the ability to regulate the Alcoholic Beverage Establishment. Furthermore, conditions have been imposed as conditions of approval to address any potential adverse operating characteristics which have the potential to create a nuisance.
4. The proposed Alcoholic Beverage Establishment with live entertainment has been reviewed under the provisions of the California Environmental Quality Act (CEQA Guidelines, and pursuant to Section 15061(b)(3) of the CEQA Guidelines has been found to be exempt per the general rule that there is no possibility that the activity may have a significant effect on the environment.
5. That the record of proceedings of the decision on the project is available for public review at the City of Petaluma Community Development Department, Planning Division, City Hall, 11 English Street, Petaluma, California.

Findings for the Determination of Public Convenience or Necessity:

1. The proposed use is within a census tract which, pursuant to State Assembly Bill 2897 which amended Section 23958 of the Business and Professions Code, is considered to have an undue concentration of retail liquor licenses. The Planning Commission finds that, pursuant to Section 23958.4(b)(2), this license should be issued to Anexie Inc., dba Infusions, because:
 - a. The sale of beer, wine and spirits will provide a convenience to the patrons;
 - b. The sale of beer, wine and spirits is necessary to ensure the economic viability of the business;

DRAFT CONDITIONS OF APPROVAL

Anexie Inc, dba Infusions
146 Kentucky Street, AP No. 006-281-007
File # 04-CUP-0181-CR

From the Community Development Department:

Planning Division:

1. This Conditional Use Permit authorizes Anexie Inc., dba Infusions to operate an Alcoholic Beverage Establishment with Live Entertainment at 146 Kentucky Street, APN 006-281-007.
2. Per Zoning Ordinance Section 21-430.16(A) and (B), this conditional use permit is issued to Jan Rosen and Sylvie de Segur, the principals of Anexie Inc., dba Infusions, and may not be assigned or transferred without notification to the Community Development Director. Additionally, notification of a transfer of a conditional use permit shall be required prior to any change in an interest in a partnership or ownership of ten percent (10%) or more of the stock of a corporation to any person not listed on the application filed March 31, 2004.
3. The hours of operation for the alcoholic beverage establishment and live entertainment shall be limited, as proposed by the applicants to 7:00AM to 2:00AM, 7 days per week. Hours of operation for office use may be 24 hours, 7 days per week.
4. Any physical expansion of the facility, or expansion as to the nature of the business (type of ABC license, etc.) shall require an amendment to this Conditional Use Permit. Future use of the basement shall be limited to storage only.
5. The bar/lounge shall be operated in such a manner so that it at no time violates zoning standards regarding noise generation. As such, at times that live entertainment is offered the door(s) to the bar/lounge shall remain closed. At no time shall business activities exceed the Performance Standards specified in Zoning Ordinance Section 22-301 and/or the 1987 General Plan.
6. An proposed exterior changes to the building shall be subject to Site Plan and Architectural Review approval.
7. A Conditional Use Permit for an alcoholic beverage establishment with live entertainment may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the conditional use permit or add/modify conditions of approval.
8. The applicants/developers shall defend, indemnify, and hold harmless the City or any of its boards, commission, agents, officers, and employees from any claim, action or proceeding against the City, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project when such claim or action is brought within the time period provided for in applicable State and/or local statutes. The City shall promptly notify the

- 1
2 9. The applicant shall comply with Alcoholic Beverage Control (ABC) laws and regulations.
3 Suspension of the applicant's license by the ABC will constitute sufficient cause or basis for
4 review and possible revocation of a conditional use permit.
5

6 **From the Fire Marshal**
7

- 8 1. The building permit application for the tenant improvement shall comply with the Uniform Fire
9 and Building Codes for an assembly occupancy.
10

11 **From the Water Resources and Conservation Department**
12

- 13 1. Verify that the existing service will provide maximum water demands for domestic, irrigation
14 and any Fire Department requirements.
15
16 2. Provide reduced pressure principal backflow prevention devices on water service per city
17 standards 876.01
18
19
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ATTACHMENT D

RECEIVED

MAR 5 1 2004

PLANNING DEPT

INFUSIONS

Location:
146 Kentucky Street
Petaluma, CA 94952

Owners:
Jan Rosen and Sylvie de Segur
Anexie Inc

Proposal: The establishment of a bar/lounge in the space formerly occupied by Buena Sera Restaurant. The area encompasses approximately 3,500 square feet including restrooms, hallways, bar, customer seating, small dance floor and music/entertainment area. The upscale establishment will offer unique service to visitors to downtown Petaluma. A location, not now available, to host such special events as:

- Day time meeting location for community groups
- Wine releases by local wineries
- Wine seminars for small groups and the local wine trade
- Small group meetings, which include the service of fine liquor
- High-end fashion shows for local businesses to display their wares
- Private events and parties
- Live music, limited
- Liquor company events for new releases

The bar/lounge will provide a small, intimate dance floor and offer a limited amount of entertainment opportunities. Amplification of music will be kept to a minimum with the intent that the interior noise is not heard outside of the building while the front and rear doors are closed.

All City codes will be met and the Owner/Manager of the facility, Jan Rosen, will work closely with the Police Department to insure that all requirements of the regulations for the operation of an Alcoholic Beverage Establishment and guidelines for the determination of a finding of public convenience and necessity are met by the daily operation of the facility. Located in the center of a downtown block, the establishment will fit nicely as an asset for the afternoon and evening ambiance of downtown entertainment activities and provide an upscale respite for visitors and residents. The proposed location is not within close proximity to any sensitive uses (residential neighborhoods, churches, schools, parks). The nearest of these uses is located approximately 450 feet to the north, across Washington Street.

The proposed lounge will be an amenity to downtown Petaluma, and will be run with the same quiet grace that the other Rosen businesses are operated.

Thursday, April 8, 2004

**Anexie, Inc., dba Infusions
146 Kentucky Street**

The proposed bar/lounge requires a CUP for alcohol sales per Zoning Ordinance 12-416, and a CUP for Live Entertainment per Zoning Ordinance 12-417. This project is exempt per CEQA Section 15061(b)(3). PCN is required per the ABC.

Conversation this date with Jan Rosen regarding incomplete items:

1. Operating characteristics of the Bar/Lounge:
Days: Monday through Sunday
Hours: 7:00AM through 2:00AM
of Employees: 4 to 8
2. Operating characteristics of the Office:
Days: Monday through Sunday
Hours: 24 hours/day
3. Building Details:
Number of seats: 120
Facility size: 3500 sq.ft. (one floor @ 28' x 125'), however applicants are negotiating with the owner for use of the basement for storage
4. Live Entertainment/Music:
Hours: Noon to 1:30AM
Type: Classical to jazz to rock
5. Exterior Improvement(s):
No façade improvements are proposed at this time

Date of previous approval/review: N/A

Environmental documentation prepared (i.e., Initial Study, Negative Declaration, or Environmental Impact Report):

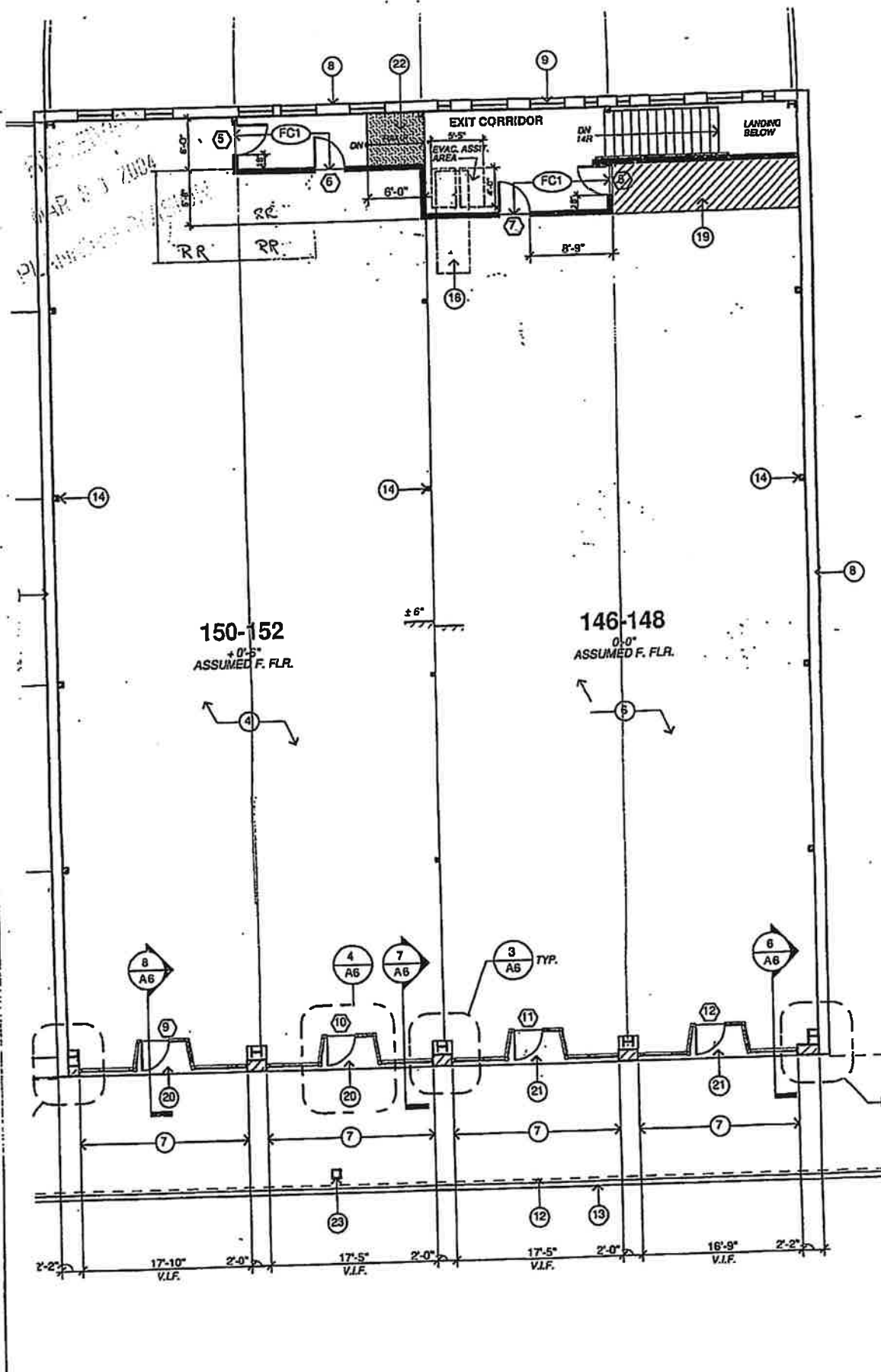
10. If the project involves a variance, conditional use permit, rezoning, or General Plan amendment application, clearly state the characteristics of the project which trigger the need for such an application: ABE per Sec. 12-416 of Zoning Ordinance

GO ON TO NEXT PAGE

C. Environmental Effects: Are any of the following items applicable to the project or will the project result in any of the potential impacts identified below? Respond to each question and provide additional information on any item checked "yes" (attach additional sheets if necessary):

	Yes	No
1. Change in existing features of any bays, tidelands, or hills, or substantial alteration of ground contours, including any grading (also see Question #6). If yes, explanation: _____		X
2. Change in quality or quantity of any ocean, bay, lake, stream, river, marsh, or ground water, or alteration of existing drainage patterns. If yes, explanation: _____		X
3. Change in scenic views or vistas from existing residential areas or public lands or roads. If yes, explanation: _____		X
4. Change in development patterns, scale, or character of the area in the vicinity of the project. If yes, explanation: <u>Downtown Petaluma is a local + regional destination; an upscale lounge will support the expansion of evening activities through the theater project.</u>		X
5. Is the site on filled land or have a slope of 10 percent or more. If yes, explanation: _____		X
6. Change in topography due to grading. If yes, provide the existing average slope. Indicate the greatest change in elevation due to grading: _____		X
7. Result in the removal or damage to any trees or rock outcroppings. If yes, explanation: _____		X
8. Result in significant amounts of solid waste or litter. If yes, explanation: _____		X

		Yes	No
17.	Is the site potential habitat for threatened or endangered fish, wildlife, or plant species. If yes, explanation: _____ _____ _____		X
18.	Are there existing structures on the site. If so, explain their current use and age. Will any structures be demolished. If yes, explanation: <u>Existing building was recently reconstructed following a fire.</u>		X
19.	If the site is vacant, provide information on the previous use: <u>prior to fire: Restaurant Buena Vista with alcoholic beverage license</u>		X
20.	Is the site or structure of known historical or cultural significance. Is the site within an historic district. If yes, explanation: <u>Downtown Historic District - reconstruction of structure after complete destruction by fire</u>	X	
21.	Please attach labeled photos of the site and the surrounding area.		



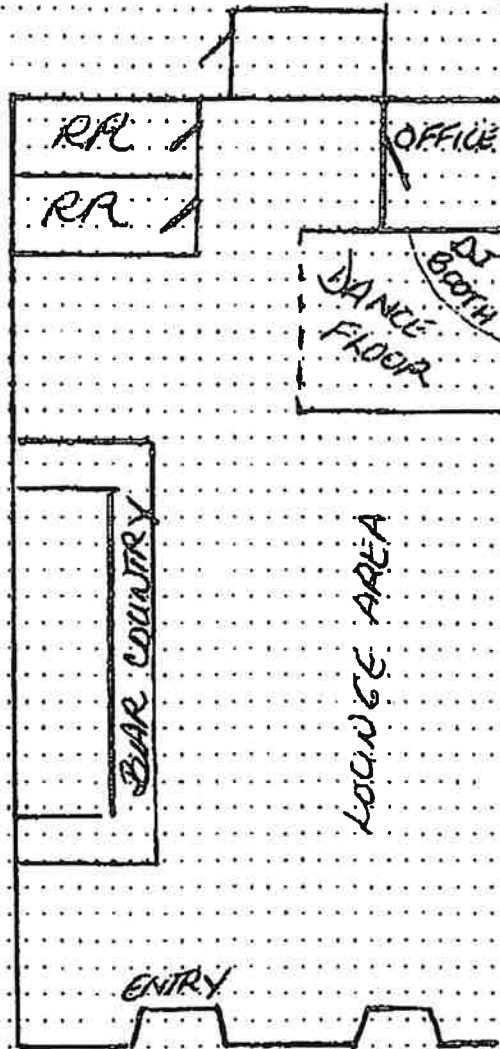
Mar-24-04 11:36A

P.02

Department of Alcoholic Beverage Control
LICENSED PREMISES DIAGRAM (RETAIL)

State of California
GRAY DAVIS, Governor
Business, Transportation & Housing Agency
MARIA CONTRERAS-SWEET, Secretary

APPLICANT NAME (Last, first, middle) ANEXIE, INC.
PREMISES ADDRESS (Street number and name, city, zip code) 146 KENTUCKY ST. PETAHUMA 94952 WASHINGTON
D. LICENSE TYPE 48
E. NEAREST CROSS STREET
The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions.
DIAGRAM 38'6" NOT TO SCALE



KENTUCKY
It is hereby declared that the above-described boundaries, entrances and planned operation as indicated on the reverse side, will not be changed without first notifying and securing prior written approval of the Department of Alcoholic Beverage Control. I declare under penalty of perjury that the foregoing is true and correct.

APPLICANT SIGNATURE (Signature required) [Signature] DATE SIGNED 3/24/04
FOR ABC USE ONLY
INITIALS CORRECT (Signature) PRINTED NAME INSPECTION DATE

MAR 24 2004

Resolution No. 96-56 N.C.S.
of the City of Petaluma, California

**RESCINDING RESOLUTION 95-157 N.C.S. AND ESTABLISHING
GUIDELINES TO BE UTILIZED IN MAKING DETERMINATIONS OF
PUBLIC CONVENIENCE OR NECESSITY PURSUANT TO THE
REQUIREMENTS OF
BUSINESS AND PROFESSIONS CODE SECTION 23958.4**

WHEREAS, pursuant to Business and Professions Code Section 23958.4(b)(2), the Department of Alcoholic Beverage Control (ABC) may grant certain types of alcoholic beverage licenses as set forth in said section: and

WHEREAS, this section precludes the ABC from issuing new licenses within an area identified as experiencing an undue concentration of licensed facilities unless the City Council (as the local governing body of the area in which the applicant's premises are located) determines that the public convenience or necessity would be served by the issuance of said license: and

WHEREAS, the City Council may delegate the duties of determining whether or not public convenience or necessity are met to a subordinate agency or zoning, planning, or law enforcement official: and

WHEREAS, the City Council adopted Resolution 95-157 N.C.S. which established the procedure by which the City of Petaluma will address determinations of public convenience or necessity pursuant to the Business and Professions Code:

WHEREAS, the present procedure does not contain criteria to be employed in making determinations of public convenience or necessity and, the City Council desires to establish formal criteria or guidelines to assist in making more thoughtful and consistent determinations.

NOW, THEREFORE, BE IT RESOLVED that the City Council finds that it is necessary to establish guidelines to be utilized in making determinations of public convenience or necessity pursuant to the Business and Professions Code.

BE IT FURTHER RESOLVED that the City Council hereby concludes that, pursuant to Business and Professions Code Section 23958.4(b)(2) the authority and duty to determine whether or not public convenience or necessity would warrant the issuance of a license notwithstanding a determination that there is undue concentration of licenses as defined in Business and Professions Code section 23958.4(a), shall, from the date of the adoption of this Resolution, by the Planning Commission of the City of Petaluma.


BE IT FURTHER RESOLVED that the City Council hereby rescinds Resolution 95-157 N.C.S. and finds this action to be exempt from the requirements of the California Environmental Quality Act pursuant to the General Rule and establishes the following Guidelines to be utilized in making determinations of public convenience or necessity:

CITY OF PETALUMA, CALIFORNIA
MEMORANDUM

Police Department, 969 Petaluma Boulevard North, Petaluma, CA 94952
(707) 778-4372 Fax (707) 778-4476 E-mail: police@ci.petaluma.ca.us

DATE: 16 April 2004

TO: Jane K. Thomson, Code Enforcement Officer
Community Development Department

FROM: Martin D. Frye, Street Crimes Unit 

SUBJECT: Anexie, Inc. dba Infusions
146 Kentucky Street, APN 006-281-007
Conditional Use Permit Application
Public Convenience or Necessity Determination

Conditional Use Permit Application

The Police Department has reviewed the application for a Conditional Use Permit to authorize the establishment of an Alcoholic Beverage Establishment with Live Entertainment, and requests the following conditions of approval be considered by the Planning Commission:

1. The operation of an alcoholic beverage establishment shall be the responsibility of the permittees personally (if the applicants are the permittee) or a manager or designated responsible employee of the permittee at all times. The permittee shall designate the names of all such managers and designated responsible employees in the application and shall advise the Police Chief and Community Development Director in writing whenever any change is made.
2. The permittees personally (if the applicants are the permittees) or a manager or a designated responsible employee shall be on the premises at all times during the conduct of business.
3. All employees and managers shall complete a program recognized by the Department of Alcoholic Beverage Control (ABC) at a qualified Responsible Beverage Service Program prior to the commencement of a new business or within ninety (90) days of hire for new employees. The permittees and/or manager of an alcoholic beverage establishment shall maintain on the premises a file containing the certificates of training for all employees.
4. The alcoholic beverage establishment shall be operated in such a manner so that it or its patrons at no time violate the Petaluma Municipal Code, the Zoning Ordinance and/or the Penal Code standards regarding noise generation. Should complaints be received regarding noise disruption the applicant shall take reasonable and practical steps as directed by the Police Chief and Community Development Director to reduce the intensity, number and/or occurrences of these disruptions.
5. Prior to commencement of use, the business owner shall submit to the Chief of Police a detailed security plan. The plan shall include, but not be limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff. The plan shall be submitted for review and approval by the Chief of



CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

Kevin McDonnell
Mayor

October 10, 2023

Brian Barnacle
Janice Cader-Thompson, Dist. 1
Mike Healy
Karen Nau, Dist. 3
Dennis Pocekay
John Shribbs, Dist. 2
Councilmembers

Via Email and Certified First-Class Mail

Patrick Ciocca
Attorney at Law
2901 Cleveland Avenue, Suite 201
Santa Rosa, CA 95403
pmcesq@hotmail.com

Brian Tatko
briantatko@gmail.com

Re: 30-Day Notice to Abate Public Safety and Alcohol Related Nuisances

Dear Messrs. Tatko and Ciocca,

We are writing to follow-up on our in-person meeting on June 8, 2023, at City Hall where we discussed critical matters concerning public safety and alcohol-related nuisances related to your business operations at Jamison's Roaring Donkey (JRD). We also addressed your concerns related to the occupancy limits at JRD, which were approved and referenced in the attached 2004 Conditional Use Permit (CUP) and related documents (Ex. 1). In addition to both of you, the City Team in attendance at the meeting included Police Chief Ken Savano, Deputy Police Chief Brian Miller, Police Lieutenant Jeremy Walsh, City Attorney Eric Danly, Community Development Director Brian Oh, Chief Building Official Charlie Lucas, Building Department Official Jerome Hoberg, Assistant City Manager Brian Cochran, and Fire Marshal Jessica Power.

During that meeting, we discussed police calls for service, crime reports, and last drink study results from drivers arrested for driving under the influence relating to JRD. We provided you with copies of the supporting documents, allowing you to directly assess the data that underscores the negative impact of your business operations on our community. As we discussed, alcohol-related nuisance activity arising out of the JRD's business operations is significantly higher than comparable alcohol establishments in Petaluma. As a result, Chief Savano advised you that city staff was preparing to start the process to ask the Planning Commission to revoke your Conditional Use Permit and would not consider or recommend an increase to the approved occupancy limit of 130 persons.

City Attorney
11 English Street
Petaluma, CA 94952

Phone (707) 778-4362

E-Mail:
cityattorney@cityofpetaluma.org

During our June 8 meeting, we also discussed the Notices to Correct, Notices of Violation, and Administrative Citations issued to JRD during the last couple of years. Those violations included failure to comply with your existing Conditional Use Permit because you failed to comply with occupancy limitations, failed to submit a detailed security plan to the Chief of Police, and our operations have negatively impacted police and fire department

January 2023 - May 2023

Alcohol Establishment	Calls For Service January - May 2023	Crime Reports January - May 2023
Andresen's	0	0
The Block	13	3
The Buckhorn	6	1
Gales	13	3
The Hideaway	15	3
Mario & John's	8	2
McNear's	23	6
Jamison's Roaring Donkey	48	5

To assist in the evaluation of whether JRD made significant improvements to its business operations after the June 8th meeting, police department staff reviewed and analyzed data for the below alcohol establishments for June through September.

June 2023 - September 2023

Alcohol Establishment	Calls For Service June - September 2023	Crime Reports June - September 2023
Andresen's	0	0
The Block	13	0
The Buckhorn	4	1
Gales	14	3
The Hideaway	20	2
Mario & John's	2	0
McNear's	11	3
Jamisons Roaring Donkey	53	8

As you can see by the above chart, the calls for service and crime reports relating to JRD have not decreased, but actually increased since the June 8th meeting.

As you can see below, JRD has had almost three times the amount of calls for service relating to its business operations than comparable alcohol establishments.

2023 Year To Date (January - September)

Alcohol Establishment	Calls For Service 2023 YTD	Crime Reports 2023 YTD
Andresen's	0	0
The Block	26	3
The Buckhorn	10	2

Unfortunately, despite the meeting with City staff, there have been significantly more people arrested for DUI's after consuming alcohol at JRD than any of the other comparable Petaluma alcohol establishments this summer. Further, if JRD doesn't change its business operations, there will be more driver's arrested for DUI after drinking at JRD in 2023 than 2022, despite JRD's assurances that it would improve its business operations and reduce alcohol related nuisance activity.

Four months have passed since City staff met with you to discuss the public safety and alcohol-related nuisance issues arising out of JRD's business operations, wherein you assured us that you would address these matters and comply with the CUP. To date, you have not addressed the notices and citations issued to JRD. You have failed to take reasonable steps to abate the alcohol related problems from your licensed alcohol establishment. You have continued to fail to comply with the requirements of the Conditional Use Permit related to police/fire services. It is very concerning that you have failed to keep your word to us and continue to operate in a manner that risks the safety of our community members.

Based on the history of alcohol-related nuisances and overall public safety issues associated with JRD's business operations and your failure to abate the problems after we met in-person, the City is giving you **30 calendar days from the date of this letter to abate the public safety issues and alcohol related nuisances by taking the following actions:**

1. Provide a detailed security plan to the Office of the Chief of Police by October 20, 2023, which includes a list of all the security companies and officers used by JRD:
 - a. The security plan shall include copies of all the security companies' current state permits and each individual's guard cards, including any special authorizations for weapons.
 - b. The security plan will be reviewed with consideration of approval within 10 days of receipt.
2. Provide a complete list of all JRD employees and provide copies of their Responsible Beverage Service Training (RBS Training) certificates.
3. Continue to limit capacity to 130 persons.
4. Do not make any modifications to the building without seeking and obtaining permission from the applicable City Department(s).
5. Pay your delinquent fines and fees that are due to the City.
6. Pursuant to Petaluma Municipal Code section 10.68.030, take reasonable steps to reduce the number of calls for service associated with JRD, that are not generated by Roaring Donkey staff reasonably seeking law enforcement assistance. JRD may do this by:

Attachment 2

the downtown Petaluma area for alcohol-related problems, including public intoxication, fights, driving under the influence, and property damage. At times, the number of intoxicated persons has required multi-jurisdictional law enforcement response. Downtown merchants consistently complain about the damage to their property and rowdy crowds that occur Thursday through Saturday nights.

D. Pursuant to a paper written by the Santa Rosa Policy Panel on Youth Access to Alcohol, eighty-nine percent of high school juniors reported that alcohol was easy to obtain from local merchants. A study conducted in Berkeley from 2004 to 2006 found that thirty-seven percent of all on-sale outlets sold alcohol to minors. Moreover, the University of Minnesota's Alcohol Epidemiology Program indicated that, in a study of three hundred seventy-two alcoholic beverage sales establishments, seventy-nine percent sold alcohol to obviously intoxicated persons. In order to address these issues, many local jurisdictions in California have adopted mandatory responsible server training programs. A 1999 study published in the Journal of Studies on Alcohol found that responsible beverage server training can reduce underage drinking by changing server behavior. And, a study published in Contemporary Drug Problems in 2000 similarly found that the proportion of highly intoxicated patrons decreased in establishments where server training programs had been implemented. Robert Salz of the Prevention Research Center in Berkeley noted that responsible server training programs were only effective if managers of the alcoholic beverage establishments also participated in the program. The U.S. Department of Justice further indicated that a combination of merchant education and integrated law enforcement provides the most effective programs for reducing underage consumption of alcohol.

E. The city council finds that voluntary responsible beverage sales and service training programs cannot ensure that all alcohol servers receive reliable or effective training. Voluntary training programs also have not been shown to be as successful in reducing over-consumption and sales to minors as mandatory programs with accountability measures and consistent systems of enforcement. An ordinance that mandates training for licensees, servers and managers of alcoholic beverage sales establishments and imposes liability on on-sale and off-sale alcoholic beverage sales establishment owners and operators who operate their businesses in a manner that creates a public nuisance is necessary to deter and prevent such nuisances. Business owners should be held liable for the alcohol-related nuisances resulting from their actions, and such business owners and operators, and not the public, should be responsible for the costs associated with responding to multiple calls for service for alcohol-related nuisance activities.

F. The purposes of this chapter include protecting the public health, safety and welfare by requiring owners and operators of alcoholic beverage sales establishments to attend a California State-certified training program that addresses their legal responsibilities to conduct their operations in a way that does not create nuisances or foster criminal activity; providing enforcement mechanisms to address problems often associated with the public consumption of alcoholic beverages, such as litter, loitering, public drunkenness, public urination, vandalism, graffiti, unruly behavior, and escalated noise levels; holding alcoholic beverage sales establishments responsible for the alcohol-related nuisances that occur on or near such establishments when efforts at obtaining voluntary compliance have failed; authorizing the creation of a regulatory fee program to cover the city's reasonable costs associated with the alcoholic beverage sales establishment program; ensuring the proper maintenance of alcoholic beverage sales establishments to avoid negative impacts on surrounding properties; monitoring alcoholic beverage sales establishments to ensure they do not substantially change their mode or character of operation without obtaining the proper authorization; and reducing the costs to the public of providing multiple

- F. "Licensee" means any person holding a license, permit, or other authorization to sell alcoholic beverages to the public issued by the California State Department of Alcoholic Beverage Control.
- G. "Manager" means the person, regardless of job title or description, who has discretionary powers to organize, carry on, control or direct the operation of an alcoholic beverage sales establishment.
- H. "Nuisance activity" includes, but is not limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, littering, loitering, public urination, graffiti, lewd conduct, vandalism, unruly behavior, drug trafficking, or escalated noise levels.
- I. "Off-sale" means the sale of alcoholic beverages for consumption off the premises where sold.
- J. "On-sale" means the sale of alcoholic beverages for consumption on the premises where sold.
- K. "Over-consumption of alcohol" means consumption of an amount of alcohol such that the person is under the influence of alcohol pursuant to California Vehicle Code Section [23610](#), as that provision is amended from time to time.
- L. "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.
- M. "Reasonable steps" include:
1. Monitoring the consumption of alcoholic beverages by patrons of the alcoholic beverage sales establishment;
 2. Calling the Petaluma police department as soon as practicably possible upon discovering a nuisance activity occurring on or near the alcoholic beverage sales establishment; and
 3. Requesting those persons engaging in nuisance activities to cease those activities, unless the responsible person, or his or her agents or employees, feel that their personal safety would be threatened in making that request.
- N. "Responsible beverage service training" or "RBS training" means an educational course in responsible beverage sales and service methods and practices, conducted by the California Department of Alcoholic Beverage Control or an organization certified by the California Department of Alcoholic Beverage Control, that provides a certificate of completion.
- O. "Response costs" means the costs associated with responses by law enforcement to alcohol-related nuisance activities attributable to an alcoholic beverage sales establishment including but not limited to:
1. Salaries and benefits of law enforcement personnel for the amount of time spent responding to, remaining at, or otherwise dealing with alcohol-related nuisance activities attributable to an alcoholic beverage sales establishment, and the administrative costs attributable to such response(s);

10.68.050 Responsible beverage service training required.

Every licensee, manager and server shall complete responsible beverage service training within ninety days of beginning such activities or within one year of the effective date of the ordinance codified in this chapter, whichever is later, and every third year thereafter. Licensees shall be responsible for ensuring that all servers and managers they employ comply with this section, and licensees shall provide proof thereof to the city within ten days of completion of said training and shall maintain a file of proof of completion that shall be available for inspection by city employees during regular business hours. (Ord. 2285 NCS §1 (part), 2007.)

10.68.060 Criminal enforcement and penalties for violations.

Violations of this chapter may be prosecuted as misdemeanors punishable by a fine of not more than one thousand dollars or by imprisonment for a period not to exceed six months, or by both fine and imprisonment. At the discretion of the charging officer and/or city attorney, violations of this chapter may also be charged as infractions as defined in Section [19\(c\)](#) of the California Penal Code. Violations charged as infractions shall not be subject to imprisonment and shall be subject to a fine not exceeding five hundred dollars for each offense. If a police officer elects to charge a violation of this chapter as a criminal violation, such officer shall issue a criminal citation with a notice to appear signed by the alleged violator. Alternatively, the city attorney may prosecute violations of this chapter by filing a criminal complaint. (Ord. 2285 NCS §1 (part), 2007.)

10.68.070 Civil and administrative enforcement and penalties for violations.

Violations of this chapter are declared to be public nuisances. Violations of this chapter may be prosecuted as a nuisance and enforced by a civil court action as provided in Chapter [1.13](#) or via administrative enforcement as a nuisance as provided in Chapter [1.14](#). Notwithstanding any other provisions of this chapter, whenever the existence or continuance of any violation of this chapter or any nuisance condition poses an imminent or immediate threat of harm to persons or property, or to public health, welfare or safety, such violation or condition may be summarily abated in accordance with Section [1.15.010](#). Each and every day during any portion of which a nuisance condition exists or continues may be deemed a separate and distinct violation for purposes of setting the amount of penalty to be imposed. (Ord. 2285 NCS §1 (part), 2007.)

10.68.080 Alternative remedies provided.

In addition to the other remedies specified in this chapter, violations of this chapter are subject to the enforcement remedies in Chapters [1.10](#) through [1.12](#) and [1.15](#) of the Petaluma Municipal Code. In addition, the city expressly reserves the right to utilize enforcement remedies available under any applicable state or federal statute or pursuant to any other lawful power of the city. All such remedies shall be alternative to or in addition to

10.68.110 Regulatory fee.

The city may establish a regulatory fee program to cover the costs of administering the alcohol-related nuisance program, in accordance with applicable law by resolution of the city council, as said resolution may be amended from time to time. (Ord. 2285 NCS §1 (part), 2007.)

10.68.120 No mandatory duty of care.

This chapter is not intended to impose, and shall not be construed or given effect in a manner that imposes upon the city, or any officer, employee, agent, or representative of the city, a mandatory duty of care toward persons or property within or without the city limits, so as to provide a basis of civil liability for damages, except as may otherwise be imposed by law. (Ord. 2285 NCS §1 (part), 2007.)

The Petaluma Municipal Code is current through Ordinance 2855 NCS, passed June 19, 2023.

Disclaimer: The city clerk's office has the official version of the Petaluma Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

[City Website: cityofpetaluma.net](http://cityofpetaluma.net)

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