

ORDINANCE NO. 13-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 17 (ZONING) OF THE ORANGE MUNICIPAL CODE TO ALLOW THE SALE AND SERVICE OF ALCOHOLIC BEVERAGES IN CONJUNCTION WITH THE OPERATION OF A BONA FIDE RESTAURANT AS A PERMITTED USE IN CERTAIN ZONING DISTRICTS SUBJECT TO SPECIAL USE REGULATIONS

WHEREAS, the City Council is streamlining the entitlement process for restaurants which apply to offer alcoholic beverages for on-site sale and service in conjunction with food service, subject to special use regulations; and

WHEREAS, Title 17 requires a conditional use permit for the on-site sale and service of alcoholic beverages in many zones, even when associated with food service; and

WHEREAS, the City of Orange seeks to promote a vibrant and economically sustainable business environment that supports the success of local restaurants, and small businesses; and

WHEREAS, the sale and service of alcoholic beverages in conjunction with food service is a common among modern restaurants, and may enhance the dining experience for residents and visitors; and

WHEREAS, requiring a conditional use permit for alcohol service imposes unnecessary delays and costs on restaurant operators desiring alcohol service incidental to food service; and

WHEREAS, the proposed ordinance continues to regulate alcohol sales by subjecting restaurants to special use regulations such as only allowing alcohol sales and service as an accessory use to food service, thereby minimizing potential impacts on nearby sensitive uses such as residences, schools, churches, or parks; and

WHEREAS, streamlining the entitlement process for restaurant uses is consistent with the General Plan in that it goals to enhance the vitality of commercial corridors, promotes local entrepreneurship, and fosters a pedestrian-oriented, mixed-use environment; and

WHEREAS, the Planning Commission, having considered the proposed ordinance at a public hearing held on July 7, 2025, including review of the staff report, and having received public testimony on the item, determined the proposed ordinance serves the City's economic development interests and, includes standard conditions to protect the public health, safety and general welfare; and

WHEREAS, the City Council, having now considered the proposed changes to the OMC at a public hearing held on August 26, 2025, including review of the staff report, and having received public testimony on the item, desires to adopt the Proposed Ordinance.

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

SECTION I:

That the recitals and findings contained herein are true and correct, incorporated herein, and with the public record, form the basis for this Ordinance.

SECTION II:

Section 17.04.032 of the Orange Municipal Code, “Zoning – Definitions – “M” Definitions,” is hereby amended to include the following definition, in alphabetical order:

“Meals” means the usual assortment of foods commonly ordered at various hours of the day when prepared within suitable interior kitchen facilities, containing the necessary appliances for washing, preparing, and cooking an assortment of foods.

SECTION III:

Section 17.04.037 of the Orange Municipal Code, “Zoning – Definitions – “R” Definitions,” is hereby amended to include the following definition, in alphabetical order:

“Restaurant, Bona Fide” means an establishment which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health. Restaurants are distinguished from bars or nightclubs.”

SECTION IV:

Table 17.13.030 of the Orange Municipal Code, “Zoning – Master Land Use Table – Permitted Uses,” is hereby amended to add the following:

ZONING	RESIDENTIAL							COMMERCIAL					MIXED USE					INDUSTRIAL		AGRICULTURAL OPEN SPACE			P I	OVERLAY		SAND & GRAVEL	
LAND USE	R1-5	R-15 to R1-6	R1-P R-140 &	R2-6 to R2-8	R-3	R-4	MH	OP	CP/C1	CTR	C2	C3	CR	OTMU-15S	OTMU-15	OTMU-24	NMU-24	UMU	M1	M2	A1	RO	SH	PI	FP-1	FP-2	SG
Food and/or alcohol uses—Includes uses that process, manufacture, package, prepare, distribute, store, sell or serve food and/or alcoholic beverages.																											
Restaurants w/alcoholic beverages sales	-	-	-	-	-	-	-	-	P*/C+	P*/C+	P*/C+	P*/C+	P*/C+	C+	P*/C+	P*/C+	P*/C+	P*/C+	C+	C+	-	-	-	-	-	-	-

SECTION V:

Section 17.13.040 of the Orange Municipal Code, “Zoning – Master Land Use Table – Special Use Regulations,” is hereby amended to add the following:

III. Restaurant with alcoholic beverages sales. Bona Fide Restaurants that offer alcoholic beverages incidental to meal service to restaurant guests, shall be permitted by right if the applicant completes an Alcohol Exemption Permit Application and complies with all of the criteria and conditions as specified in Section 17.30.025.

SECTION VI:

Section 17.13.050 of the Orange Municipal Code, “Zoning – Master Land Use Table – Conditional Use Regulations,” is hereby amended to read as follows:

NN. Restaurant with alcoholic beverages sales. All restaurants serving alcohol, which are otherwise not eligible for an Alcohol Exemption Permit as specified in Section 17.30.025, shall comply with Section 17.30.030.

SECTION VII:

Section 17.13.050 of the Orange Municipal Code, “Zoning – Master Land Use Table – Conditional Use Regulations,” is hereby amended to read as follows:

PP. Sale of Alcoholic Beverages. A conditional use permit shall be required for both on-sale and off-sale of alcoholic beverages, in accordance with Section 17.30.030, when otherwise not eligible for an Alcohol Exemption Permit as specified in Section 17.30.025.

SECTION VIII:

Section 17.30.020 of the Orange Municipal Code, “Zoning – Alcoholic Beverage Controls - Locations Permitted” is hereby amended to read as follows:

17.30.020 - Locations Permitted.

The Master Land Use Table in Chapter 17.13.030 indicates the zones in which the off-sale and on-sale of alcoholic beverages is permitted by the issuance of an alcohol exemption permit or a conditional use permit.

SECTION IX:

Section 17.30.025 of the Orange Municipal Code, “Zoning – Alcoholic Beverage Controls – Alcohol Exemption Permit” is hereby added:

17.30.025 Alcohol Exemption Permit.

- A. Bona Fide Restaurants that offer alcoholic beverages incidental to meal service to restaurant guests, shall be exempt from the provisions of the Conditional Use Permit requirement of Section 17.30.030 if the applicant completes an Alcohol Exemption Permit Application and complies with all of the following criteria and conditions:
1. In conjunction with the ongoing operation of the business, the premises shall comply with all requirements placed upon it by the California department of Alcoholic Beverage Control (ABC).
 2. This Alcohol Exemption Permit (AEP) may be reviewed one year from the date of opening and may be reviewed each year thereafter. The review shall be conducted jointly by the Community Development Director and/or the Police Chief or designees. The purpose of this review shall be to identify compliance with all of the conditions of Section 17.30.025. If it is determined that the restaurant is not in compliance with all of the conditions of Section 17.30.025, the AEP shall be revoked.
 3. The activity level of the business shall be monitored by the Police Department to establish the level of police services used for the business. Should the level of police services demonstrate that the applicant has not controlled excessive or unnecessary activity resulting in high use of police services, then this Alcohol Exemption Permit shall be revoked.
 4. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of merchant items that include food within the restaurant during the same time period. The licensee shall at all times maintain records that reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept on a quarterly basis and shall be made available within 10 calendar days of a written request.
 5. The use of the building is considered a restaurant, and interior construction will remain consistent with plans submitted with the Alcohol Exemption Permit application. No new interior construction resulting in a change to the floor plan will occur unless a revised floor plan is approved by the Community Development Department.
 6. None of the floor area will be designated for dancing or live entertainment.
 7. The subject ABC license shall not be exchanged for a public premise Type 48 (On-Sale General – Public Premises) license nor operated as a public premise.
 8. The sale of alcoholic beverages for consumption off the premises shall be prohibited.
 9. All alcohol shall be consumed on the subject site, within the defined licensed premises.

10. Signs shall be posted on all exits of the premises, that prohibit alcoholic beverages from leaving the confines of the premises.
11. The premises shall be maintained as a bona fide restaurant and shall provide a menu containing an assortment of foods normally offered in such restaurants.
12. The business indoor hours shall be limited to Sunday - Thursday 7:00am to 10:00pm and Friday and Saturday 7:00am to 12:00am. The hours of the outdoor area shall be limited to 7:00am to 10:00pm daily. These hours do not restrict employees from being on the premises before opening for preparations and deliveries or after closing for clean-up. Clean-up may not be conducted by patrons.
13. At no time shall there be a fee for entrance/admittance into the premises.
14. Employees and/or contract security personnel shall not consume any alcoholic beverages prior to or during their work shift. Any and all security officers provided shall comply with all state and local ordinances regulating their services, including, without limitation, Chapter 11.5 of Division 3 of the California Business and Profession Code.
15. The applicant agrees, as a condition of the City's approval of the Alcohol Exemption Permit, to indemnify, defend, and hold harmless, at the applicant's sole expense, the City of Orange and its officers, agents, and employees from and against any claim, action, or proceeding brought against the City arising from or in connection with the approval or implementation of the Alcohol Exemption Permit, excluding claims under CEQA, which is inapplicable to ministerial actions. The City will notify the applicant of any such claim or action and may participate in the defense thereof at the applicant's expense. The obligation shall remain in effect for the duration of the permit.
16. Food service, with an available menu, shall be available until closing time on each day of operation.
17. 17. Alcoholic beverages served shall be served by restaurant employees permitted by law to serve alcohol.
18. Alcoholic beverages shall be sold and served in containers that are distinguishable from other non-alcoholic beverages sold at the premises.
19. There shall be no bar or lounge area upon the licensed premises maintained for the purpose of the sale, service, or consumption of alcoholic beverages directly to patrons for consumption.
20. There should be no time when alcoholic beverages are sold at a ratio of two for one; no "stacking" of beverages, which means the serving of two alcoholic beverages at one time to the same customer; and no sales to an "empty chair", which means that each customer must be physically present at the time of the order of any alcoholic beverage.

21. There shall be no promotions encouraging intoxication or drinking contests.
22. There shall be no requirement to purchase a minimum number of drinks.
23. No alcoholic beverages shall be sold from any self-service locations on the premises such as ice tubs, barrels, or any other such containers.
24. The petitioner shall not employ or permit any persons to solicit or encourage others, directly or indirectly, to buy them drinks in the licensed premises under any commission percentage salary or other profit.
25. The patio shall be enclosed and any gates located on the patio shall remain closed during business hours and used as an emergency exit only. Sign(s) shall be posted on all patio gate(s) indicating "Emergency Exit Only".
26. Alcohol service is not allowed for outdoor dining areas that are located within 100 feet of a sensitive receptor (residential uses, schools, parks, or religious institutions), where the outdoor dining area is oriented to face such sensitive receptor.
27. The use of any amplified systems, televisions, outdoor sound system and paging system or any such devices are prohibited on any outdoor area.
28. An employee shall be able to monitor the patio from inside the business at all times to monitor alcohol.
29. No portion of the premises shall be deemed to be "private" for the purposes of dispensing alcoholic beverages to selected patrons, where the licensee recognizes any form of membership cards, keys or passes that would entitle the holder entry or preferential admittance or exclusive use of any portion of the mentioned premises.
30. The use of a promoter (such as a nightclub operator) or sub-leasing the premises to be used in conjunction with dancing and/or live entertainment is prohibited.
31. There shall be no live entertainment (including karaoke), disc jockey, amplified music, or dancing permitted on the premises at any time. Amplified sound over a built-in system designed for background music shall not be audible in such a manner to disturb the peace, quiet, and comfort of neighboring occupants, or any reasonable person residing or working in the area.
32. There shall be no special promotional events held on the property, unless a written request for such is received and approved by the City of Orange Community Development Director and the Police Department's Vice Unit at least two weeks in advance of the event.

33. There shall be no pool tables or coin-operated or token-operated games maintained upon the premises at any time.
34. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot.
35. Lighting in the parking area of the premises shall be directed, positioned and shielded in such a manner so as not to unreasonably illuminate the window area of nearby residences. The owner shall install and maintain a security camera system capable of readily identifying facial features, and stature of all patrons entering the establishment during hours of operation and monitoring the rear of the premises, to the satisfaction of the Police Department. The camera system shall keep a minimum 30-day library of events, which shall be available for downloading and inspection by the Orange Police Department.
36. Any music or amplified sound on the premises, including an outdoor patio area, shall not be audible beyond the premises in such a manner as to disturb the peace, quiet and comfort of neighboring occupants or any reasonable person residing or working in the area.
37. The permittee shall be responsible for maintaining the area adjacent to the premises over which they have control free of litter.
38. There shall be no exterior advertising promoting or indicating the availability of alcoholic beverages. This includes advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages that are clearly visible to the exterior shall constitute a violation of this condition.
39. Prior to occupancy, a security plan shall be submitted to the City for review and approval. The plan shall address both physical and operational security issues. The business shall operate in accordance with the approved security plan.
40. Exterior doors and windows, as well as the interior of the business, shall be protected by a monitored alarm system, which shall detect an attempted entry or presence of people within the business during closing hours.
41. Uniformed security will be provided by the applicant on days/nights when special event broadcast(s) are being promoted. One security guard per 100 customers shall be present during these broadcasts/events.
42. Provide an interior night light to illuminate the interior and maintain an unobstructed view through storefront windows to provide police patrol officers the ability to observe unlawful activity within the business.

43. The permittee shall maintain on the premises a written security policy and procedures manual addressing, at a minimum, the following items: handling obviously intoxicated persons; establishing a reasonable ratio of employees to patrons, based upon activity level, in order to monitor alcoholic beverage sales and patron behavior; handling patrons involved in fighting or arguing; handling loitering about the building and in the immediate adjacent area that is owned, leased, rented, or used under agreement by the permittee(s); verifying age/checking identification of patrons; warning patrons of reaching their drinking limit/potential intoxication and refusing to serve; calling the police regarding observed or reported criminal activity.
 44. The applicant shall comply with all federal, state, and local municipal laws, including local City ordinances and regulations. Any violations of these laws in conjunction with this use may be a cause for revocation of this permit.
 45. All employees of petitioner who sell or serve alcoholic beverage products shall be required to complete a training program in alcoholic beverage compliance, crime prevention techniques and the handling of violence. For new employees of petitioner, such training program must be completed within 30 days of the date of hire. The employees must provide the City of Orange Police Department, Investigative Services Division a copy of the completed Alcohol Management Program (AMP) certificate.
 46. Graffiti shall be removed from the exterior walls and windows of the premises within 72 hours of discovery.
 47. Commencement of operations on the premises under this exemption shall constitute Owner's and Operator's acknowledgement and acceptance of all conditions contained herein and that failure to comply with any and all conditions shall constitute grounds for potential revocation of the exemption approval.
- B. The approval of an Alcohol Exemption Permit shall be effective for a period of two years from its effective date, after which time, a new determination is required if relevant California Department of Alcoholic Beverage Control permits have not been obtained or if alcohol service is not actively pursued.

SECTION X:

Section 17.30.030 of the Orange Municipal Code, "Zoning – Alcoholic Beverage Controls – Conditional Use Permit Required" is hereby amended to read as follows:

- A. In order to fulfill the purposes of this chapter, the retail sale of alcoholic beverages is subject to approval of a conditional use permit, unless otherwise eligible for an Alcohol Exemption Permit as specified in Section 17.30.025. The Planning Commission has the authority to issue conditional use permits for the following, except when the application is combined with other submittals that require City Council review, the decision of the Planning Commission is appealed, or as otherwise noted below:

SECTION XI:

Section 17.30.050 of the Orange Municipal Code, “Zoning – Alcoholic Beverage Controls – Upgrading Licenses” is hereby amended to read as follows:

Any upgrading of existing licenses to a more restrictive license shall be regulated as follows:

- A. A change from an on-sale beer license for a restaurant to an on-sale beer and wine license for a restaurant shall not require the issuance of a conditional use permit, but shall require an Alcohol Exemption Permit as specified in Section 17.30.025.
- B. A change from an off-sale beer license to an off-sale beer and wine license shall not require the issuance of a conditional use permit.
- C. A change from an on-sale alcoholic beverage license for a restaurant to include the on-site brewing of beer shall not require the issuance of a conditional use permit, but shall require an Alcohol Exemption Permit as specified in Section 17.30.025.
- D. A change from either an on-sale or off-sale beer license or beer and wine license, to an on-sale or off-sale general license shall require the issuance of a new conditional use permit, when otherwise not eligible for an Alcohol Exemption Permit as specified in Section 17.30.025.
- E. A license associated with a nonconforming use may be transferred to a new owner, but it may not be upgraded without the approval of an Alcohol Exemption Permit or Conditional Use Permit as specified in 17.30.025 or 17.30.030.

SECTION XII:

The proposed project is not subject to the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the state CEQA Guidelines (Common Sense Exemption) because (1) it can be seen with certainty that there is no possibility that it would have a significant effect on the environment; and (2) Section 15378 because it will not have a direct or reasonably foreseeable indirect physical change on the environment and is not a "project." For this reason, no further CEQA documentation is required.

SECTION XIII:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this interim Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION XIV:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2025.

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Wayne W. Winthers
Interim City Attorney, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 26th day of August, 2025, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2025 was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange