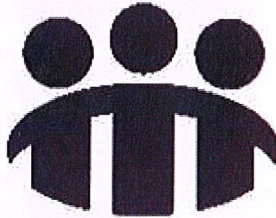


# ATTACHMENT 2



## High Desert Community Coalition

### Hesperia Draft Deemed Approved Ordinance

1. The ordinance does not include bars, restaurants with bars or other on-sale alcohol outlets. The High Desert Community Coalition (HDCC) would like for the City of Hesperia to consider adding these,

**WHY?** We have spoken with city officials in other cities with successful Deemed Approved Ordinances, such as Oakland. These localities generally apply their Deemed Approved Ordinances to all alcoholic beverage retailers. In Oakland, where the ordinance initially exempted restaurants with facilities to prepare and serve meals on the premises, city officials have since determined that this was a mistake and recently amended their ordinance to more specifically define a legitimate restaurant and ensure that locations advertised as restaurants were not operating as bars during certain operating hours. Reference:

[https://www.municode.com/library/ca/oakland/codes/planning\\_code?nodeId=TIT17PL\\_CH17.156DEAPALBESARE\\_ARTIVDEAPSTPR\\_17.156.110AUDEAPST](https://www.municode.com/library/ca/oakland/codes/planning_code?nodeId=TIT17PL_CH17.156DEAPALBESARE_ARTIVDEAPSTPR_17.156.110AUDEAPST)

Additionally, the inclusion of on-sale outlets would level the playing field for all alcohol licensees while decreasing the financial cost of a potential fee on the off-sale markets. More importantly, it would help all outlets to better manage their alcohol sales and service by requiring greatly needed training for all employees. It will also allow the city to intervene quickly if and when an on-sale establishment becomes a chronic drain of city resources due to high calls for service related to nuisance activity which often affects neighborhood quality of life.

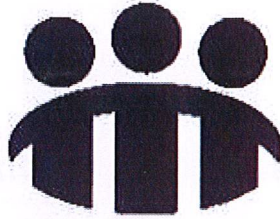
2. The ordinance does not require a dedicated enforcement officer. The ordinance says enforcement will be handled by the City Manager, Chief of Police or their "designee." HDCC members would like more details as to who will be working directly with the alcohol outlets and managing the various components of the ordinance. Furthermore, the HDCC suggests that a dedicated enforcement officer or team be specified to monitor, administer and enforce the ordinance. Generally, the dedicated enforcement officer is funded by an annual fee imposed on all businesses that sell alcohol – typically the fee is \$1 per day, but varies based on the number of outlets and the actual costs for a dedicated officer.

**WHY?** A dedicated enforcement officer would be able to conduct regular inspections, develop positive relationships with the businesses and assist them in correcting any problems. As part of these inspections, the officer would also be able to ensure that all training records are in order. This officer would ensure that any issues that have not been corrected are brought to the attention of the Planning Commission.

3. Members would like to ask that alcohol outlets be given a designated period of time to correct violations before a public hearing is held to issue penalties. The ordinance does not currently specify how this would work.

**WHY?** The goal of the HDCC is to see these businesses become better neighbors in our community. We do not wish to see local businesses shut down unless they are chronic offenders that fail to correct their business practices in a timely manner. We do not want them to have the perception that anyone





## **High Desert Community Coalition**

is trying to shut them down. Also, when the outlets are given opportunity to abate, the city is able to charge a fee for re-inspection as long as this is designated in the ordinance.

4. Members would like to ask that violators be issued fines before the city considers suspension/revocation of the Conditional Use Permit or DAO. Several cities in San Bernardino County, including Redlands and Ontario, fine \$250 for a first offense, \$500 for a second offense and \$1,000 for a third offense. Some cities, such as El Cajon, have penalties as high as \$1,000 per day out of compliance.

**WHY?** We would like to see penalties imposed that are sufficiently severe to serve as a deterrent. Civil penalties are more effective than criminal penalties because they can be imposed more swiftly and are more likely to be enforced, two critical components of deterrence.

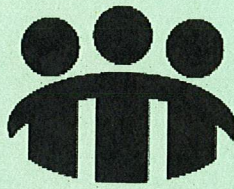
5. Members would like for the ordinance to specify that store owners have the right to appeal to the City Council if they believe the Planning Commission makes an unfair decision regarding their violation of the ordinance.

**WHY?** When an appeal process is not specified, the default is the City Council. We would like to see this made clear to avoid any confusion.

6. Members would like to see the public nuisance prevention measure regarding training specify that the approved course in "Responsible Beverage Sales" (RBS) training is required every two years. The approved course should be similar to the California Department of Alcoholic Beverage Control's (ABC) Licensee Education on Alcohol and Drugs (LEAD) training and include instruction on checking various forms of identification, detecting and preventing illegal activity, reducing liability and more. Each training class typically lasts four hours. Deputy Waterhouse from the San Bernardino County Sheriff's Department offers ABC-approved training in the High Desert.

**WHY?** Members are concerned that longer term employees may not remain proficient in responsible beverage sales and service without a periodic refresher training. Furthermore, any training provided can be specified as a benefit received by the alcohol outlets as part of any fees they pay to defray the costs of monitoring and enforcement.





## **High Desert Community Coalition**

January 10, 2017

Dear Planning Commission Members:

I had hoped to join other members of the High Desert Community Coalition in speaking to you in person. However, an unexpected trip out of town has prevented this. Therefore, I would like to submit the following comments for your consideration.

I grew up in Hesperia, and want everyone who comes to the town to see it as the home and place of comfort I do. Recently, I have moved back to Hesperia after several years away and want to work to bring that about.

I believe one of the best ways to accomplish this is to empower our city to assure that business areas are safe and clean places for people to come and shop. For this reason I want to voice my support for the proposed Hesperia alcohol sales ordinance.

As a new member of the High Desert Community Coalition, I've learned that a lot of people expect ABC to address these matters. However, I've also learned that ABC enforcement is almost non-existent. The ordinance will give the city and local law enforcement the authority to enforce state law.

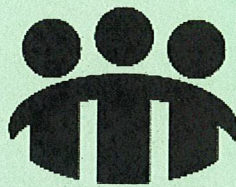
Just last year, *The Sacramento Bee* reported that California has the largest alcoholic beverage industry in the country with almost 90,000 entities licensed to sell alcohol. The number of authorized Alcoholic Beverage Control (ABC) agent positions was 145. That is a ratio of 1 agent for every 621 retailers when they are fully staffed. Of the 145 positions authorized there were 20 vacancies at the time of the article. An ABC representative explained that recruiting and retaining agents has been challenging.

An organization this understaffed cannot be expected to fully address issues like selling to minors, over-service to inebriated customers or the nuisance activity that occurs at many locations. As a representative of ABC expressed in the article this chronic understaffing means that ABC can only focus on the most egregious violators.

The proposed ordinance will give us the opportunity take the situation into our own hands and assure that our community is the safe place we want it to be. I encourage the City of Hesperia to continue its proactive approach by moving forward with adopting a Deemed Approved Ordinance.

Sincerely,  
James Gunn





## **High Desert Community Coalition**

January 12, 2017

Dear Planning Commission Members:

My name is Yesenia Carbajal. I have lived in Hesperia for 11 years, and I have four children. I had hoped to join the other members of the High Desert Community Coalition in speaking to you tonight in person. Unfortunately, due to a sudden illness I am unable to be with you. Please accept my following comments for your consideration.

As a concerned resident and parent, I am asking you to move forward with the adoption of a Deemed Approved Ordinance. I have seen too many kids in Hesperia just hanging around shopping centers with nothing productive to do. I come from a large family and spend a lot of my time around young people. I know young people are likely to get into trouble when they are not being properly supervised and have heard too many stories of young people who have been able to buy alcohol from local stores.

Along with other High Desert Community Coalition members, I am very concerned that sometimes liquor stores are endangering our youth with practices such as not checking for proper identification before selling alcohol. Requiring the Responsible Beverage Service and Sales training outlined in the DAO will help our children not to have access to alcohol at the stores.

I've also seen instances where people loitering outside these stores leave behind litter that owners of the surrounding businesses have to clean up. The DAO would require alcohol retailers to maintain their businesses in a way that does not foster nuisance related activities such as trash, graffiti and unruly behavior. Of course, some of the alcohol retailers are already doing a good job with this. The DAO would give local law enforcement an additional tool to work with those who are not doing a good job in order to improve the conditions around those particular stores.

No one is asking business owners to solve the homeless problem or any other problems over which they have no control. Under the DAO, they are being asked to partner with the city to ensure they are not selling to youth or serial inebriates and to make sure their businesses are as clean and safe as possible. I am asking that you recommend to our City Council that they move forward with the adoption of a Deemed Approved Ordinance.

Thank you for your consideration,

Yesenia Carbajal  
January 12, 2017