

ORDINANCE NO. 2005 –

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF NATIONAL CITY
AMENDING THE NATIONAL CITY MUNICIPAL CODE
BY ADDING CHAPTER 10.31 PERTAINING TO
RESPONSIBLE BEVERAGE SALES AND SERVICE

BE IT ORDAINED by the City Council of the City of National City as follows:

Section 1. Title 10 of the National City Municipal Code is hereby amended by adding Chapter 10.31 to read as follows:

Chapter 10.31

RESPONSIBLE BEVERAGE SALES AND SERVICES

Sections:

- 10.31.010 Purpose and Intent.
- 10.31.020 Definitions.
- 10.31.030 Regulations.
- 10.31.040 Non-Certified Training Programs.
- 10.31.050 Penalties.

NOW, THEREFORE, the Mayor and City Council of the City of National City ordain as follows:

10.31.010 Purpose and Intent. It is the intent of this ordinance to:

- A. Prevent the over-service and over-consumption of alcohol by customers while on the premises of licensed vendors;
- B. Reduce alcohol-related crashes, injuries, and deaths that often result from driving while intoxicated;
- C. Eliminate the sale to and/or consumption of alcohol by underage persons;
- D. Assist licensed vendors to develop and implement responsible policies for the promotion, sales and service of alcohol; and
- E. Promote an attitude of professionalism on the part of vendors who sell or serve alcohol.

10.31.020 Definitions. As used in this section, the following definitions apply:

- A. "Alcoholic beverage" means any beverage fit for consumption, which contains one-half of one percent or more of alcohol by volume.
- B. "ABC" means the California Department of Alcoholic Beverage Control.
- C. "Vendor" means a business that is licensed to sell or serve alcoholic beverages to the general public, including, but not limited to California Department of Alcoholic Beverage Control license types 20, 21, 30, 40, 41, 42, 47, 48, 50 and 61.
- D. "Server" means any person who, as part of his or her employment, sells, serves or delivers alcohol that has been purchased from either an on-premise or off-premise retail licensed facility.
- E. "Manager" means a person, regardless of the job title or description, who has discretionary powers to organize, direct, carry on, or control the operations of a licensed

alcohol outlet. Authority to control one or more of the following functions shall be prima facie evidence that such a person is a manager of the licensed premises:

1. To hire or separate employees.
2. To contract for the purchase of furniture, equipment or supplies other than the occasional replenishment of stock.
3. To distribute funds of the licensed business other than for the receipt of regularly replaced items of stock.
4. To make or participate in policy decisions regarding operations of the licensed business.

F. "Training" means an educational course in responsible beverage sales and service methods, conducted by an organization certified by the California Coordinating Council on Responsible Beverage Service (C3RBS).

10.31.030 Requirements.

A. **No vendor shall employ any person to work as a manager or server or in any other capacity where such person may sell, serve or deliver alcoholic beverages in or from premises licensed to sell alcohol, unless such person, within thirty (30) days of their date of hire, completes or has completed an educational program that certifies them as having been trained to carry out the duties specified in their job description. Upon initial passage of this ordinance, vendors, managers and servers shall have six (6) months by which to gain compliance with all provisions contained herein.**

B. **Such training shall be conducted by an organization certified by the California Council on Responsible Beverage Service (CCRBS).** It shall be at least three (3) hours in length and include the following elements for review and discussion:

1. Laws covering the service of alcoholic beverages and the operation of establishments serving alcoholic beverages.
2. Alcohol as a drug and its effects on the body and behavior, including its effects on a person operating a motor vehicle.
3. Effects of alcohol in combination with commonly used drugs, both legal and illegal.
4. Methods of recognizing the signs of intoxication, development of standard procedures designed to prevent customers from becoming intoxicated, and the learning of skills to intervene with intoxicated customers.
5. Development of standard operating procedures for dealing with underage customers, including the use of age verification techniques.
6. Development of standard operating procedures to assist employees who need help in dealing with underage customers, intoxicated customers and/or other "problem customers," and in maintaining records that relate to such incidents.
7. Methods of dealing with special event promoters and development of written policies and procedures for the responsible promotion of alcohol.
8. Methods of recognizing and dealing with customers who use or traffic in illegal drugs.
9. Development of policies and procedures for dealing with employees who use or traffic in illegal drugs.
10. A comprehensive test to ensure that the trainee has a working knowledge of the concepts presented in the program as well as the skills needed to implement them.

C. No vendor shall allow any person who is in their employment after six months of the effective date of this ordinance to continue working in any capacity wherein they sell, serve or deliver alcoholic beverages, unless such person within (30) days from that date has successfully completed the training specified in Section (2) herein.

D. All vendors must develop and maintain on their premises a comprehensive set of written policies and procedures that reflect the standards and practices set forth in this ordinance. Such policies and procedures must include but are not limited to the following:

1. California laws and liability regarding sales to minors and sales to obviously intoxicated individuals.
2. Checking identification, identifying minors, and identifying signs of obvious intoxication.
3. Methods of effectively managing customer drinking (i.e., refusing or delaying service).
4. Alcoholic drink equivalencies and the effects of alcohol on the body.
5. House policies specific to the establishment regarding alcohol beverage service and customer relations.

E. It shall be the responsibility of the vendor to verify that all new employees who sell, serve or deliver alcoholic beverages have successfully completed the training described in Section 1(a) within the first 30 days of their employment.

F. It shall be the responsibility of the vendor to verify that all persons who have been employed by them before the effective date of this ordinance and who continue to be in their employ, working in any capacity wherein they sell, serve or deliver alcoholic beverages, have successfully completed the training described in Section 1(a) within 30 days of that date.

G. It shall be the responsibility of the employee to bear the financial cost of being certified in all duties related to his or her job description. This includes being re-certified at least every two (2) years.

H. It shall be the responsibility of the employee to bear the financial cost of acquiring and yearly renewal of an Alcohol Handlers Card with the City of National City. Such Alcohol Handlers Card shall be in the possession of and on the premises of the employee or manager at all times while in the course of selling, serving or delivering alcoholic beverages. All such employees or managers are subject to providing proof of and inspection of such Alcohol Handlers Card when requested by the City of National City or its agents, including the Police Department.

I. Vendors shall require all new employees prior to their starting work, to review and acknowledge in writing that they have read, understand and will comply with guidelines specified in Section 1(b), as a condition of their continued employment. In addition, all employees shall review said guidelines on an annual basis, at such time signing an acknowledgment that they have read, understand and will comply with them as a condition of their continued employment.

J. Until such time as a new employee has successfully completed the training outlined in Section 2 herein, the vendor must provide for the supervision of that employee in the handling of alcoholic beverages. Such supervision must be done by someone who has successfully completed the specified training.

K. Records of compliance to all sections of this ordinance must be kept on the premises of the licensee. This includes the written acknowledgement of policies described in Section 4 herein, as well as a list of all persons who have completed training along with certification/recertification documents pursuant to Section 6 herein. Such documents must be available for review upon request from a law enforcement officer or other inspector.

L. Vendors must prominently post signs inside the establishment, clearly visible to all customers stating: "It is illegal to sell, furnish, or give away an alcoholic beverage to any obviously intoxicated person, punishable by a \$1,000 fine & 24 hours of community service (California Business and Professions Code, Sec. 25602)." The sign shall be at least 8 ½ by 11 inches and have the lettering at least 1' in height.

M. Vender shall provide written proof of employees who have received RBSS training (i.e., list of employees, date of RBSS training, expiration date, etc.) at the annual

renewal of business license process. In order to maintain a business license, a vendor shall comply with all provisions of this ordinance.

10.31.040 Non-certified training programs.

A. Training programs that are not certified by CCRBS will have six (6) months from the effective date of this ordinance to obtain that certification. Vendors may still use such programs during that period to train new employees as long as the vendor can show that the program contains all the elements outlined in Section A.2 herein.

B. Existing employees who have received training by a non-certified training program under the circumstances described in Section 2 (a) will not be considered to be in full compliance with the provisions of this ordinance, and must complete certification as outlined in Section 1 (e).

10.31.050 Penalties.

A. A violation of any provision of this ordinance or a failure to comply with any mandatory requirements of this ordinance is subject to prosecution in accordance with Title 1 of this Code and may also be enforced through injunctive or other relief available by law. Penalties for violation of the provisions of this ordinance may result in a misdemeanor citation, punishable by a maximum of one year in jail and a \$1,000 fine.

B. Administering departments will be authorized to charge cost recovery fees for services provided under this chapter. Cost recovery fees may also be recovered for equipment and personnel expenses incurred. All penalties, application fees and related costs recovery fees shall be credited to "Responsible Beverage Service and Sales Regulation Fund." The fund shall be used exclusively, and may be expended without further City Council action, for those expenses associated with the administration and enforcement of this chapter.

PASSED and ADOPTED this _____ day of _____ 2005.

Nick Inzunza, Mayor

ATTEST:

Michael Dalla, City Clerk

APPROVED AS TO FORM:

George H. Eiser, III
City Attorney