

LAND USES
Commercial

Category and Specific Use Superscript Relates to Use Restrictions		NS			CS			CC			GC		
		P: Permitted			C: Conditional			N: Prohibited					
12. Storage	A. Self Storage Facilities	N	N	N	N	N	C	C	C	P	P	P	
	B. Storage Yards	N	N	N	N	N	C	C	C	P	P	P	
13. Temporary Living Quarters	A. Automotive Service, Major	N	N	N	C ⁴	C	N	N	P	P	P	P	
	B. Automotive Service, Minor	C	C	C	C	C	N	N	C	C	C	C	
14. Vehicles	C. Bulk Fuel Dealerships	C	C	C	P	P	C	C	C	P	P	P	
	D. Sales or Lease	N	N	N	N	N	N	N	N	P	P	P	
	E. Rental	N	N	N	C	C	C	C	C	P	P	P	
Civic													
15. Cemetery	A. Commercial Schools	N	N	N	N	N	N	N	N	N	N	N	
	B. Educational Institutions	C	C	C	P	P	P	P	P	P	P	P	
17. Places of Worship	A. Public Buildings, Services and Uses	C	C	C	PC ⁷	P	P	P	P	P	P	P	
	B. Public Parks, Parkways, Playgrounds, and Related Facilities	C	C	C	C	C	C	C	C	C	C	C	
19. Recreation	A. Public Parks, Parkways, Playgrounds, and Related Facilities	P	P	P	P	P	P	P	P	P	P	P	
	B. Recreational Facilities	P	P	P	P	P	P	P	P	P	P	P	
20. Social Organizations	A. Utility Substations and Related Facilities other than Transmission Lines	C	C	C	PC ⁷	P	P	P	P	P	P	P	
	B. Transmission Lines	N	N	N	C	C	C	C	C	N	N	N	
22. Utilities	A. Utility Substations and Related Facilities other than Transmission Lines	C	C	C	C	C	C	C	C	C	C	C	
	B. Transmission Lines	P	P	P	P	P	P	P	P	P	P	P	
Hours of Operation													
23. Uses Operating between 10:00 p.m. and 7:00 a.m. ⁵		P	C ⁶	P	C ⁶	P	P	P	P	P	P	P	

Chapter 20
7-18-13
Date
New Business
Agenda Item

Special Committee
Gov. Body
A
Exhibit #

LU-13

06/17/2010

Category and Specific Use Superscript Refers to Use Restrictions		NS	CS	CC	GC
		W1: WCF Type 1	W2: WCF Type 2	W3: WCF Type 3	N: Prohibited
Wireless Communication Facilities (WCF)					
24. New WCF	A. Tower Construction	W3	W3	W3	W3
	B. Attachment to existing or new building or structure not using stealth design	W3	W3	W3	W3
	C. Replacement tower to provide collocation opportunity ⁹	W1	W1	W1	W1
	D. Attachment of a new WCF to buildings or structures and utilize stealth design ¹⁰	W1	W1	W1	W1
	E. Attachment of WCF to existing structures, tower or pole structures ¹¹	W1	W1	W1	W1
25. WCF in Right-of-Way	A. Installation of WCF within right-of-way ¹²	W2 / W3	W2 / W3	W2 / W3	W2 / W3
26. Collocation	A. New WCF on existing WCF tower	W1	W1	W1	W1
	B. New WCF inclusive of antennas on existing WCF tower exceeding height standard	W2	W2	W2	W2
27. Antennas	A. Attachment of antennas to WCF tower or pole structures other than used for cellular phone service	W1	W1	W1	W1
28. Satellite Antennas and Direct to Home Satellite Service	A. DHSS antennas >1 m. in diameter	W1	W1	W1	W1
	B. Up to 2 antennas >2 m. in diameter	W1	W1	W1	W1
	C. Up to 5 antennas >2 m. in diameter	W2	W2	W2	W2
	D. More than 5 antennas >2 m. in diameter	W3	W3	W3	W3

20.10.25. USE RESTRICTIONS

The following Use Restrictions refer to superscripts found in Section 20.10.20.

1. Detached or Attached Dwellings; only 50% of the contiguous area within any NS zone may be developed residentially.
2. No freestanding office structure or group of office structures shall exceed a combined total of 15,000 square feet.
3. No sales or outdoor storage of animals or livestock are allowed with this use.
4. Limited to Hotels and Extended Stay Hotels located on a lot or parcel adjoining U.S. Highway 26, Canyon Road, Tualatin Valley Highway or Oregon State Highway 217, subject to the following:
 - a. It shall be located on the portion of the lot immediately adjoining the highway.
 - b. Signage is allowed as per Section 60.40.35.3. of this code. However, only one freestanding sign, up to 32 square feet per face, 64 square feet for all four faces combined or one wall sign up to 64 square feet may orient toward an abutting Arterial or regional traffic route.
 - c. Signage shall not be allowed for auxiliary uses such as restaurants, meeting rooms, etc.
 - d. Auxiliary uses such as restaurants and meeting rooms shall be designed to meet the needs of the guests of the facility and not the general public.
5. Applicable to all uses.
6. Office uses do not require a Conditional Use for extended hours of operation.
7. If property is greater than 500 feet from an existing Residential use in a Residential zone the use is Permitted. If property is within 500 feet from an existing Residential use in a Residential zone the use requires Conditional Use approval.
8. Conditional Use required when abutting a Residential Zone.
9. On a location containing an existing tower supporting one carrier and shall be consistent with other approvals.
10. Provided the buildings or structures are not exclusively used for single-family or multi-family residential purposes.

Gladstone Municipal Code

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[Title 17 ZONING AND DEVELOPMENT](#)
[DIVISION II. ZONING DISTRICTS](#)

Chapter 17.20 C-3 — GENERAL COMMERCIAL DISTRICT

17.20.010 Purpose.

The purpose of a C-3 district is to implement the comprehensive plan and to provide for general types of business and service establishments which would not likely be compatible with the uses permitted in C-1 and C-2, local and community commercial districts, and which would likely be detrimental to the adjoining residential areas unless effectively controlled.

Statutory Reference: ORS Ch. 197, Ch. 227

History: Ord. 1131 §2 (part), 1990.

17.20.020 Uses allowed outright.

In a C-3 zoning district, the following uses and their accessory uses are allowed outright. Outside or open storage shall be an allowed accessory use.

- (1) Automobile service station, car wash or repair garage, body and fender paint shop, sales of new and used vehicles.
- (2) Business, governmental or professional office.
- (3) Community service facility such as a fire station, library, community center, park, utility facility, meeting hall or transit facility.
- (4) Eating or drinking establishment.
- (5) Financial institutions.
- (6) Funeral home.
- (7) Hotel or motel.
- (8) Medical clinic.
- (9) Personal and business service establishment such as a barber shop, tailoring shop, printing shop, laundry and dry cleaning, sales agency or photography studio.
- (10) Recreation vehicles sales, services, rental.
- (11) Recycling center.
- (12) Retail trade.
- (13) Roller rink, bowling alley, motion picture theater or similar extensive commercial amusement or recreational facility.
- (14) School and associated buildings, structures and facilities.
- (15) Small appliance repair including radio, television and electronics repair.
- (16) Small parts wholesaling or retailing.
- (17) Veterinary clinic or small animal hospital, but not including a kennel or a cattery.

Statutory Reference: ORS Ch. 197, Ch. 227

History: Ord. 1131 §2 (part), 1990; Ord. 1270 §1,1998; Ord. 1323 §1 (part), 2002.

17.20.30 Residential accessory uses.

(1) Accessory uses allowed in a residential zoning district shall be allowed in connection with single-family, two-family and multi-family dwellings in this zoning district.

(2) Such accessory uses shall comply with the standards applicable to accessory uses allowed in the MR zoning district.

Statutory Reference: ORS Ch. 197, Ch. 227

History: Ord. 1131 §2 (Part), 1990; Ord. 1323 §1 (part), 2002.

17.20.040 Conditional uses allowed.

In a C-3 zoning district, the following uses and their accessory uses are allowed subject to GMC Chapter 17.70 (conditional uses):

- (1) Planned unit development (PUD).
- (2) Wholesale distribution outlet, including warehousing.
- (3) Dwellings, subject to GMC Subsections 17.14.050(1) through (5).
- (4) Foster homes.
- (5) Day care center.
- (6) Off-street parking and storage of truck tractors and/or semi-trailers, subject to GMC Chapter 17.48 (off-street parking and loading) and Section 17.62.120 (off-street parking and storage of truck tractors and / or trailers).
- (7) Light manufacturing as an accessory use to a use allowed outright, subject to GMC Section 17.62.130 (light manufacturing).
- (8) Recreation vehicle park, subject to GMC Section 17.62.100 (recreation vehicle park).
- (9) Indoor mini-storage.
- (10) Uses operating between 12:00 a.m. and 5:00 a.m.

Statutory Reference: ORS Ch. 197, Ch. 227

History: Ord. 1131 §2(part), 1990;Ord. 1198§1(D), 1994;Ord.1257 §1,1998; Ord.1289 §1 (part), 2000; Ord. 1291 §1 (Part), 2000; Ord. 1323 §1 (part), 2002; Ord. 1341 (part), 2003.

17.20.045 Screening.

The following screening standards shall apply:

- (1) Off-street parking and loading areas and business activities, such as service, repair, processing, storage and merchandise display, that are conducted outside of a wholly enclosed building, shall be screened from abutting properties where such properties are in a residential zoning district and from abutting unimproved public street rights-of-way where property on the opposite side of the unimproved right-of-way is in a residential zoning district.
- (2) Business activities, such as service, repair, processing, storage and merchandise display, that are conducted outside of a wholly enclosed building, shall be screened from abutting properties where such properties

are in a C-1 or C-2 zoning district and from abutting unimproved public street rights-of-way where property on the opposite side of the unimproved right- of-way is in a C-1 or C-2 zoning district.

(3) Storage, with the exception of merchandise display, outside of a wholly enclosed building shall be screened from abutting improved public street rights-of-way. Off-street parking and loading areas for customer vehicles, employee vehicles and vehicles for sale are not required to be screened from improved public street rights-of-way. However, off-street parking and loading areas for other types of vehicle storage (e.g. towed vehicles, recreational vehicles being stored as a service) shall be screened from abutting improved public street rights-of-way.

(4) Required screening shall be accomplished by building placement, a landscaped earth berm or a sight-obscuring fence or hedge.

(5) Required screening shall be reviewed pursuant to GMC Chapter 17.80 (design review). When design review is not required, screening shall be reviewed by the City Administrator or designee.

(6) Required screening shall be a minimum of six feet (6') high. With the exception of equipment and vehicles, stored merchandise and materials shall not exceed the height of required screening. Stored equipment and vehicles may exceed the height of the required screening provided such equipment and vehicles are not stacked on top of one another.

(7) Required screening shall be sited so that it does not conflict with GMC Chapter 17.54 (clear vision). In locations where perimeter landscaping adjacent to a street is required as a condition of land use approval, required screening shall be located behind such landscaping.

Statutory Reference: ORS Ch. 197, Ch. 227

History: Ord. 1270 §2,1998; Ord. 1323 §1 (part), 2002; Ord. 1323 §1 (part), 2002.

17.20.050 Dimensional standards.

Except as provided in GMC Chapters 17.38 (planned unit development), Chapter 17.72 (variances) and Chapter 17.76 (exceptions), the following dimensional standards shall apply in a C-3 zoning district:

(1) Front Setbacks. There shall be no minimum front setback requirement except when a front lot line abuts a residential zoning district or abuts a street where property on the opposite side of the street is in a residential zoning district, in which cases the minimum front setback shall be twenty feet (20').

(2) Street Side Setbacks. There shall be no minimum street side setback requirement except when a street side lot line abuts a residential zoning district or abuts a street where property on the opposite side of the street is in a residential zoning district, in which cases the minimum street side setback shall be twenty feet (20').

(3) Side and Rear Setbacks. There shall be no minimum side or rear setback requirements.

(4) Off-Street Parking. The boundary of any area developed or intended for off-street parking shall be located a minimum of five feet (5') from all property lines.

(5) Architectural Features. Architectural features such as cornices, eaves, gutters, chimneys and flues may project a maximum of two feet (2') into a required setback area.

(6) Building Height. The maximum building height shall be thirty-five feet (35'). This restriction may be varied as follows:

(a) Maximum building height may be increased by one (1) story if the building is provided with an approved automatic sprinkler system throughout as provided in Section 506 of the Oregon Structural Specialty Code or its successor; Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles and similar objects not used for human occupancy are exempt from the maximum building height standard;

(b) Maximum building height may be increased if the city fire department reports that it possesses sufficient

fire-fighting capability to provide emergency response to a structure of the height proposed.

(7) Equipment Setbacks. There shall be no minimum setback requirements for central air conditioners, heat pumps and similar equipment except when a lot line abuts a residential zoning district, in which case the minimum setback requirement from the lot line abutting the residential zoning district shall be ten feet (10').

(8) Hotels and Motels:

(a) The minimum lot area shall be five hundred (500) square feet per dwelling unit;

(b) The minimum frontage shall be one hundred feet (100').

(9) Portable Storage Container Setbacks. When a lot line abuts a residential district, a setback does not apply to Portable Storage Containers as defined in Chapter 5.22.

Statutory Reference: ORS Ch. 197, Ch. 227

History: Ord. 1131 §2(part), 1990; Ord. 1140§2,1991; Ord. 1323 §1 (part), 2002; Ord. 1392 § 7, 2007.

[Ed. Note: The publication(s) referred to or incorporated by reference in this ordinance are available from the office of the City Recorder.]

17.20.060 Exceptions in case of large scale development.

The standards and requirements of the regulations of this section may be modified by the Planning Commission in the case of a plan and program for a planned unit development, or a large scale shopping center, providing the modifications are not detrimental to the public health, safety and welfare and providing the Planning Commission determines there is provision for adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the developed tract and its relation to adjacent areas and for such covenants or other legal provisions as will assure conformity to and achievement of the plan

Statutory Reference: ORS Ch. 197, Ch. 227

History: Ord. 1131 §2 (Part), 1990. Ord. 1392 § 8, 2007.

JJA
06-14-11

**AN ORDINANCE TO REGULATE THE HOURS OF
RESTAURANTS, RETAIL FOOD ESTABLISHMENTS,
RETAIL SALES AND PERSONAL SERVICES BUSINESSES
IN THE CITY OF CAMDEN**

WHEREAS, Chapter 332 entitled "Licenses and Business Regulations" of the Camden Code governs the regulation of retail businesses throughout the City of Camden; now, therefore

BE IT ORDAINED, by the City Council of the City of Camden that Chapter 332 is hereby amended by adding new Article V, which shall read as follows:

Article V. Hours of Operation

Section 1.. Purpose; findings.

A. The purpose of this Article regulating the business hours of restaurants, retail food establishments, and retail sales and service businesses in the City of Camden is to:

1. Improve the quality of life for residents in the residential areas of the City, particularly during the late night/early morning hours.
2. Decrease the incidence of arrests, criminal activity, nuisance complaints, and littering associated with large crowds of individuals congregating in, or in close proximity to, residential areas in the City during the late night/early morning hours, which individually and collectively have a negative impact on the quality of life for residents.
3. Discourage activities that compromise the public safety of residents and business patrons in certain areas of the City during the late night/early morning hours.
4. Provide for the efficient, effective and economical provision of scarce government resources in addressing each of the aforementioned purposes.

B. From input provided by residents of the City's neighborhoods and by the Police Department, Department of Code Enforcement and Department of Public Works, this City Council finds that a uniform closing time for businesses located within a Residential Zone or a certain distance from a Residential Zone, may significantly:

1. Reduce the crowds of individuals who are attracted to businesses located in, or in close proximity to, residential areas in the City, which businesses remain open during the late night/early morning hours when similar businesses in other parts of the City have long since closed.
2. Discourage crowds of individuals from congregating not only on the main streets and thoroughfares, but also onto adjoining residential streets, lots and parking areas, which prevents neighborhood residents from sleeping, safely walking their streets and enjoying the peace and quiet of their homes.
3. Reduce the incidence of disorderly conduct and criminal activities, including loitering, littering, public drinking, drug

dealing, noise, disturbance and other unlawful acts during the late night/early morning hours, which would lead to a commensurate reduction in the need for police presence and calls for police service in, or in close proximity to, residential areas.

4. Reduce debris in residential areas from improperly discarded food containers, wrappings, bottles, cans, utensils, and decomposing food products.

Section 2. Definitions.

For the purposes of this Article, the following terms shall have the following meanings:

PERSONAL SERVICES – establishments primarily engaged in providing services involving the care of a person or his or her goods or apparel, including, but not limited to, laundering, shoe repair, hair and body care, tailoring, travel agents, spas, tanning salons, and nutrition/weight loss centers.

RESTAURANT, shall include all of the following:

RESTAURANT, SIT-DOWN – an establishment where food and beverages, including alcoholic beverages, are prepared and sold and consumed primarily on the premises, where food sales constitute more than 50% of the gross sales receipts for all food and beverages. Such an establishment may include table or self-service, and food and beverages may be consumed either inside or at designated outdoor seating areas.

RESTAURANT, CARRYOUT – an establishment where food and beverages are prepared and sold for consumption on or off premises (customer tables or counters typically available). Such an establishment may take phone orders for food and may deliver food to customers.

RESTAURANT, DRIVE-THROUGH – an establishment where food and beverages are prepared and sold for consumption on or off premises, and which includes one or more drive-through customer service windows.

TAVERN or BAR – an establishment where food and beverages, including alcoholic beverages are prepared and sold and consumed on the premises, where food sales constitute 50% or less of the gross sales receipts for all food and beverages.

RESIDENTIAL ZONE - R1, R2 or R3 Residential Zone, as defined in the City's Zoning Code.

RETAIL FOOD ESTABLISHMENT – an establishment where food and beverages are offered for retail sale for consumption off premises. Such foods or beverages may be packaged in a ready-to-consume state or may come packaged and sold in bulk quantities. Examples of retail food establishments include, without limitation, grocery stores, ice cream shops, retail mini-marts, bakeries, and delicatessens.

RETAIL SALES – establishments engaged in selling goods or merchandise to the general public for personal or household

consumption and rendering services incidental to the sale of such goods, including, but not limited to, specialty shops and boutiques.

Section 3. Restaurants, retail food establishments, retail sales and personal services businesses to be closed during certain hours.

- A. Restaurants, retail food establishments, retail sales, and personal services businesses located within a Residential Zone or within two hundred (200) feet of a Residential Zone, may operate in the City only within the time restrictions set forth in this section:
1. Sunday through Thursday: 6:00 a.m. to 11:00 p.m.
 2. Friday through Saturday: 6:00 a.m. to 12:00 a.m.
- B. The distance of two hundred (200) feet to a Residential Zone is measured in a straight line from the lot line of the restaurant, retail food establishment, retail sales, or personal services business to the border of the Residential Zone.
- C. Notwithstanding any other provisions of this Article, the time limitations in this section do not apply to the following:
1. Holders of plenary retail consumption or retail distribution licenses under the Alcoholic Beverage Law, N.J.S.A. 33:1-1 et seq., which holders are subject to the aforesaid State law and the City's Alcoholic Beverages Ordinance, Chapter 129 of the City Code; and
 2. for the purposes of residents' health and safety:
 - a. the sale of gasoline, diesel fuel, propane gas or kerosene at gasoline filling stations; and
 - b. the sale of prescription or non-prescription ("over-the-counter") medications in drugstores and pharmacies.

Section 4. § 555-8, Violations and penalties.

Unless otherwise provided in this Chapter, penalties against persons violating the provisions of this Chapter shall be imposed in accordance with the provisions of § 1-16A of the City Code.

BE IT FURTHER ORDAINED that Chapter 332 (Licenses and Business Regulations), Article IV (Enforcement), § 332-20 of the Code of the City of Camden be, and hereby is, amended and supplemented to add the following new subsection (additions underlined):

§ 332-20. Reasons for revocation or suspension.

- A. In addition to provisions elsewhere in this chapter and other ordinances of the City of Camden, licenses issued by the City of Camden may be suspended for, but not limited to, one or more of the following reasons:
- (1) Material fraud, misrepresentation or false statements in connection with the application for the license.
 - (2) Material fraud, misrepresentation or false statements in connection with the offer to sell or the sale of goods,

wares, merchandise or services which are the subject of the license.

(3) Material violation of this chapter or other ordinances.

(4) Material violation by the licensee of this chapter or other ordinances related to the license or to the premises, if any, occupied by the licensee or in connection with the license.

(5) Conducting the business activity or enterprise for which the license is issued in a manner so as to constitute a nuisance, as defined by other ordinances or the laws of this state.

(6) Conducting the business activity or enterprise for which the license is issued in a manner so as to violate Chapter 261 (Food services entities) of the Code of the City of Camden.

(7) Conducting the business activity or enterprise for which the license is issued in a manner so as to violate Chapter 332, Article V of the Code of the City of Camden.

B. In addition to provisions elsewhere in this chapter or other ordinances, licenses issued by the City of Camden may be revoked for, but not limited to, one or more of the following reasons:

(1) Two or more suspensions for any length of time within a period of one year.

(2) Two or more convictions within a period of one year concerning actions brought for violations in connection with the license.

(3) Conducting the business, activity or enterprise for which the license is issued in a manner so as to constitute a nuisance, as defined by other ordinances or the laws of this state.

(4) Any conviction of the licensee for a violation of any of the laws of the United States, this state or any other state substantially related to the subject matter of the license or to the premises, if any, occupied by the licensee in connection with the license.

(5) Where the activity, use or privilege authorized under the license is being or has been exercised so as to otherwise be detrimental to the public health, safety or welfare.

(6) Conducting the business, activity or enterprise for which the license is issued in a manner so as to violate Chapter 261 (Food services entities) of the Code of the City of Camden.

(7) Conducting the business activity or enterprise for which the license is issued in a manner so as to violate Chapter 332, Article V of the Code of the City of Camden.

BE IT FURTHER ORDAINED that any portion of this ordinance not herein amended and supplemented shall remain in full force and effect.

BE IT FURTHER ORDAINED that all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistency only.

BE IT FURTHER ORDAINED that this ordinance shall take effect twenty (20) days after final passage and publications as provided by law.

BE IT FURTHER ORDAINED that if any provision of this ordinance is declared invalid, such invalidity shall not effect the other provisions of this ordinance. Furthermore, the other provisions of this ordinance are deemed to be severable and remain in full force and effect.

BE IT FURTHER ORDAINED, that pursuant to N.J.S.A. 52:27BBB-23 and N.J.S.A. 40:69A-41, a true copy of this Ordinance shall be forwarded to the Mayor, who shall have ten (10) days from the receipt thereof to approve or veto this Ordinance. Additionally, pursuant to N.J.S.A. 52:27BBB-23, a true copy of this Ordinance shall be forwarded to the State Commissioner of Community Affairs, who shall have ten (10) days from the receipt thereof to veto this Ordinance, and the action by the Commissioner regarding this Ordinance shall supersede any action by the Mayor on the same Ordinance. All notices of approval and/or veto shall be filed in the Office of the Municipal Clerk.

Dana M. Burley

Dated: June 14, 2011

The above has been reviewed
and approved as to form.

Marc A. Riondino
MARC A. RIONDINO
City Attorney

Francisco Moran
FRANCISCO MORAN
President, City Council

Dana L. Redd
DANA L. REDD
Mayor

FIRST READING: July 12, 2011

SECOND READING: August 9, 2011

ADOPTED: August 9, 2011

ATTEST: Luis Pastoriza
LUIS PASTORIZA
Municipal Clerk

Francis Morse
President
Councilperson, 3rd Ward

Deas M. Burley
Councilperson, 1st Ward

William Spasman
Councilperson, 2nd Ward

Luis A. Lopez
Councilperson, 4th Ward



**MUNICIPAL CLERK
CITY OF CAMDEN
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Carla Jenkins
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Marilyn Torres
Councilperson at-Large

Deborah Patten-Poll
Councilperson at-Large

Jason Asuncion, Esq.
Council-At-Large

Luis Pastoriza, B.M.C.
Municipal Clerk

MEMORANDUM

DATE: August 24, 2011
TO: Dana L. Redd, Mayor
FROM: Luis Pastoriza, Municipal Clerk
RE: Ordinance Final Passage - (MC-4629)

"AN ORDINANCE TO REGULATE THE HOURS OF RESTAURANTS, RETAIL FOOD ESTABLISHMENTS, RETAIL SALES AND PERSONAL SERVICES BUSINESSES IN THE CITY OF CAMDEN"

In accordance with Rule XIX of the Administrative Code of the City of Camden (Rules of Procedure governing the City Council), I am delivering to you the attached ordinance adopted by City Council at a **REGULAR** meeting held on **8-9-11**. Said article provides that "each ordinance shall be returned by the Mayor to the Municipal Clerk after the Mayor has affixed his /her signature thereto or after the expiration of **ten (10) days** from the date of its delivery to the Mayor in any event."

OFFICE OF THE MAYOR	
Received by: <u></u>	Date: <u>8/24/11</u>
Date of Approval: _____	

LP/yv
file

Washington Township, New Jersey

"Every retail business located within the Township, excluding movie theaters, catering businesses and businesses regulated by the New Jersey Division of Alcoholic Beverage Control, shall be closed to the public, and business with the public therein shall be and is hereby prohibited, between the hours of 12 a.m. and 5 a.m."

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Exhibit "A"

**Recommended text for Wellington Land Development Regulations Section 5.12
"Extended Hours of Operation Permit"**

Sec. 5.12.1. - Purpose.

An extended hours of operation permit allows commercial establishments restricted by the PUD requirements of the LDR to operate legally for specific extended time periods. This section establishes the process, approval authority, and enforcement for an extended hours of operation permit.

These provisions do not apply to properties within the Equestrian Overlay Zoning District (EOZD).

An approved extended hours of operation permit does not relieve the permit holder from compliance with all applicable Wellington Code requirements including, but not limited to, noise, light and alcohol sales.

Sec. 5.12.2. - Authority.

The Growth Management Director shall issue or deny extended hours of operation permits based upon the standards in Section 5.12.5.B. The Village Manager shall sign off on the Growth Management Director's decision prior to issuance of the permit.

Sec. 5.12.3. - Extended hours of operation permit for uses permitted by right.

Any business within a residential PUD within 300 feet of residential housing may apply for an extended hours of operation permit. A permit is issued to a specific business entity for a specific location. The permit can be transferable, but only following a review by the Growth Management Director upon formal notice of a pending change in ownership.

The permit is valid unless a suspension, change in type of business or a change in location occurs.

Sec. 5.12.4. - Extended hours of operation approval for conditional uses.

Any use permitted by right within a residential PUD within 300 feet of residential housing may apply for an extended hours of operation permit. Extended hours for any use located in a residential PUD within 300 feet of residential housing requiring a conditional use approval shall be approved by Council as part of the conditional use.

Sec. 5.12.5. - Initiation.

An application for an extended hours of operation permit shall be submitted, with the appropriate fee, by the owner or person(s) having a written contractual interest in the business for which the permit is proposed or their authorized agent. The application shall be reviewed by Palm Beach County Sheriff's Office (PBSO).

1 **Sec. 5.12.6. - Procedure.**

2
3 **A. Permit application decision.**

4 Within ten (10) working days after the application is determined sufficient, the
5 Growth Management Director shall issue or deny the extended hours or
6 operation permit. Within three (3) working days of the decision, a copy of the
7 decision shall be mailed to the applicant.

8
9 **B. Standards.**

10 The following standards shall be considered for an application for extended hours
11 of operation permit:

- 12
13 1. whether and to the extent the proposed extended hours of operation for
14 the commercial use is consistent with the purposes, goals, objectives and
15 policies of the Comprehensive Plan.
- 16
17 2. whether and to the extent the proposed extended hours of operation
18 permit will cause impacts or nuisances to the adjacent properties based
19 upon, but not limited to, the following factors:
- 20
21 a. Type of business
22 b. Size (square footage, number of seats etc.)
23 c. Building orientation (i.e. ingress, egress, outdoor seating)
24 d. Barriers or physical separations (i.e. streets, canals, landscaping etc.)
25 e. Loading areas & traffic patterns
26 f. Parking (customer/employees)
27 g. Loitering potential
28 h. Security/safety and CPTED measures (existing and proposed)
29 i. Noise mitigation measures (existing and proposed)
30 j. Lighting (existing and proposed)
31 k. Outdoor activities (hours, type)
32 l. Any changes in activity during the extended hours
33 m. Other potential nuisances
- 34
35 3. whether and to the extent the proposed extended hours of operation
36 permit complies with all additional standards imposed on it by other
37 applicable provisions of this Code.

- 38
39 **C. Conditions.** Conditions may be imposed on an extended hours of operation
40 permit as deemed necessary to accomplish the purpose of this Chapter, this
41 Code and the Comprehensive Plan to prevent or to minimize adverse effects or
42 nuisances upon the public and the neighborhood, including but not limited to:
43 outdoor activities, size, bulk and locations, landscaping, buffering, lighting, noise,

1 ingress, egress and other on-site improvements, duration, and hours of
2 operation.

3
4 **Sec. 5.12.7. – Appeals.**

5 An appeal of a decision regarding an application for an extended hours of operation
6 permit shall be made to the Planning, Zoning and Adjustment Board (PZAB).

7
8 **A. Hearing.** A hearing before the PZAB shall be scheduled no later than thirty (30)
9 days following receipt of the written appeal, unless the parties mutually agree to
10 an extension of this time period.

11
12 **B. PZAB determination.** The PZAB shall give the Appellants and other interested
13 parties a reasonable opportunity to be heard. At the conclusion of the hearing,
14 the Planning, Zoning and Adjustment Board shall render its determination. The
15 determination shall be issued in written form with a copy sent to the Appellants.
16 The PZAB shall reverse the decision regarding the permit only if there is
17 substantial competent evidence in the record that the decision failed to comply
18 with the standards of Sec. 5.12.5.

19
20 **Sec. 5.12.8. – Code violations.**

21 A commercial operation that, after all Code Compliance efforts have been exhausted is
22 found by a Special Magistrate to be in violation of code related to extended hours shall:

23
24 **A. If operating under an extended hours of operation permit, have the permit**
25 **suspended pending a determination by Council to revoke or reinstate the permit.**

26
27 **B. If operating under a development order approved by Council, have the**
28 **development order suspended pending a determination by Council to revoke or**
29 **reinstate the permit. The suspension shall be limited to the extended hours as**
30 **granted by the conditional approval and shall not affect the remainder of the**
31 **development order.**

32
33 A determination to reinstate or revoke an extended hours of operation permit or to
34 remove a development order suspension must be approved by Council at a regularly
35 scheduled meeting.

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Exhibit “B”
Recommended modifications for Section 6.8.2.F.1.b.vii. (f)(ii.) of Wellington’s
Land Development Regulations”

Hours of operation. Commercial uses within three hundred (300) feet of residential housing shall not commence indoor or outdoor business activities (~~including deliveries and stocking operations~~) prior to ~~6:00~~ 5:00 a.m. nor continue activities later than ~~11:00 p.m.~~ 12:00 a.m. unless authorized by an extended hours of operation permit or by a development order approved by Council. As defined in Article 5, Chapter 12, for the purposes of this section, business activities shall consist of any and all activities which involve patrons of the business (either public or private activity) and do not include activities such as setup/prep, stocking or clean up provided those activities comply with other Wellington regulations. Commercial uses greater than three hundred (300) feet from residential housing and all professional office services shall be exempt from the hour of operation requirement unless required by a development order condition.

Article 3: Police Regulated Occupations and Businesses**Division 8: After-Hours Permits**
(Added 11-20-2000 by O-18888 N.S.)**§33.0801 Purpose and Intent**

The Council of the City of San Diego finds that the operation of *entertainment venues* between the hours of 2:00 a.m. and 6:00 a.m. present an environment with the demonstrated potential for excessive noise generation and disorderly conduct by patrons, with the attendant adverse public safety impact on the surrounding business and residential community, and may be detrimental to the quality of life in the community.

The Council also finds that allowing *entertainment venues* to remain open after 2:00 a.m. may reduce the noise and disorderly conduct associated with the two o'clock closing hour.

Therefore, it is the purpose and intent of this Division to regulate after- hours activities for the public safety by establishing minimum standards for conducting after-hours business, including a minimum distance requirement between businesses and residences. It is the intent of this Division to allow businesses to seek a waiver of the distance requirement from the *Chief of Police*. Once a waiver is obtained, it is the intent of this Division that the waiver be thereafter granted to the business unless the business changes its mode of operation or if the public safety becomes adversely affected.

(Added 11-20-2000 by O-18888 N.S.)

§33.0802 Definitions

For purposes of this Division:

“*ABC license*” means a license issued by the California Department of Alcoholic Beverage Control.

“*Entertainment venue*” means any commercial establishment or assemblage that (1) features, allows, or provides live entertainment, is open to the general public, and is a police-regulated business, or (2) is a public dance and a police-regulated business.

(Added 11-20-2000 by O-18888 N.S.)

(11-2000)

§33.0803 Permit Required for After-Hours Business

It is unlawful for any *entertainment venue* to be open between 2:00 a.m. and 6:00 a.m. without a *police permit*.

Any business or occupation regulated under Divisions 28, 33 or 36 of this Article is not eligible for an after-hours *permit*.

(Added 11-20-2000 by O-18888 N.S.)

§33.0804 Contents of Application for an After-Hours Permit

An applicant for an after-hours *permit* shall meet the application requirements set forth in Divisions 1, 2 and 3 of this Article.

(Added 11-20-2000 by O-18888 N.S.)

§33.0805 Grounds for Denial of After-Hours Permit

In addition to the grounds for denial of any police-regulated business *permit* stated in Section 33.0305, an application for an after-hours *permit* must be denied for any of the following reasons:

- (a) Issuance of the after-hours *permit* conflicts with the applicant's *ABC license*, the applicant's *conditional use permit*, the applicant's *police permit*, this Code, or any local, state or federal law.
- (b) Except as provided in Section 33.0806, the establishment is less than 300 feet from any single-family or multi-family residence, other than commercial hotels, motels and similar establishments for temporary lodging. The distance shall be measured in a straight line, without regard to intervening structures, between the closest structural wall of the residence and the closest property line of the establishment.
- (c) The business located on the premises has operated in violation of law or this Code during the preceding twelve months.

(Added 11-20-2000 by O-18888 N.S.)

§33.0806 Waiver of Minimum Distance Requirement

The *Chief of Police* may waive the requirements of Section 33.0805(b) if the applicant provides written evidence that either: (1) the households within 300 feet of premises are aware of the application of the after-hours *permit* and have no objection to the

(11-2000)

grant of the *permit*; or (2) reasonable attempts were made to notify them and there was no response by the households. The *Chief of Police* may grant the waiver over an objection if, after investigating the *premises* and the affected area, the *Chief of Police* is satisfied that the objection is unreasonable. A new waiver must be obtained if there is: (1) a change in the mode of operation of the business, or (2) a change in ownership, or (3) a change in the conditions or status of the *permittee's ABC license*.

After the initial granting of a waiver, if there is an objection, the Chief will consider any changes to the mode of operation made by the business or any adverse affects the business is having on public safety in determining whether or not to renew the waiver.

(Added 11-20-2000 by O-18888 N.S.)

§33.0807 Age Requirements

It is unlawful for any *responsible person* or *employee* to allow any *person* under the age of 18 to be on the *premises* unless one of the provisions of Section 58.0102(c) (curfew restrictions) apply. However, if the establishment has an *ABC license*, the *ABC's* age regulation controls.

(Added 11-20-2000 by O-18888 N.S.)

§33.0808 Disturbing the Peace; Disorderly Conduct

It is unlawful for any *responsible person* or *employee*:

- (a) to admit onto the *premises* any *person* whose conduct is described in Penal Code section 415 (disturbing the peace) or 647 (disorderly conduct); or
- (b) to allow any person exhibiting the conduct described in subsection (a) to remain on the *premises* or on any parking lot or similar facility used by the *premises*.

(Added 11-20-2000 by O-18888 N.S.)

§33.0809 Reasonable Passageway Required

It is unlawful for any *responsible person* to fail to provide a reasonable passageway through any part of a room used by patrons and entertainers for their ingress and egress.

(Added 11-20-2000 by O-18888 N.S.)

(11-2000)

§33.0810 Observation of Noise Abatement Laws Required

The *responsible person* shall observe all laws applicable to noise abatement, particularly those contained in Chapter V of this Code.
(Added 11-20-2000 by O-18888 N.S.)

§33.0811 Disorderly Conduct Within 100 Feet Prohibited

Responsible persons shall control the conduct of patrons so as to prevent or minimize disorderly or unlawful conduct upon the *premises* or within 100 feet of the *premises*. The 100-foot distance shall be measured in a straight line from the nearest edge of the building or property line of the licensed *premises*.
(Added 11-20-2000 by O-18888 N.S.)

§33.0812 Orderly Dispersal Required

The *responsible person* shall cause the orderly dispersal of persons from the vicinity at closing time, and shall not allow them to congregate in the vicinity in a disorderly fashion.
(Added 11-20-2000 by O-18888 N.S.)

§33.0813 Nude Entertainment Prohibited

It is unlawful for any *responsible person* to allow on the *premises* any entertainment described in Division 36, Nude Entertainment.
(Added 11-20-2000 by O-18888 N.S.)

§33.0814 Security Guards May Be Required

In accordance with Division 1 of this Article, the *Chief of Police* may require the permit holder to employ a sufficient number of licensed security guards to provide crowd control.
(Added 11-20-2000 by O-18888 N.S.)

§33.0815 Chief's Authority Where There Is Immediate Threat to Public Safety

- (a) The *Chief of Police* may require any business with an after-hours *permit* to close down operations and disperse all patrons for the remainder of its daily operation whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the public safety and well-being of the patrons and general public in the vicinity.

(11-2000)

- (b) It is unlawful for any person to fail to comply with any directive issued by the *Chief of Police* under the authority of Section 33.0815(a).
(Added 11-20-2000 by O-18888 N.S.)

§33.0816 Conditions on After-Hours Permits

- (a) The *Chief of Police* may impose conditions related to after-hour activities on all *permits* issued under this Division. Conditions shall be based on specific and articulated facts reasonably related to ensuring public safety, including noise control and maintaining the peace in the surrounding area. Conditions may relate to:
- (1) the days and hours of operation;
 - (2) the age of persons permitted on *premises*;
 - (3) whether licensed security guards are required, and if so, how many;
 - (4) whether the *Chief of Police* must receive advance notice of a particular after-hours event if after-hours events are not held as part of the regularly scheduled events of the business; and
 - (5) other similar conditions related to public safety and welfare.
- (b) Conditions will be listed on the *permit*.
- (c) Conditions may not be imposed unless the *Chief of Police* has considered the input of the *permittee* on the appropriateness of the conditions.
- (d) The *Chief of Police* may not impose conditions that conflict with any local, state or federal law, or that conflict with the *permittee's ABC License*.
- (e) Unless otherwise stated on the *permit*, the conditions are subject to change only at the time of renewal at the request of the *permittee*. At the time of renewal, the *Chief of Police* may order the removal or modification of any condition as requested. Nothing in Section 33.0816(f) is intended to prevent the *Chief of Police* from modifying any condition in conjunction with regulatory action taken against the *permittee* pursuant to Division 4 or to comply with any change in the law.

(11-2000)

- (f) Imposition, suspension or revocation of any particular condition not agreed to by the *permittee* is appealable through the procedures set forth in Division 5.
(Added 11-20-2000 by O-18888 N.S.)

§33.0817 Duration of Validity of Permit

Any after-hours *permit* issued on or before November 20, 2000, shall be valid for one year after the date it was issued. To obtain a new *permit*, an application for renewal shall be submitted to the *Chief of Police*. At the time the application for renewal is submitted, the *Chief of Police* may impose conditions on the *permit* in accordance with this Division. The applicant will be required to pay regulatory fees.
(Added 11-20-2000 by O-18888 N.S.)