

## **ATTACHMENT 4**

### **ORDINANCE O20XX-XX**

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANTECA, STATE OF CALIFORNIA, AMENDING MUNICIPAL CODE SECTION 17.24.020.E.16 CREATING A NEW ZONING DEFINITION OF A LIQUOR STORE; ADDING SECTION 17.24.020.E.29 A DEFINITION OF A TOBACCO SHOP; AMENDING TABLE 17.30.020-1 BY SHOWING LIQUOR STORE, MASSAGE THERAPY, TOBACCO RELATED USES AND TOBACCO SHOP AS PROHIBITED LAND USES WITHIN THE CENTRAL BUSINESS DISTRICT OVERLAY ZONE; AND SHOWING ALCOHOLIC BEVERAGE SALES AS AN APPROVED USE WITHIN CBD ZONE 1.

WHEREAS, General Plan Economic Development Element Policy, ED-P-19, calls for the City to, "Promote Manteca as a desirable location to live and visit, promoting the "Family City" image"; and

WHEREAS, General Plan Land Use Element Policy, LU-P-21, directs that, "The City shall promote the downtown as a significant pedestrian oriented, commercial and financial center of Manteca and as the primary civic and cultural center"; and

WHEREAS, General Plan Air Quality Element Goal AQ-1, directs the City to, "Improve Air Quality by ... Minimizing public exposure to toxic or hazardous air pollutants; and Minimizing public exposure to pollutants that create a public nuisance, such as unpleasant odors"; and

WHEREAS, General Plan Community Design Element Policy, CD-P-25, directs that, "The City shall encourage mixed land uses but provide physical separation or design buffers between incompatible land uses"; and

WHEREAS, alcoholic beverage sales, massage therapy, tobacco related uses and tobacco shops within the Central Business District area of Manteca are contrary to policy direction provided for within the adopted General Plan; and

WHEREAS, studies have shown that areas around liquor stores, massage therapy, tobacco related uses, and tobacco shops have a higher incident of criminal behavior than other retail uses such as grocery stores and convenience stores; and

WHEREAS, the prohibition of liquor Store, massage therapy, tobacco related uses and tobacco shop uses is consistent with the purpose and objective of the zoning code pursuant to MMC Section 17.02.020.A.4; and

WHEREAS, Section 15061(b)(3) of the California Environmental Quality Act Guidelines provides that CEQA applies only to projects which have the potential for

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causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, General Plan Administration and Implementation Element Implementation Measure, AD-I-5, directs that, "The City shall review and amend, as necessary, the City's Zoning Ordinance and Subdivision Ordinance to ensure consistency with the General Plan"; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

THE CITY COUNCIL OF THE CITY OF MANTECA DOES ORDAIN AS FOLLOWS:

**SECTION 1: Amendment.** Manteca Municipal Code section 17.24.020.E, Allowed Use Definitions; Retail, Service and Office Uses is hereby amended to read as follows:

1. **Adult Day Health Care Center.** A facility, as defined under [Health and Safety Code](#) Section 1507.7, that provides nonmedical care and supervision for adult health care for more than six adults, including organized day program of therapeutic, social, and skilled nursing health activities and services to elderly persons or adults with disabilities with functional impairments, either physical or mental, for the purpose of restoring or maintaining optimal capacity for self-care. Programs offered are on a less than 24-hour basis.
2. **Adult-Oriented Business.** Those businesses defined as follows:
  - a. **Adult Bookstore or Adult Video Store.** A commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental for any form of consideration, of any one or more of the following:
    - i. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videocassette tapes, slides, tapes, records, or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;
    - ii. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
  - b. **Adult Cabaret.** A nightclub, theater, concert hall, auditorium, bar, or other similar establishment which regularly features live or media presentations of performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
  - c. **Adult Motel.** A motel, hotel or similar commercial establishment which:
    - i. Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description

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of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, or television;

ii. Offers a sleeping room for rent for a period of time less than 10 hours; or

iii. Allows a tenant or occupant to subrent the sleeping room for a time period of less than 10 hours.

d. **Adult Newsrack.** Any coin-operated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.

e. **Adult Theater.** An enclosed or unenclosed building, to which the public is permitted or invited, used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

f. **Adult Viewing Area.** An area in any adult book and/or novelty store, cabaret, theater, motion picture arcade or other adult entertainment business, where a patron or customer would ordinarily be positioned for the purpose of viewing or watching a performance, picture show or film.

g. **Bathhouse.** An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy during which specified anatomical areas are displayed or specified sexual activity occurs.

3. **Alcoholic Beverage Sales.** The retail sale of beverages containing alcohol for off-site consumption subject to regulation by the California Department of Alcoholic Beverage Control (ABC) as an off-sale establishment.

4. **Bar.** Any establishment devoted to the sale or serving of alcoholic beverages for consumption on the premises in which the serving of food, if any, is incidental to the consumption of alcoholic beverages. A restaurant or bona fide public eating place as defined in [Business and Professions Code](#) Section 23038 that serves alcoholic beverages is not a bar. Nightclub is defined separately in this title.

5. **Bed and Breakfast Inn.** A residential structure with one family in permanent residence with up to five bedrooms rented for overnight lodging, where meals may be provided subject to applicable Health Department regulations. A bed and breakfast inn with more than five guest rooms is considered a hotel or motel and is included under the definition of Hotel and Motel.

6. **Brew Pub.** Any establishment that produces ales, beers, meads, hard ciders, and/or similar beverages to service on-site as part of a restaurant. May include off-site sales of beverages brewed by the brew pub facility.

7. **Building Materials Store/Yard.** A retail establishment selling lumber and other large building materials, where most display and sales occur indoors. Includes stores selling to the general public, even if contractor sales account for a major proportion of total sales. Includes incidental retail ready-mix concrete operations, except where excluded by a specific Zoning District. Establishments primarily selling electrical, plumbing, heating, and air conditioning equipment and supplies are classified in Wholesaling and Distribution. Hardware stores are listed in the definition of Retail, General, even if they sell some building materials. Also see Home Improvement Supplies for smaller specialty stores.

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8. **Business Support Services.** Establishments, primarily within buildings, providing other businesses with services such as maintenance, repair and service, testing, rental, etc. Support services include, but are not limited to:
- a. Equipment repair services (except vehicle repair, see Vehicle Services);
  - b. Commercial art and design (production);
  - c. Computer-related services (rental, repair);
  - d. Copying, printing, publishing, and blueprinting services;
  - e. Equipment rental businesses within buildings (rental yards are Storage, Yards);
  - f. Film processing laboratories;
  - g. Heavy equipment repair services where repair occurs on the client site;
  - h. Janitorial services;
  - i. Mail advertising services (reproduction and shipping);
  - j. Mailbox services and other "heavy service" business services;
  - k. Outdoor advertising services; and
  - l. Photocopying and photofinishing.
9. **Child Day Care Center.** A commercial or nonprofit facility that provides nonmedical care and supervision of minor children for periods of less than 24 hours for an individual child. The facility is operated outside of a home and is typically able to accommodate 15 or more children. Such facilities include, but are not limited to, infant centers, preschools, sick child centers, day care centers, and school-age child-care centers. These may be operated in conjunction with a school or church facility, or as an independent land use. Also includes employersponsored child-care centers.
10. **Convenience Store.** An easy access retail store of 5,000 square feet or less in gross floor area, which carries a range of merchandise oriented to convenience and travelers' shopping needs. These stores may be part of a service station or an independent facility. Also see Neighborhood Market and Grocery Store/Supermarket for larger stores or stores oriented toward the daily shopping needs of residents.
11. **Drive-In/Drive-Through Use.** A use where a customer is permitted or encouraged, either by the design of physical facilities or by the service and/or packaging procedures offered, to be served while remaining seated within an automobile including, but not limited to, drive-through food, financial services, and automatic car washes.
12. **Equipment Sales and Rental.** Service establishments with outdoor storage/rental yards, which may offer a wide variety of materials and equipment for rental (e.g., construction equipment).
13. **Grocery Store/Supermarket.** A retail business where the majority of the floor area open to the public is occupied by food products packaged for preparation and consumption away from the site of the store. These full-service businesses do not typically have limited hours of operation. See separate but related listing for Convenience Store.
14. **Home Improvement Supplies.** Establishments (retail or wholesale) that sell kitchen, bath, furnishings, carpeting, and other home-oriented supplies. Other retail uses are permitted if accessory to the primary use. These uses may include an expansive showroom. This category does not include the sale of lumber and does not permit the outdoor display of merchandise. This use classification is a subcategory of the larger building materials stores and yards use classification and may be combined with or separate from such uses.
15. **Hotel and Motel.** Facility with guest rooms or suites, provided without kitchen

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facilities, rented to the general public for transient lodging (less than 30 days). Hotels provide access to most guest rooms from an interior walkway and typically include a variety of services in addition to lodging, for example, restaurants, meeting facilities, personal services, etc. Motels provide access to most guest rooms from an exterior walkway. Also includes accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail use, etc.

16. **Liquor Store.** Any retail establishment whose main use is devoted to and the primary purpose for which the establishment exists is alcoholic beverage sales (see Section 17.24.020.E.3) for off-premises consumption, and the incidental sale of other items such as magazines, newspapers, lottery tickets and packaged snack foods. Does not include a Grocery Store/Supermarket or Neighborhood Market which may offer alcoholic beverage sales along with the offering of groceries including such items as: food items prepared on-site, fruit, vegetables, dairy, meat, seafood and staple foods; or, a Convenience Market that sells items and services primarily for convenience and travelers' need such as: diesel, gasoline, compressed gases (air and CNG), coolants (water and antifreeze), packaged and prepared food, and other miscellaneous convenience and travel items that may also offer alcoholic beverage sales.

17. **Maintenance and Repair of Small Equipment.** Establishments providing onsite repair and accessory sales of supplies for appliances, office machines, home electronic/mechanical equipment, bicycles, tools, or garden equipment, conducted entirely within an enclosed building. Does not include maintenance and repair of vehicles.

18. **Massage Therapy.** Establishment where customers can receive a massage.

19. **Medical Services.** Facilities that provide medical services as further defined as follows:

a. **Extended Care.** Residential facilities providing nursing and health related care as a primary use with inpatient beds, such as board and care homes, convalescent and rest homes, extended care facilities, and skilled nursing facilities. Long-term personal care facilities that do not include medical treatment are included under residential care home and residential care facilities.

b. **General.** Facility primarily engaged in providing outpatient medical, mental health, surgical, and other personal health services, but which are separate from hospitals, including medical and dental laboratories, medical, dental and psychiatric offices, outpatient care facilities, and other allied health services. Counseling services by other than medical doctors or psychiatrists are included under Offices, Business and Professional.

c. **Hospital.** Hospitals and similar facilities engaged primarily in providing diagnostic services and extensive medical treatment (with overnight stay capabilities), including surgical and other hospital services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care. May include onsite accessory clinics and laboratories.

20. **Mortuaries and Funeral Homes.** Funeral homes and parlors, where the deceased are prepared for burial or cremation and funeral services may be conducted.

21. **Neighborhood Market.** A pedestrian-oriented grocery/specialty market store offering food products packaged for preparation and consumption away from the site of the store and oriented to the daily shopping needs of surrounding residential areas. Neighborhood markets are less than 15,000 square feet in size and operate less than 18 hours per day. Neighborhood markets may include deli or beverage tasting facilities that are ancillary to

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the market/grocery portion of the use. For larger stores, see Grocery Store/Supermarket.

22. **Nightclub.** Any establishment devoted to the sale or serving of alcoholic beverages for consumption on the premises in which the serving of food, if any, is incidental to the consumption of alcoholic beverages, and where floor space could be used for dancing and/or live entertainment. Bar is defined separately in this title.

23. **Offices, Business and Professional.** This use listing includes offices of administrative businesses providing direct services to consumers (e.g., insurance companies, utility companies, management consulting), banks and financial institutions, government agency and service facilities (e.g., post office, civic center), professional offices (e.g., accounting, attorneys, employment, public relations), and offices engaged in the production of intellectual property (e.g., advertising, architectural, computer programming, photography studios). This use does not include medical offices (see Medical Services, General), temporary offices, or offices that are incidental and accessory to another business or sales activity that is the primary use.

24. **Personal Services.** Establishments providing nonmedical services as a primary use, including, but not limited to, barber and beauty shops, clothing rental, dry cleaning pickup stores with limited equipment, home electronics and small appliance repair, laundromats (self-service laundries), shoe repair shops, and tailors. These uses may also include accessory retail sales of products related to the services provided, spas and hot tubs for rent, and tanning salons.

25. **Restaurant.** A retail business selling food and beverages prepared and/or served on the site, for on- or off-premises consumption. Includes eating establishments where customers are served from a walk-up ordering counter for either on- or off-premises consumption and establishments where most customers are served food at tables for on-premises consumption, but may include providing food for take-out. Also includes coffee houses and accessory cafeterias as part of office and industrial uses.

26. **Retail, General.** Stores and shops selling multiple lines of merchandise. These stores and lines of merchandise include, but are not limited to, art galleries, bakeries (all production in support of on-site sales), clothing and accessories, collectibles, department stores, drug and discount stores, dry goods, fabrics and sewing supplies, florists and houseplant stores, furniture, general stores, gift shops, hardware, hobby materials, musical instruments, parts and accessories, newsstands, pet supplies, specialty shops, sporting goods and equipment, stationery, and variety stores.

27. **Tasting Room.** Facility allowing beer/wine tasting with on-site and off-site retail sales directly to the public. The tasting room facility must be directly affiliated with a minimum of one brewery/winery (as defined by the Alcoholic Beverage Control (ABC)). The Tasting Room may be operated within a Brew Pub as an accessory to a separate on-site use, such as a restaurant, or as a stand-alone retail use.

28. **Tobacco Related Uses.** A commercial establishment whose primary activity consists of a lounge or eating area where patrons smoke tobacco or non-tobacco related products including, but not limited to hookah, cigar, cigarette, or other smoking device.

29. **Tobacco Shop.** Any retail establishment whose main use is devoted to and the primary purpose for which the establishment exists is the retail sale of tobacco and smoking equipment including, but not limited to, cigarettes, e-cigarettes, roll-your-own supplies, smokeless tobacco such as dipping tobacco and chewing tobacco, cigars, pipe tobacco and vaping supplies intended to be consumed off the store's premises.

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**SECTION 2: Amendment.** Manteca Municipal Code section 17.30.020.C, Central Business District (CBD) Overlay Zone; Allowed Uses, Table 17.30-020-1 Allowed Uses and Permit Requirements in the Central Business District Overlay Zones, Land Use Category, Retail, Service and Office Uses is hereby amended to read as follows:

Land Use Category	CBD Zone 1	CBD Zone 2
<b>Retail, Service, and Office Uses</b>		
Adult-Oriented Business <sup>4</sup>	N	N
Alcoholic Beverage Sales	A	A
Bar	C <sup>5</sup>	C
Brew Pub	M	M
Business Support Services	A	A
Child Day Care Center	C	C
Convenience Store	A	N
Drive-In and Drive-Through Use	C	N
Equipment Sales and Rental	C	C
Grocery Store/Supermarket	C	N
Hotel and Motel	N	A
Liquor Store	N	N
Maintenance and Repair of Small Equipment	C	C
Massage Therapy <sup>3</sup>	N	N
Medical Service, General	A	A
Mortuary/Funeral Home	N	A
Nightclub	N	N
Office, Business and Professional	A	A
Personal Services	A <sup>6</sup>	A
Restaurant	A	A
Retail, General	A	A
Tasting Room	M	M
Tobacco Related Uses	N	N
Tobacco Shop	N	N

**SECTION 3: Severability.** If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or

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phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 3: Effective Date.** This Ordinance shall become effective thirty (30) days following adoption.

City of Manteca, a municipal corporation

MAYOR: \_\_\_\_\_  
BENJAMIN J. CANTU

ATTEST: \_\_\_\_\_  
CASSANDRA CANDINI-TILTON  
CITY CLERK

STATE OF CALIFORNIA }  
COUNTY OF SAN JOAQUIN } SS:  
CITY OF MANTECA }

I, Cassandra Candini-Tilton, City Clerk of the City of Manteca, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the \_\_\_\_ day of \_\_\_\_, 20\_\_, and had its second reading and was adopted and passed during the public meeting of the City Council on the \_\_\_\_ day of \_\_\_\_, 20\_\_, by the following vote:

AYES:

NOES: