

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 13.16 OF TITLE 13 OF THE SAN JOSE MUNICIPAL CODE RELATED TO THE ESTABLISHMENT AND REGULATION OF ENTERTAINMENT ZONES PURSUANT TO SB 969 TO ALLOW FOR THE SALE OF CERTAIN ALCOHOLIC BEVERAGES BY LICENSED ESTABLISHMENTS FOR CONSUMPTION OUTSIDE IN DESIGNATED PLAZAS, PUBLIC STREETS, SIDEWALKS, OR PUBLIC RIGHTS-OF-WAY SUBJECT TO A SPECIAL EVENTS PERMIT; AND MAKING OTHER CONFORMING CHANGES TO SECTION 10.10.030 OF CHAPTER 10.10 OF THE SAN JOSE MUNICIPAL CODE

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Chapter 13.16 of Title 13 of the San José Municipal Code is amended to read as follows:

Chapter 13.16
ENTERTAINMENT AND MAJOR EVENTS ZONES

Part 1
Entertainment Zone

13.16.010 Purpose

The purpose of this Part 1 is to implement Senate Bill 969 through the establishment and regulation of entertainment zones to allow the purchase of open container alcoholic beverages from local bars, restaurants, wineries, breweries and on-sale licensees for consumption outside in common spaces such as plazas, public streets, sidewalks or public rights-of-way during certain hours, subject to a special event permit issued pursuant to Chapter 13.14.

13.16.020 Definitions

The definitions set forth in this Part shall govern the application and interpretation of this Chapter.

13.16.030 ABC

“ABC” means the California Department of Alcoholic Beverage Control.

13.16.040 Entertainment Zone

“Entertainment Zone” has the meaning set forth in Section 23039.5 of the California Business and Professions Code, as may be amended; and their locations are described under Section 13.16.080.

13.16.050 Entertainment Zone Event

“Entertainment Zone Event” means an event that occurs within the boundaries of an Entertainment Zone in compliance with ABC and the hours permitted by this Chapter 13.16; and subject to the requirements of the special events permit issued under Chapter 13.14.

13.16.060 Entertainment Zone Requirements

A. All commercial entities and organizations sponsoring the Entertainment Zone Event, or selling alcoholic beverages at an Entertainment Zone Event shall comply with all applicable state and local laws and regulations, including:

1. All applicable ABC license and permitting requirements;
2. Sections 23357, 23358, 23396 of the California Business and Professions Code, as may be amended from time to time regulating licensed beer manufacturers, licensed winegrowers, and on-sale licensees, respectively;
3. All other laws governing the sale and consumption of alcoholic beverages, except laws restricting off-sale of alcoholic beverages under Title 20 shall not apply; and
4. All permit requirements for special events issued under Chapter 13.14.

B. Open alcoholic beverages may only be consumed within an Entertainment Zone during an Entertainment Zone Event, subject to any other restrictions imposed by state or local law.

C. All open alcoholic beverages consumed during an Entertainment Zone Event may only be purchased from a premises located within the Entertainment Zone that is authorized under California Business and Professions Code Section 23357, 23358, or 23396, as may be amended, to permit the consumers to leave the premises with open containers of alcoholic beverages for consumption off the premises, or an organization that is authorized by an ABC special event permit or license to make such sales within the Entertainment Zone.

13.16.070 Entertainment Zone Hours

Outdoor consumption of alcoholic beverages may only occur during an Entertainment Zone Event between the hours of 8:00 a.m. and 11:59 p.m., inclusive, subject to any additional limitations imposed by any ABC permit or license and by the special events permit issued under Chapter 13.14, including but not limited to more restrictive days and hours during which outdoor consumption of alcoholic beverages is authorized.

13.16.080 Entertainment Zone Locations

A. Sharks Way. All plazas, pedestrian malls, public streets, sidewalks or public rights-of-way in front of storefronts and establishments holding permits or licenses from ABC that are located on either side of West St. John Street between North Montgomery Street and North Almaden Boulevard; North Almaden Boulevard between West St. John Street and Santa Teresa Street; Santa Teresa Street between North Almaden Boulevard and West St. John Street; and West St. John Street between Santa Teresa Street and Terraine Street/Almaden Avenue are hereby designated as the Sharks Way Entertainment Zone under Sections 23039.5 and 25690 of the California and Business and Professions Code.

- B. Little Italy. All plazas, pedestrian malls, public streets, sidewalks or public rights-of-way in front of storefronts and establishments holding permits or licenses from ABC that are located on either side of North Almaden Boulevard between West Julian Street and West St. John Street is hereby designated as the Little Italy Entertainment Zone under the Sections 23039.5 and 25690 of the California and Business and Professions Code.
- C. San Pedro Street. All plazas, pedestrian malls, public streets, sidewalks or public rights-of-way in front of storefronts and establishments holding permits or licenses from ABC that are located on either side of North San Pedro Street between West Santa Clara Street and West St. John Street; West St. John Street between North San Pedro Street and Terraine Street/Almaden Avenue; and fronting the northbound lane of West Santa Clara Street between Almaden Avenue and North San Pedro are hereby designated as the San Pedro Street Entertainment Zone under Sections 23039.5 and 25690 of the California and Business and Professions Code.
- D. Post Street. All plazas, pedestrian malls, public streets, sidewalks or public rights-of-way in front of storefronts and establishments holding permits or licenses from ABC that are located on either side of Post Street between South Market Street and First Street are hereby designated as the Post Street Entertainment Zone under the Sections 23039.5 and 25690 of the California and Business and Professions Code.
- E. South First Street. All plazas, public streets, sidewalks or public rights-of-way in front of storefronts and establishments holding permits or licenses from ABC that are located on either side of South First Street between San Carlos Street and East Reed Street are hereby designated as the South First Street Entertainment

Zone under Sections 23039.5 and 25690 of the California and Business and Professions Code.

F. Fountain Alley. All plazas, public streets, sidewalks or public rights-of-way in front of storefronts and establishments holding permits or licenses from ABC that are located on either side of Fountain Alley between South First Street and South Second Street are hereby designated as the Fountain Alley Entertainment Zone under Sections 23039.5 and 25690 of the California Business and Professions Code.

G. Paseo de San Antonio 1-4. All plazas, public streets, sidewalks or public rights-of-way in front of storefronts and establishments holding permits or licenses from ABC that are located on either side of Paseo de San Antonio between South Fourth Street and South Market Street are hereby designated as the Paseo de San Antonio Entertainment Zone under Sections 23039.5 and 25690 of the California Business and Professions Code.

H. Alum Rock. All plazas, public streets, sidewalks or public rights-of-way in front of storefronts and establishments holding permits or licenses from ABC that are located on either side of Alum Rock Avenue between North 31st Street and Silcreek Drive; and North King Road between East San Fernando Street and Alum Rock Avenue are hereby designated as the Alum Rock Entertainment Zone under Sections 23039.5 and 25690 of the California Business and Professions Code.

13.16.090 Entertainment Zone Implementation

A. Within 90 days of the establishment or modification of an Entertainment Zone, the Office of Economic Development and Cultural Affairs will, following consultation with the Police Department, provide the following information to

ABC, pursuant to Section 25690 of the California Business and Professions Code:

1. A copy of the ordinance establishing or modifying the Entertainment Zone;
2. Information as may be necessary to identify the boundaries of the Entertainment Zone;
3. The days and hours of operation of the Entertainment Zone;
4. The types of alcoholic beverages permitted within the Entertainment Zone; and
5. The approved nonglass and nonmetal containers in which alcoholic beverages may be authorized.

B. The City Manager is authorized to promulgate rules and regulations under this Chapter, and under Section 13.14.230 of Chapter 13.14. The special events guidelines for outdoor special events shall include the following requirements:

1. Establish a process or procedure to readily identify individuals purchasing or consuming alcoholic beverages within the Entertainment Zone as being 21 years of age or older;
2. Any person or organization seeking a special events permit under Chapter 13.14 shall comply with the insurance requirements applicable to that permit, and all rules and regulations authorized by Chapter 13.14; and

3. Any additional requirements for approved beverage containers, additional restrictions on hours of operation for the Entertainment Zone Event, and other time, place and manner restrictions.
- C. Upon revision of the special events guidelines for outdoor special events, the Office of Economic Development and Cultural Affairs shall transmit a copy of the guidelines to ABC.
- D. Any holder of an ABC license or permit that wishes to allow customers to leave the premises with open containers of alcoholic beverages for consumption off the premises during an Entertainment Zone Event shall provide the City a copy of the notice provided to ABC under Section 23357, 23358, or 23396 of the California Business and Professions Code, as applicable, at the same time such notice is provided to ABC.

SECTION 2. Section 10.10.030 of Chapter 10.10 of Title 10 of the San José Municipal Code is amended to read as follows:

10.10.030 Exception to the Prohibition

The prohibition in Section 10.10.010 shall not apply to any person:

- A. Sitting or lying down on a public sidewalk due to a medical emergency.
- B. Who, as a result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk.
- C. Participating, as an organizer, peddler, or patron, in any event subject to a:
1. Parade permit issued pursuant to Chapter 13.12 of the Code;

2. ~~Special events permit issued pursuant to Chapter 13.14~~~~Street closure permit issued pursuant to Chapter 13.16 of the Code;~~
 3. ~~Paseo/Plaza use permit issued pursuant to Chapter 13.22 of the Code;~~
 34. Park entertainment or special use permit issued pursuant to Chapter 13.44 of the Code.
- D. Participating, as an organizer, peddler, or patron, in an event declared to be a downtown special event pursuant to Chapter 6.55 of the Code.
- E. Operating under a sidewalk café permit issued under previously existing provisions of Title 20 of the Code or an encroachment permit issued pursuant to Chapter 13.37 of the Code.
- F. Who sits on a chair on a sidewalk at a business with a sidewalk café permit issued under previously existing provisions of Title 20 of the Code or an encroachment permit issued pursuant to Chapter 13.37 of the Code.
- G. Sitting on a bench that is permanently affixed to the sidewalk at a mass transportation stop, plaza, paseo, or city park.

PASSED FOR PUBLICATION of title this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk