

COUNTY OF SAN DIEGO, CALIFORNIA

BOARD OF SUPERVISORS POLICY

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Purpose

To establish criteria and a procedure for making determinations of public convenience or necessity for alcoholic beverage license applications consistent with the requirements of Section 23958.4 of the State Business and Professions Code.

Background

In 1994, the Legislature added Section 23958.4 to the State Business and Professions Code which provides that cities and counties review certain alcoholic beverage license applications in areas having an "undue concentration" of such beverage licenses. Local jurisdictions are to determine whether public convenience or necessity would be served by the issuance of these licenses and inform the State Department of Alcoholic Beverage Control.

Policy

It is the policy of the Board of Supervisors that the Director of Planning & Development Services or, upon appeal, the Planning Commission, shall determine public convenience or necessity for alcoholic beverage license applications. The following criteria and procedure shall be used in making such determinations:

Criteria:

1. The Sheriff's Department has determined that approval of the proposed alcoholic beverage license sought by the retail outlet will not negatively influence the rate of criminal activity in the neighborhood. In making this determination, the Sheriff has considered factors such as the incidence of:
 - a. Loitering and vandalism.
 - b. Public drinking and drunkenness.
 - c. Illegal drug usage and sales.
 - d. Theft and violent behavior.
2. The County has determined that the proposed alcoholic beverage license is compatible with neighborhood character and would be of benefit to the neighborhood. In making this determination, the Director of Planning & Development Services or the Planning Commission has considered factors such as:
 - a. Proximity and number of other retail outlets selling alcohol.
 - b. Proximity of the retail outlet to schools, playgrounds, and other facilities serving young people.

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- c. Proximity of the retail outlet to residential neighborhoods.
- d. Whether the alcoholic beverage license provides: (1) a wide range of desirable goods and services; or (2) a unique type of goods or services.

3. The Director of Planning & Development Services has verified that the establishment for which the alcoholic beverage license is requested has no active Building Code or Health Code violations of record, and is permitted by the applicable use regulations of the County Zoning Ordinance.

Procedure:

1. The applicant shall file with Planning & Development Services: a) the application form from the State Department of Alcoholic Beverage Control; b) the County application form and fee; and c) a statement as to why the license application should qualify for a determination of public convenience or necessity.
2. A copy of the application shall be sent to the Sheriffs Department for comment. The Sheriffs response to Planning & Development Services will include their determination as to whether the proposed license will negatively influence the rate of criminal activity in the neighborhood.
3. A copy of the application shall also be sent to the applicable planning or sponsor group and to the Department of Environmental Health and Quality and the Health and Human Services Agency for review and optional input on neighborhood compatibility criteria. The planning or sponsor group shall have 30 days to provide a recommendation with regard to compliance of the application with Policy Criterion #2 concerning neighborhood compatibility.
4. Planning & Development Services shall verify that the establishment requesting the license has no active Building or Health Code violations of record and conforms to the applicable Zoning Ordinance use regulations. A site visit may be made.
5. The Planning Director shall make a decision as to whether a determination of public convenience or necessity can be made based on the criteria above. This decision shall be made within 35 days of the date of filing of a complete application unless a written request for postponement has been received from the applicant.
6. The Director of Planning & Development Services' decision shall be transmitted in writing to the State Department of Alcoholic Beverage Control, the applicant, and the planning or sponsor group.

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7. The decision of the Director of Planning & Development Services may, within ten days of the date of that decision, be appealed in writing by the applicant or the planning or sponsor group to the Planning Commission. An applicant shall pay the appeal fees specified by the County Administrative Code.

8. When the appeal is received by Planning & Development Services, the Secretary of the Planning Commission shall schedule the matter for next available Planning Commission meeting. The Director shall provide the Planning Commission with a written brief on the matter and the written appeal.

9. The Planning Commission shall consider the matter and render a decision regarding the determination of public convenience or necessity. The decision of the Planning Commission shall be final.

10. The decision of the Planning Commission shall be transmitted in writing to the State Department of Alcoholic Beverage Control and to the license applicant.

11. Planning & Development Services will take no further action concerning a license application. However, a planning or sponsor group shall not be prevented by this Policy from appealing directly to the State Department of Alcoholic Beverage Control following a Planning Commission decision.

Sunset Date

This Policy will be reviewed for continuance by December 31, 2031.

Board Action

5/15/96 (4)
06-23-04 (12)
12-09-08 (33)
11-10-10 (7)
09-25-12 (11)
12-06-17 (6)
10-23-24 (8)

CAO Reference

1. Planning & Development Services
2. Sheriff's Department
3. Health and Human Services Agency
4. Department of Environmental Health and Quality