

**LOCAL
ORDINANCES
AND
CONDITIONAL USE
PERMITS:**

The badge is a five-pointed star with a decorative border. In the center is a circular seal depicting a figure on horseback, possibly a Native American or a historical figure, holding a staff. The word "POLICE" is written across the bottom of the seal.

***THE EMPOWERMENT OF
LAW ENFORCEMENT
POLICE***

***A Problem Oriented Policing Project
Fresno Police Department***

Officers Bruce Hartman & Ken Dodd

LOCAL ORDINANCES AND CONDITIONAL USE PERMITS

THE EMPOWERMENT OF LAW ENFORCEMENT

by

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ABSTRACT:

Scanning: Currently there are no consistent rules or conditions that exist within the city's policies that govern the issuance of permits, the sales or use of alcohol at designated locations or control of development or re zone requests.

Analysis: Calls for service are out of control at locations that have no conditions placed upon their ABC licenses. Without a lengthy process through the court system no restrictions can be placed on the problem locations. There was no police input on the original issuance of current or future license requests.

Response: A procedure was put in place to review all requests for new development, business and re zone with the police department being able to place conditions on the applications. Traditional law enforcement was conducted which resulted in the revocation of all issued permits for review and reissuance.

Assessment: On review of the new procedures that were established, calls for service dropped in excess of 87% at all problem locations. All new applicants have similar conditions and have created minimal calls for service.

SCANNING:

A restaurant generating more than 500 calls for service in a five-year period. It was licensed as a restaurant, but serves no food after 10:00 P.M. and has drink specials. The advertising attracted crowds of more than 500 people for dancing and another 100 outside waiting in line for admittance. The fire

department has rated the business for 300 patrons. Disturbances occurred inside and outside the establishment. Emergency services have difficulty getting to injured persons at the location and fights turn into small riots. To compound this another restaurant next door is competing with the drink specials and dance events.

A billiard room serving alcohol, calling themselves a family billiard room, generating 56 calls for service in a one -year period involving mostly gang disturbances between rival gangs. Minors under the age of 18 being the majority of the patrons of the establishment. The business had no valid business licence for 2 Vi years and was in violation of multiple municipal code violations. In a one month period it had 21 calls for service. The windows at the locations were closed to public view allowing unlawful activities to occur on the premises.

Disturbances occurred at both these locations inside and out in the parking lot. These ranging from verbal to gun involved and death, hi addition some patrons, drinking for two to four hours, then get into their vehicles and drive home having a noticeable amount of collisions while intoxicated. There was minimal lighting at both locations adding to the attraction for problem individuals.

Officers working the locations were always pursuing the problem, in a reactive mode, after the major disturbance occurred or arriving and being injured while trying to break up the fight. The officers finding victims in the parking lots and emergency medical equipment being unable to reach them. The community became involved during media coverage due to the continuing problems that were not resolved and allowed to flourish demanding police action and endangering public safety.

ANALYSIS:

To complete the first step in the analysis we had to answer a few questions:

1. How does the police department take pro active, preventive roles in dealing with a new or an established problem business beforehand rather than dealing with them in a punitive hearing after being identified?
2. Was any crime prevention included during their environmental design?
3. Where any background investigations or reviews of the anticipated business

studied?

4. Who handled these applications in the past?
5. What applicable local, state, federal laws regulate such establishments.

This revealed that there was a deficiency in the system and that no consistent control was used in the issuance of the permits or licenses. Numerous areas of the city government were involved, some that received forms and fees and the others needing complete review. During the analysis there were other areas handled with no consistency being development, redevelopment or re zoning. Now having an idea of the deficiencies and what areas were needed to be researched step two began.

The following services were analyzed:

- Crime Analysis - Calls for Service?
- City Permits & Finance Department - What needs to be controlled and what is needed?
- City Controller - Who can revoke and how?
- City Attorney - What authority do we have or need?
- Neighborhood revitalization - What are code violations?
- Neighborhood canvas - Who is offended?
- City Municipal Codes - Are there violations and applicable codes to enforce?
- Alcohol Beverage Control - How can they help?

Within the city permit and finance departments we found that the permits were issued by filling out a form and submitting a fee for a business license, the area was not checked for zoning violations nor compliance with other state or federal standards for its operation.

The city controller was the only person who could revoke the majority of the licences and permits that were issued by the city agencies. This had never been done prior nor was there a mechanism in place for this type of action.

The city attorney had no prior involvement in this procedure since there were no prior actions. No policy was in place for these types of revocation.

The neighborhood revitalization division had little involvement but was the agency that handled

the code enforcement and zoning enforcement.

Had the surrounding neighborhood been effected by the problem location and would they support our efforts in resolving the problem.

The municipal codes have been enforce but no one had enforced them. How quick can enforcement be done with their use and who will handle the prosecution and appeal. Where will this happen and who will handle these proceedings.

Alcohol Beverage Control needed research on who can enforce these codes and how long it takes for action under their hearings and appeals process.

This analysis revealed that the city police department needed to take a controlling pro active stance rather than the traditional reactive response. The community became involved during media coverage due to the continuing problems that were not resolved and allowed to flourish demanding police action for public safety.

We also identified it as one that is global rather than site specific in nature as it was previously handled.

RESPONSE:

The following responses were necessary and had to be considered:

Traditional Enforcement:

This is addressed through Alcohol Beverage Control for liquor establishments, nightclubs/restaurants, narcotics and prostitution operations at motels, and local ordinances for loitering, skateboarding which have caused disturbances at shopping centers.

POP Approach:

Based on our analysis the police department apparently had to become involved in the permit process at its inception rather than after issuance to best cope with the potential problems. The police department then took an active participation with the development department, and planning commission, to use the conditional use permit program more effectively. This made the business owners more accountable for poor business practices, rather than the community at large.

The goal is to maximize the effectiveness of business operations while using the least police

resources. To accomplish this the following basic conditions were established:

Convenience markets, self serve fueling stations, liquor stores:

Alcohol Advertising

There shall be no exterior advertising of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages that are clearly visible to the exterior shall constitute a violation of this condition.

Exterior Lighting

The establishment's entrances and parking lot will be illuminated sufficiently during hours of operation so that the appearance and conduct of persons in such areas are easily discernable from within 50 feet.

Interior Lighting

Areas inside the establishment open to customers will be illuminated sufficiently to allow the identification of persons.

Cash Control

Cash control measures shall be incorporated into the operation process, keeping cash to a minimum.

Iced Alcoholic Beverages

No "Iced Down" open beer, wine or related alcoholic beverage display units shall be allowed on the premises.

ABC Education

Any and all employees hired to sell alcoholic beverages shall provide evidence that they have either: (1) taken training from the State of California Department of Alcoholic Beverage Control-Fresno District Office-administered "Leadership and Education in Alcohol and Drugs" (LEAD) Program in the form of an ABC-issued certificate; or, (2) taken an accepted equivalent by the ABC— Fresno District Office to ensure proper distribution of beer, wine, distilled spirits,

tobacco, and inhalants to ensure proper distribution of beer, wine, distilled spirits, tobacco, and inhalants to adults of legal age. If any prospective employee designated to sell alcoholic beverages, tobacco or inhalants does not currently have such training then, (3) the ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the Director's decision, or by final project approval, that a date certain has been scheduled with the local ABC Office to take the LEAD Program course.

Within 30 days of taking said course the subject employee(s) or responsible employer shall deliver each required LEAD Program Certificate showing completion of said course.

Illegal Drugs

The establishment will not allow illegal drugs to be sold, ingested, injected, or inhaled in the building premises or on any adjacent property under its control.

Drinking Outside

The establishment will not allow alcoholic beverages to be consumed outside the building premises or on any adjacent property under its control.

Litter

The establishment will collect litter in the immediate area of operation and complete such litter control by 3:00 a.m. following each evening of operation

Surveillance Camera's

Applicants shall provide a working video tape system of a type approved by the Fresno Police Department. The recorder shall be a color system and VHS format.

Refrigerated "Cold Boxes"

The refrigerated "cold boxes" designated to store alcoholic beverages shall be designed to be separated from the non-alcoholic beverages by durable glass, solid metal, or screen wall divisions in those areas approachable by patrons; and said "cold boxes" shall be locked either by manual pad-lock or remote control lock system(s) controlled by the cashier(s) on-duty, only to be opened upon the clerk's verification of "legal age" customer verification from 12:00 a.m. (midnight) thru

02:00 a.m. No sales of alcoholic beverages from 02:00 a.m. thru 06:00 a.m. in compliance with B&P Section 25631, Retail Hours of Sale, these areas shall remain locked during this time period.

Non-refrigerated Alcoholic Beverages

The newly stocked, non-refrigerated "hard" liquor or "distilled spirits", and other non-refrigerated alcoholic beverages shall be placed either behind or within the cashier's area; or, at a location which is the farthest away as possible from the front entrance to the store. Convenience markets newly stocked, non-refrigerated "hard" liquor or "distilled spirits," shall be located either in a locked cabinet, or other locked shelving system, operated either by manual or remote control locking device(s); only to be opened upon the clerk's verification of "legal age" customer verification from 12:00 p.m. (midnight) thru 02:00 a.m. No sales of alcoholic beverages from 02:00 a.m. thru 06:00 a.m. in compliance with B&P Section 25631, Retail Hours of Sale, these areas shall remain locked during this time period.

Fuel System

Applicant shall have a pay first and/or credit card gas system or adopt the Fresno Police self-report system for gas thefts.

Drive Through Service

No alcoholic beverages shall be sold to any person while such person is in a motor vehicle. The sale and delivery of alcoholic beverages shall be made to persons who are within the licensed premises only and not through a pass-out window, or a slide-out tray to the exterior of the premises.

Graffiti.

Any graffiti painted or marked upon the premises or on an adjacent area under the control of the licensee shall be removed or painted over within 48 hours.

Restaurants with dance permits:

Drinking Outside

The establishment will not allow alcoholic beverages to be consumed outside the building premises or on any adjacent property under its control. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises (ie. parking lot & sidewalks).

Illegal Drugs

The establishment will not allow illegal drugs to be sold, ingested, injected, or inhaled in the building premises or on any adjacent property under its control.

Minors

The establishment will not permit patrons under the age of 21 to remain after the dining room of the restaurant closes for full meal service, and will discourage subsequent loitering by such persons in the parking lot or on any adjacent property under its control.

Security Plan

The establishment will develop and maintain a written security plan for the licensed location which is acceptable to the Fresno Police Department's Area Commander or designee. This plan may be amended as circumstances warrant from time to time by obtaining the agreement of such Fresno Police Department representative.

The plan will include:

- An adequate number of acceptable security personnel on evenings of special activities.
- Readily identifiable personnel to monitor and control the behavior of customers inside the building premises.
- Patrols outside in the parking lot and any adjacent property under the establishment's control to ensure the areas are (a) free of people loitering or causing a disturbance and (b) are cleared of patrons and their vehicles one-half hour after closing.
- Notice from the establishment to the Fresno Police Department representative at least one week before special entertainment events which are reasonably

anticipated to attract larger or different patronage.

The establishment must correct any safety or security problem or security plan violation upon written notice of such problem from the Fresno Police Department. After the initial security plan is approved and implemented, the Fresno Police Department will periodically meet with the establishment to review the security plan and any calls for service to the licensed location.

Reviews will be each month for the first six months, each six months for the next two years, and annually thereafter.

Real Property Responsibility

The proprietor will agree that no more than twenty-five (25%) percent in excess over the rate of similar calls for police service (as described in F.M.C. Section 9-909, "Unlawful Nuisances") in the immediate *QA* mile) area generated directly by said business is considered acceptable.

Unrelated police calls at the business, (i.e., vehicle burglary, traffic accidents, unrelated disturbances) will be exempt. The ABC licensee/petitioner/store proprietor should understand, that upon verifying that a determination by the Police Department that the number and type of calls for police service at this location are excessive can constitute grounds for possible revocation of the land use privilege.

Patio Area

- a. The licensee(s) will be present and/or responsible at all times that alcoholic beverages are being served or consumed, to ensure that Alcoholic Beverage Control Act, State Statute, County or City Ordinances are not violated upon this portion of the licensed premises.
- b. The boundaries of this patio will be clearly defined and designated by physical barriers to separate it from the public sidewalk and adjacent private property which is not under the exclusive control of the licensee. These barriers and boundaries, as approved and designated on ABC-257, shall not be changed without prior approval of the Department of Alcoholic Beverage Control.
- c. All exterior music shall end at 9:30 pm and shall be concluded by 9:45 pm.

Happy Hours

There shall be no "happy hours" where alcoholic beverages are electronically advertised at discounted prices which are less than the standard prices.

Entertainment

Entertainment provided shall not be audible beyond the area under control of the licensee.

Noise

The establishment will control noise levels of music and entertainment to be within the City's noise requirements.

Overcrowding

The establishment will control its total occupancy to comply with the Fresno Fire Department's requirements, as the same may be adjusted for circumstances from time to time, and will keep an accurate count of patrons at all times dance and entertainment activities are being conducted.

Conditions Available at Premises

The establishment will keep a copy of these conditions on the premises and produce it at any time upon the request of a police officer.

Billiard Rooms:

Hours of Operation. (FMC 7-203)

No person shall operate a billiard room between the hours of 2:00 a.m. and 6:00 a.m., or permit or allow any person to remain in any billiard room between the hours of 2:00 a.m. and 6:00 a.m.

This shall not be construed to prevent regular employees from performing necessary work within the premises.

Minors. (FMC 7-204)

(a) No person under the age of eighteen years shall be in, remain in, enter or visit any billiard room, unless accompanied by his parent or guardian.

(b) No person having charge or control of any billiard room shall permit or allow any such person under the age of eighteen to be in, remain in, enter or visit any such billiard room, unless such

minor person is accompanied by his parent or guardian.

(c) No person shall represent himself to have reached the age of eighteen years in order to obtain admission to such billiard room or to be permitted to remain therein when such person in fact is under eighteen years of age.

Minors Accompanied by a Parent or Guardian. (FMC 7-204.1.)

(1) No alcoholic beverages of any kind shall be sold, consumed or possessed by any person on the premises of the billiard room or on any other premises having access (other than by means of a public street) to the premises of the billiard room.

(2) No gambling, betting or wagering of any kind shall be suffered, allowed or permitted on the premises of the billiard room.

(3) No profanity of any kind shall be used, suffered, allowed or permitted on the premises of the billiard room.

(4) The curfew hours for minors shall be strictly observed and enforced on the premises of the billiard room.

(5) The owners, managers and operators, and each of them, of the billiard room shall be strictly responsible for the enforcement of all rules and regulations, and shall not permit any person violating any rule or regulation to remain in such billiard room, and shall not permit any habitual violator to enter such billiard room.

(6) At least four signs shall be posted and maintained at conspicuous places in and about the billiard room, printed in bold one-Inchaurregui-high letters placed on a contrasting background, and setting forth the substance of the rules and regulations in this section.

Illegal Drugs

The establishment will not allow illegal drugs to be sold, ingested, injected, or inhaled in the building premises or on any adjacent property under its control.

Litter

The establishment will collect litter in the immediate area of operation and complete such litter

control by 3:00 a.m. following each evening of operation.

Graffiti

Any graffiti painted or marked upon the premises or on an adjacent area under the control of the licensee shall be removed or painted over within 48 hours.

Parking

The petitioner shall provide off street parking spaces for use by patrons of the premises.

Loitering

Petitioner shall not permit any loitering on any property adjacent to the licensed premises under the control of the licensee.

Lighting

Exterior Lighting.

The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot.

Interior Lighting.

Areas inside the establishment open to customers will be illuminated sufficiently to allow the identification of persons.

Dancing

No dancing will be permitted on the premises.

Alcohol

(a) There shall be no exterior advertising of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages which are clearly visible to the exterior shall constitute a violation of this condition.

(b) No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensees.

(c) No person under the age of 21 shall buy or consume alcoholic beverages on the listed premises.

Amusement Devices

Video game's and/or all coin operated amusement devices shall be licensed according to and within the guidelines of the city finance division.

We also became involved with amusement devices and all related areas that in the past consistently caused problems for law enforcement. This allowed control of conditions creating crime prevention through environmental design. In this way the idea was acceptable to any business and made no hindrance to its legitimate operation.

ASSESSMENT:

During the initial development of the program the business owners and the developers fought it. Their concerns were that "no one is going to tell me how to do it." After the first few trial cases before the arbitrator, planning commission and city council, they gained a respect for our concerns for public safety. The people who were objecting to our interference were now asking for our help in planning.

As an example of the program's success the restaurant that had a total of 127 calls for service in the first quarter of 1995 dropped to 32 calls in 1996. Now in the first quarter of 1997 it had 3 calls for service related to the dance and bar service. This being a substantial reduction and now a safe environment for the public to patronize.

The billiard room which created 56 calls for service in a year involving gang disturbances now has only generated 3 calls for service. These calls were for suspicious persons and vehicles and involved no police reports being generated and limited officer time spent. Now elderly men play billiards and the gang members no longer loiter at the business.

This along with other evaluated cases were presented to both the planning commission and city council who now had a better understanding on our ability to create crime prevention through environmental design and review. We were business friendly and not out to hinder or put people out of business. Our ability for creating a safe place to patronize was becoming more apparent with the public

and media asking our opinions and to present reports on impact of business, re zone and development issues.

For the past two years the police department has been involved in the issuance of all business permits, developments and re zoning requests. This allowed the police perspective to be taken into consideration on the front end with a cost savings to the community. We eliminated the number of calls for service at potential problem locations. The city now has a policy that POP teams review all applications for new development prior to issuance of the permit or licenses.

AGENCY AND OFFICER INFORMATION:

The initiative was implemented at the POP Officer level and worked out with the Development Department and other city agencies. The city municipal codes, alcohol beverage control and city planner with the city attorney's office being used to complete the conditional use permit procedures.

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