

ORDINANCE NO. 1399 N.C. (2d)

AN ORDINANCE OF THE CITY OF VALLEJO AMENDING SECTION 2 (PART) OF ORDINANCE NO. 558 N.C. (2d), AS AMENDED, OF THE VALLEJO MUNICIPAL CODE TO REPLACE ALCOHOLIC BEVERAGES WITH "DEEMED APPROVED" STATUS, AND TO ADOPT REGULATIONS PERTAINING TO PERFORMANCE STANDARDS AND ABATEMENT PROCEDURES.

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

Section 1. Chapter 16.04 Definitions, is hereby amended by adding the following:

16.04.115 Alcoholic beverage.

"Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances, and sales of which requires a State of California Department of Alcoholic Beverage Control license.

Section 2. Chapter 16.04 Definitions, Section 335 Nonconforming Use is hereby amended as follows:

16.04.335 Nonconforming use.

"Nonconforming use" means a use of a building, structure, or site, or portion thereof, or a building, structure or facility itself, which was lawfully established, and maintained, erected or altered but which, because of the application of this title to it, no longer conforms to the specific regulations applicable to it. Provided however, that this term shall not apply to any use involving the sale of alcoholic beverages (see also "Deemed Approved Use").

Section 3. Chapter 16.04 Definitions, is hereby amended by adding the following:

16.04.138 Deemed Approved Use.

"Deemed Approved Use" means a business or entity which uses a building, structure, or site, or portion thereof, for the sale of alcoholic beverages, which was lawfully

established and maintained (not terminated for a period of twelve (12) continuous months), but which no longer conforms to the relevant provisions of this title. Furthermore a "Deemed Approved Use" shall no longer be considered a "Nonconforming Use".

Section 4. Chapter 16.78 Non Conforming Use Regulations, is hereby amended as follows:

Chapter 16.78

NONCONFORMING USE AND DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

Sections:

Part I Nonconforming Use Regulations

- 16.78.010 Title and purpose.
- 16.78.020 Right to continue a nonconformity.
- 16.78.030 Effect of rezoning or annexation.
- 16.78.040 Nonconforming useCAbandonment.
- 16.78.050 Damaged or destroyed nonconforming
usesCExceptions thereto.
- 16.78.060 Nonconforming useCRepairs and alterations of
structures.
- 16.78.070 Nonconforming useCExpansion.
- 16.78.080 Nonconforming useCPermitted substitutions.
- 16.78.090 Nonconforming useCConversion to permitted use.

Part II Deemed Approved Alcoholic Beverage Sale Regulations

- 16.78.110 Deemed Approved Regulations - Title and purpose.
- 16.78.120 Automatic Deemed Approved Status.
- 16.78.130 Deemed Approved UseCAbandonment.
- 16.78.140 Notification to Owners of Deemed Approved Uses.
- 16.78.150 Deemed Approved Use - Performance standards.
- 16.78.160 Procedures for enforcement of performance
standards.
- 16.78.170 Procedures for conduct of hearing and appeals.
- 16.78.180 Fees.
- 16.78.190 Illegal Use.

Part I NONCONFORMING USE REGULATIONS

16.78.010 Title and purpose.

The provisions of Sections 16.78.010 through 16.78.090, inclusive, shall be known as the nonconforming use regulations. The purpose of these regulations is to control, ameliorate, or terminate uses which do not conform to this title. These regulations shall apply to all nonconforming uses, except that nonconforming off-premises signs shall be subject to regulations described in Chapter 16.64. (Ord. 742 N.C.(2d) 9 27, 1984: Ord. 675 N.C.(2d) 9 1 (part), 1982.)

16.78.020 Right to continue a nonconformity.

A Nonconforming Use, as defined in Section 16.04.335, which is in existence or under construction on the effective date of the zoning ordinance codified in this title or of any subsequent rezoning or other amendment thereto which creates such use nonconformity, may be continued and maintained, except as otherwise specified in these nonconformity use regulations. None of the provisions of the nonconforming use regulations restrict any authority to require modification or termination of any nonconforming use which has been declared to be a nuisance by the City Council. (Ord. 675 N.C.(2d) 9 1 (part), 1982.)

Sections 16.78.030 through and including .090 - no change.

Section 5. Chapter 16.78 Non Conforming Use Regulations, is hereby amended by adding the following:

Part II DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

16.78.110 Deemed Approved Regulations - Title and purpose.

The provisions of Section 16.78.110 through 16.78.190 inclusive, shall be known as the Deemed Approved Alcoholic Beverage Sale Regulations. The purpose of these regulations is to promote the public health, safety and general welfare by requiring that businesses which sell alcoholic beverages and were nonconforming uses before the adoption of these regulations comply with the Deemed Approved Performance

Standards as specified in section 16.78.150 and to achieve the following objectives:

- A. To protect adjacent neighborhoods from the harmful effects attributable to the sale of alcoholic beverages.
- B. To provide opportunities for businesses which sell alcoholic beverages to operate in a mutually beneficial relationship to each other and to other commercial and civic services.
- C. To provide mechanisms to address problems often associated with the public consumption of alcoholic beverages, such as litter, loitering, graffiti, unruly behavior and escalated noise levels.
- D. To ensure that businesses which sell alcoholic beverages are not the source of undue public nuisances in the community.
- E. To ensure that sites where alcoholic beverages are sold are properly maintained so that negative impacts generated by these activities are not harmful to the surrounding environment in any way.
- F. To monitor Deemed Approved Uses to ensure that they do not substantially change their mode or character of operation.

16.78.120 Automatic deemed approved status.

All businesses engaged in the sale of alcoholic beverages, including bona fide eating places, that were Nonconforming Uses prior to August 25, 1998 shall automatically become Deemed Approved Uses and shall no longer be considered Nonconforming Uses. Each such Deemed Approved Use shall retain this status as long as it complies with the Deemed Approved Performance Standards as specified in Section 16.78.150. None of the provisions of this chapter restrict any authority to require modification or termination of any Deemed Approved Use which does not conform to the provisions of Section 16.78.150 or which has been declared to be a nuisance by the City Council.

16.78.130 Deemed Approved Use C Abandonment.

Whenever a Deemed Approved Use discontinues active operation for a continuous period of twelve months, such Deemed Approved Use shall not be resumed. Related structures may be utilized thereafter only for a permitted use. Furthermore, if another use has been substituted before the lapsing of twelve months, the original Deemed Approved Use may not be resumed thereafter.

16.78.140 Notification to owners of Deemed Approved Uses.

The Planning Manager shall notify the owner of each Deemed Approved Use, and also the property owner if not the same, of the use's Deemed Approved status. Such notice shall be sent via certified return receipt mail; shall include a copy of the performance standards as specified in Section 16.78.150, with the requirement that these be posted in a conspicuous and unobstructed place visible from the entrance of the establishment for public review; notification that the use is required to comply with all these performance standards; that a review fee is required, the amount of such fee shall be as established or amended by the City Council; and that the use is required to comply with all other aspects of the Deemed Approved Regulations. Should the notice be returned, then the notice shall be sent via regular U. S. Mail. Failure of any person to receive notice given pursuant to this section shall not affect the Deemed Approved status of the use.

16.78.150 Deemed Approved Uses - Performance standards.

An activity shall retain its deemed approved status only if it conforms with all of the following "Deemed Approved Performance Standards":

- A. It does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area.
- B. It does not result in jeopardizing or endangering the public health or safety of persons residing or working in the surrounding area.
- C. It does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace,

illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.

- D. It does not result in violations to any applicable provision of any other city, county, state, or federal regulation, ordinance, or statute.
- E. Its upkeep and operating characteristics are compatible with and will not adversely affect the liveability or appropriate development of abutting properties and the surrounding area.
- F. A copy of the performance standards shall be posted in a conspicuous and unobstructed place visible from the entrance of the establishment for public review.

16.78.160 Procedure for enforcement of performance standards.

Upon receiving a complaint from the public, Police Department, or any other interested person that a Deemed Approved Use is in violation of the performance standards as specified in Section 16.78.150, the following procedure shall be followed:

- A. A three member Complaint Response Team, led by a representative of the Development Services Department, and also consisting of a Police Department Beat Health Officer, and a member of the Vallejo Alcohol Policy Coalition (VAPC), or in place of a member of VAPC, any other person or entity designated by the City Council, will assess the nature of the complaint and its validity. Each team member's role, vis-a-vis the complaint and subsequent investigation, will be developed to correspond to the area of authority and/or expertise. For example, the representative of the Development Services Department will investigate the alleged land use and/or code violations, the Police Department Beat Health Officer will investigate any alleged criminal violations, and the VAPC representative or other designated member will talk

to members of the surrounding community to assess their perception of the alleged violation.

- B. There shall also exist an Alcohol Outlet Advisory Board, which shall consist of at least two owners and/or operators of businesses which sell alcoholic products. This Advisory Board shall meet with the Police Department Beat Health representative quarterly, or more often if needed, to review complaints relating to alcohol outlets, and to make recommendations on how to reduce/eliminate problems in or around alcohol outlets. The Advisory Board may also make recommendations relating to any changes to the Vallejo Municipal Code governing the operation of alcohol outlets.
- C. Based upon the findings of the Complaint Response Team, and recommendations from the Alcohol Outlet Advisory Board, recommendations to ameliorate any problems discovered will be made to the Deemed Approved Use. After an appropriate period of time (e.g. 2-3 weeks) the Team will revisit the site and surrounding community to determine if the violations have been abated.
 - 1. If the problems have been abated, then a subsequent visit by the Team may be made 30-60 days after the last visit to establish that the Deemed Approved Use remains in compliance.
 - 2. If the problems persist or the owner or operator of the business fails to cooperate with or respond to the Complaint Response Team, the Team will forward all materials to the Administrative Hearing Officer (AHO) to determine whether the Deemed Approved Use status of the business should be modified or revoked.
- D. Once it is determined by the City that violations appear to be occurring, then the AHO shall review the Deemed Approved Status of the Deemed Approved Use in question at a public hearing using the procedures specified in Section 16.78.170.

16.78.170 Procedures for conduct of hearings and appeals.

16.78.171 General

- A. Administrative Hearing Officers - The City Manager may appoint one or more Administrative Hearing Officers to conduct the hearings. The AHO hearing the case shall exercise all powers relating to the conduct of hearings unless/until the decision of the Administrative Hearing Officer is appealed to the Planning Commission and/or the City Council.
- B. Record - A record of the entire proceedings shall be made by tape recording, or by other means of permanent recording determined to be appropriate by the City Manager.
- C. Reporting - The proceedings at the hearing shall also be reported by a court reporter if requested by any party hereto at their expense. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the City Council, but shall in no event be greater than the cost involved.
- D. Continuances - The AHO, Planning Commission, and the City Council may grant continuances for good cause shown.
- E. Oaths/Certification - In any proceedings under this chapter, the AHO, the Chairperson of the Planning Commission, the Mayor, the City Clerk, or the City Attorney (or his/her designee), has the power to administer oaths and affirmations and to certify to official acts.
- F. Reasonable Dispatch - The AHO, the Planning Commission, and the City Council shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.
- G. Party or Parties Defined - For the purposes of Vallejo Municipal Code Section 16.78.170, the term party or parties refers to the City of Vallejo, the owner of the Deemed Approved Use, and also the property owner if not the same.

16.78.172 Notice.

At least twenty-one days before the public hearing, the Planning Manager shall notify the owner of the Deemed Approved Use, and also the property owner if not the same, of the time and place of the public hearing. Notice may be accomplished by personal service or sent via certified return receipt mail or by posting the property in a conspicuous place and mailing a copy thereof by first class mail, and shall include notification that the status of the business as a Deemed Approved Use will be considered for modification or revocation by the Administrative Hearing Officer. In addition, the public hearing shall be noticed in accordance with the notice provisions set forth in Vallejo Municipal Code Section 16.82.030. Failure of any person or party to receive notice given pursuant to this section shall not affect the validity of any proceedings hereunder. Fees for notification shall be set by resolution of the City Council and shall be paid for by the owner of the Deemed Approved Use.

16.78.173 Form of notice of hearing.

The notice to the owner of the Deemed Approved Use, and also the property owner if not the same, shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held before the (name of the Administrative Hearing Officer, Planning Commission, or City Council, as appropriate) on the _____ day of _____, _____, at the hour _____ to determine whether the Deemed Approved Use status of the business operated at _____ shall be modified or revoked pursuant to the Deemed Approved Alcoholic Beverage Sale Regulations contained in Chapter 16.78 of the Vallejo Municipal Code. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the production of books, documents or other things or subpoena witnesses, at your expense, by filing an affidavit therefor in the Planning Division for the hearing officer (name of

the hearing officer, the Planning Division, or the City Clerk, as appropriate).

(A brief statement of the reason(s) for the hearing shall be included with the notice.)

16.78.174 Conduct of hearings.

- A. Rules - Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- B. Oral Evidence - Oral evidence shall be taken only on oath or affirmation.
- C. Hearsay Evidence - Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
- D. Admissibility of Evidence - Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdictions in this state.
- E. Exclusion of Evidence - Irrelevant and unduly repetitious evidence shall be excluded.
- F. Rights of Parties - Each party shall have these rights, among others:
 - 1. To call and examine witnesses on any matter relevant to the issues of the hearing;
 - 2. To introduce documentary and physical evidence;
 - 3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

4. To impeach any witness regardless of which party first called the witness to testify;
5. To rebut the evidence;
6. To be represented by anyone who is lawfully permitted to do so.

G. Official Notice.

1. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the departments and ordinances of the city.
2. Parties to be noticed. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.
3. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the AHO, Planning Commission, or the City Council.
4. Inspection of the premises. The AHO may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the AHO shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the AHO.

H. Subpoenas.

1. Filing of Affidavit - Upon a showing of good cause by a party, the AHO may issue a subpoena for the attendance of witnesses or the production of other evidence at the hearing. The issuance of such subpoena shall be obtained upon the filing by a party of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in his possession or under his control. A subpoena need not be issued when the affidavit fails to show good cause or when the affidavit is defective in any particular.
2. All expenses associated with the issuance of the subpoena, including, but not limited to, the cost of service and witness fees, as set forth by State law, shall be the responsibility of the party requesting and obtaining the issuance of the subpoena.
3. Penalties - Any person who refuses without lawful excuse to attend any hearing, or to produce material evidence which the person possesses or controls as required by any subpoena served upon such person as provided herein shall be guilty of a misdemeanor.

16.78.175 Purpose of the public hearing before the Administrative Hearing Officer.

- A. The purpose of the public hearing before the AHO is to receive testimony on whether the operating methods of the Deemed Approved Use are causing undue negative impacts in the surrounding area.
- B. At the public hearing, the AHO shall determine whether the Deemed Approved Use conforms to the performance standards as specified in Section 16.78.150, and to any other applicable criteria.
- C. The AHO may continue the Deemed Approved status for the Use in question, may require such changes or impose such reasonable conditions of approval as are in the judgement of the Administrative Hearing Officer necessary to ensure conformity to said criteria, or may revoke the Deemed

Approved Use's Deemed Approved Status. If new conditions are being imposed, such conditions shall be based upon the evidence before the Administrative Hearing Officer.

- D. The decision of the AHO shall be based upon all evidence received at the hearing, including, but not limited to, information compiled by staff and testimony from the owner of the Deemed Approved Use and all other interested persons. The new conditions of approval shall be made a part of the Deemed Approved Status and the Deemed Approved Use shall be required to comply with these conditions.

16.78.176 Method and form of decision of the Administrative Hearing Officer.

- A. The AHO shall within a reasonable time (not to exceed thirty (30) days from the date the hearing is closed) submit to the Planning Manager a written decision containing a brief summary of the evidence considered and the officer's findings and conclusions, including any operational conditions that are being place on the Deemed Approve Use. The AHO's written decision shall be a matter of public record. A copy of the decision shall be served on each party by personal service or by certified return receipt mail. Service of the decision shall be deemed complete at the time it is personally served or deposited in the mail with the correct amount of postage affixed. Failure to receive a copy of the decision served pursuant to this section shall not affect the validity of the decision.
- B. Effective date of decision - The decision of the Administrative Hearing Officer shall become final ten (10) days after the service of the decision is deemed complete pursuant to Subsection A above unless appealed to the Planning Commission in accordance with Section 16.78.178.

16.78.177 Procedure for consideration of violations to conditions of approval.

- A. In the event of a failure to comply with any prescribed Condition of Approval imposed by the AHO as provided in

Section 16.78.174 of these regulations, the AHO may hold another public hearing. Notification of this hearing shall be in accordance with Sections 16.78.172 and 16.78.173.

- B. The purpose of this hearing is to receive testimony and determine whether violations to any Conditions of Approval attached to the Deemed Approved Use have occurred. The hearing shall be conducted as provided in Section 16.78.174. The Officer may add to or amend the existing Conditions of Approval based upon the evidence presented; or alternatively may revoke the Deemed Approved Use's Deemed Approved status. The provisions of Section 16.78.176 A, concerning the AHO's written decision, shall be followed.
- C. The decision of the Administrative Hearing Officer shall become final in the same manner as provided for in Section 16.78.176 B.

16.78.178 Appeal to Planning Commission.

- A. If a timely appeal of the decision of the AHO is filed with the Secretary of the Planning Commission, the Planning Manager shall agendize the appeal and send notice of the public hearing to all parties, owners of property within 500 feet of the business location, all homeowners associations within 1,000 of the business location, and to the Planning Commission at least 14 days before the date of the hearing. Notice to parties shall be delivered personally or sent by certified return receipt mail. Service on parties shall be deemed complete at the time said notice is personally served or deposited in the mail with the correct amount of postage affixed. Failure to receive notice given pursuant to this section shall not affect the validity of any appeal hearing hereunder.
- B. The Planning Manager shall forward a copy of the record of the public hearing before the AHO, the written decision of the AHO, the appeal letter, and all other pertinent information for consideration by the Planning Commission.

- C. Such appeal shall be in writing and shall state specifically wherein it is claimed there was an error or abuse of discretion by the Administrative Hearing Officer or wherein his/her decision is not supported by evidence in the record. The appeal shall be accompanied by such information as may be required to facilitate review.
- D. In considering the appeal, the Planning Commission shall determine whether the Deemed Approve Use conforms to the applicable Deemed Approved Standards and/or any Conditions of Approval, and may continue or revoke a Deemed Approved Use; or require such changes in the existing use or impose such reasonable Conditions of Approval as are, in its judgment, necessary to ensure conformity to said Deemed Approved standards.
- E. Form of decision - The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be served on the parties by personal service or by certified return receipt mail. Service of the decision shall be deemed complete at the time it is personally served or deposited in the mail with the correct amount of postage affixed. Failure to receive a copy of the decision served pursuant to this section shall not affect the validity of the decision rendered herein.
- F. The decision of the Planning Commission shall be final unless appealed to the City Council in accordance with Section 16.78.179.

16.78.179 Appeal on the revocation of Deemed Approved Status to the City Council.

- A. Within ten calendar days after the date a decision is rendered by the Planning Commission to revoke a Deemed Approved Use, an appeal may be taken to the City Council by any party.
- B. If a timely appeal of the decision of the Planning Commission to revoke a Deemed Approved Use is filed with the City Clerk, the appeal shall be agendized and notice of the public hearing shall be sent to all parties, owners of property within 500 feet of the

business location, all homeowners associations within 1,000 of the business location, and to the Planning Commission at least 14 days before the date of the hearing. Notice to parties shall be delivered personally or sent by certified return receipt mail with the correct amount of postage affixed. Failure to receive notice given pursuant to this section shall not affect the validity of any appeal hearing hereunder.

- C. The City Clerk shall forward a copy of the record and written decision of the AHO, a copy of the record and findings of the Planning Commission, the appeal letter, and all other pertinent information for consideration by the City Council.
- D. The appeal shall be set forth in writing and state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Commission or wherein its decision is not supported by the evidence in the record.
- E. In considering the appeal, the Council shall determine whether the Deemed Approved Use conforms to the applicable Deemed Approved Standards, and may approve or disapprove the revocation or require such changes therein or impose such reasonable Conditions of Approval as are in its judgment necessary to ensure conformity to said Standards.
- F. Form of decision - The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be served on the parties by personal service or by certified return receipt mail. Service of the decision shall be deemed complete at the time it is personally served or deposited in the mail with the correct amount of postage affixed. Failure to receive a copy of the decision served pursuant to this section shall not affect the validity of the decision rendered herein.
- G. The decision of the City Council shall be final unless overruled by a court of competent jurisdiction.

16.78.180 Fees.

The City Council does hereby establish the following fees in order to carry out the purpose and intent of this chapter.

- A. All existing alcohol outlets (Licensee) shall be required to pay a one time fee of three hundred dollars (\$300) for which they will receive education about the Deemed Approved Ordinance and an inspection by the Complaint Response Team to help the businesses assess the degree to which they are in compliance with the Performance Standards contained in the ordinance. However, this fee will be waived for existing businesses which submit a copy of their report to the Department of Alcoholic Beverage Control documenting that they sold/served less than one thousand dollars (\$1,000) worth of a alcohol during the preceding twelve (12) month period.
- B. All new outlets, or outlets (Licensee) changing ownership after the enactment of the Deemed Approved Ordinance, will be required to pay a one time fee of three hundred dollars (\$300) for the education and inspection services described above.
- C. Fines of five hundred dollars (\$500), one thousand dollars (\$1,000), and five thousand dollars (\$5,000) for the first, second and third offenses respectively, will be levied (per the process outlined in the Ordinance) upon outlets determined to be out of compliance with the Performance Standards. These fines shall be part of the Administrative Citation process.
- D. There will be no additional fees assessed to merchants other than those discussed above.
- E. Failure of any person to pay a fee as specified above, within 30 days of receipt of the bill, which shall be sent by regular U. S. Mail, shall constitute a debt to the City. To enforce that debt, the City Manager, or his/her designee, may file a claim with the Small Claims Court, or direct the City Attorney to employ other available legal remedies.

16.78.190 Illegal Use.

A Use which has been finally determined to be in noncompliance with the Deemed Approved Performance Standards

shall lose its Deemed Approved Status and shall no longer be considered a legal use of the building, structure, site, or portion thereof, and shall cease operation immediately.

Section 6. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

Section 7. Effective Date. This ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage.

FIRST READ at a regular meeting of the Council of the City of Vallejo held the 18th day of August, 1998, and finally passed and adopted at a regular meeting of the Council held the 25th day of August, 1998, by the following vote:

AYES: Mayor Exline, Vice Mayor Martin, Councilmembers
Donahue, Pitts, Hicks, Schivley, and Rey
NOES: None
ABSENT: None

//s//

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GLORIA EXLINE, MAYOR

ATTEST: _____
//s//

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ALLISON VILLARANTE, CITY

CLERK