



## PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**DATE:** June 7, 2023

**TO:** Hearing Officer

**SUBJECT:** Conditional Use Permit #7095

**LOCATION:** 37 N. Catalina Avenue

**APPLICANT:** Rhodes Alley, Inc.

**ZONING DESIGNATION:** CD-5-AD-2 (Central District Specific Plan, Lake Avenue subdistrict, Alcohol Density overlay)

**GENERAL PLAN DESIGNATION:** High Mixed Use

**CASE PLANNER:** Jason Van Patten

**STAFF RECOMMENDATION:** Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Conditional Use Permit #7095 with the conditions in Attachment B

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**PROJECT PROPOSAL:** Conditional Use Permit: To allow the on-site sale and consumption of full alcohol (beer, wine and distilled spirits) in conjunction with the operation of an existing commercial entertainment use (T Boyles).

**ENVIRONMENTAL DETERMINATION:** This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15301, Class 1, Existing Facilities) and that there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. This exemption applies to the operation and permitting of uses in existing structures where there is no negligible or expansion of the use. The proposal involves an upgrade in alcohol license type and no expansion to the existing use will occur.

**BACKGROUND:**

**Site characteristics:** The subject property is located on the north side of Colorado Boulevard between Catalina Avenue on the east and Mentor Avenue on the west. The existing multi-tenant building extends from Colorado Boulevard north to Rhodes Alley. A surface parking lot abuts the property to the north. Nonresidential use resides on-site and surround the site.

**Adjacent Uses:**

- North – Off-street parking lot
- South – Banks and Financial Services
- East – Retail Sales, Personal Services, Commercial Entertainment, Restaurants Fast Food
- West – Printing and Publishing, Personal Improvement Services

**Adjacent Zoning:**

- North – CD-5-AD-2 (Central District Specific Plan, Lake Avenue subdistrict, Alcohol Density overlay)
- South – CD-5-AD-2 (Central District Specific Plan, Lake Avenue subdistrict, Alcohol Density overlay)
- East – CD-5-AD-2 (Central District Specific Plan, Lake Avenue subdistrict, Alcohol Density overlay)
- West – CD-5-AD-2 (Central District Specific Plan, Lake Avenue subdistrict, Alcohol Density overlay)

**Previous Cases:** Use Permit #879: Permission for deletion of 15 required parking spaces during the day and nine spaces at night, in conjunction with the operation of a restaurant. Approved March 11, 1976.

**PROJECT DESCRIPTION:**

The applicant, Rhodes Alley, Inc., has submitted a Conditional Use Permit application to allow the on-site sale and consumption of full alcohol sales (beer, wine and distilled spirits) in conjunction with the operation of an existing Commercial Entertainment use (T Boyles). A Conditional Use Permit is required for the accessory sales of alcohol in the CD-5-AD-2 (Central District Specific Plan, Lake Avenue subdistrict, Alcohol Density overlay) zoning district.

T Boyles is an existing business that has operated at the subject site since 2009. The establishment operates within an approximate 4,200-square-foot, two-level tenant space located at the rear of the property (north side of the building) that is accessible from Rhodes Alley, off Catalina Avenue. The business provides dining area and kitchen facilities, restrooms, a bar area, stage, and dance floor. Accessory sales of beer and wine are currently provided for on-site consumption in conjunction with a menu of food. The request for a Conditional Use Permit is limited to an upgrade in alcohol license type. No change in operational activities, no off-site sale of alcohol, and no alteration or expansion of the existing building is proposed.

**ANALYSIS:**

Pursuant to Table 3-1 (Allowed Uses and Permit Requirements for CD Zoning Districts), Section 17.30.030 (CD District Land Uses and Permit Requirements) of the Zoning Code, full alcohol sales require approval of a Conditional Use Permit (CUP) in the CD-5-AD-2 zone. The Hearing Officer may approve a Conditional Use Permit to allow alcohol sales only after making six findings identified in the Zoning Code. The general purpose is to evaluate compliance with the Zoning Code and General Plan, whether the use would be detrimental or injurious to the neighborhood, and compatibility of the operation with existing and future uses. The CUP process allows the City

to specify development standards and may result in recommended conditions or requirements associated with the operation of the use. In evaluating the proposal, staff analyzed whether the location of alcohol sales and consumption would affect the general welfare of surrounding property owners. Staff also evaluated whether the project would create a public nuisance or result in detrimental conditions (e.g., loitering, public drunkenness, sales to minors, noise and littering).

Concentration of Alcohol Sales

The subject property is located in Census Tract 4623.02. The California Department of Alcoholic Beverage Control indicates there is an overconcentration of alcohol licenses for on-sale consumption in the census tract. The census tract allows three on-sale licenses, where 10 currently exist. However, one of these existing licenses is held by the subject tenant. T Boyles intends to relinquish their exiting Type 41 license and replace with the Type 47 license requested as part of this CUP application. The ABC may approve the applicant’s request if they can demonstrate the issuance of a license would serve public convenience or necessity. The City does not require this finding when evaluating applications for on-site alcohol sales and consumption associated with a Type 47 license.

As part of the request, the applicant identified existing alcohol sales (on-sale or off-sale consumption) establishments within 1,000 feet of the subject site. According to the applicant, there are currently 17 establishments within 1,000 feet of the subject property possessing active on-sale or off-sale ABC licenses. Table 1 summarizes the establishments.

**Table 1: Alcohol License Types within 1,000 Feet**

	<b>Business Name</b>	<b>Address</b>	<b>ABC License Type (Code)</b>
1	Smash House Burger Co	46 N. Lake Ave.	On-Sale Beer & Wine – Eating Place (41)
2	Go China Restaurant	136 N. Lake Ave.	On-Sale Beer & Wine – Eating Place (41)
3	Ralph’s Supermarket	160 N. Lake Ave.	Off-Sale General (21)
4	El Metate Café	12 N. Mentor Ave.	On-Sale Beer & Wine – Eating Place (41)
5	The Ice House	24 N. Mentor Ave.	On-Sale General – Eating Place (47)
6	Tardino Brother’s Italian Restaurant	40 N. Mentor Ave.	On-Sale Beer & Wine – Eating Place (41)
7	Pasadena Hotel	928 E. Colorado Blvd.	On-Sale General – Eating Place (47); Caterer’s Permit (58)
8	New Delhi Palace	950 E. Colorado Blvd. #205	On-Sale Beer & Wine – Eating Place (41)
9	Pat’s Liquor Store	1072 E. Colorado Blvd.	Off-Sale General (21)
10	Amigo’s Restaurant	1074-1076 E. Colorado Blvd.	On-Sale General – Eating Place (47)
11	Malbec New Argentinian Cuisine	1001 E. Green St.	On-Sale Beer & Wine – Eating Place (41)
12	Madeline Garden Bistro & Venue	1030 E. Green St.	On-Sale General – Eating Place (47); Caterer’s Permit (58)
13	Matsuri Japanese Restaurant	1065 E. Green St.	On-Sale Beer & Wine – Eating Place (41)

14	Smitty's Grill Steak & Seafood	110-112 S. Lake Ave.	On-Sale Beer & Wine – Eating Place (41)
15	Café 140 South	140 S. Lake Ave. #101	On-Sale General – Eating Place (47); Event Permit (77)
16	The Counter	140 Shoppers Ln.	On-Sale Beer & Wine – Eating Place (41)
17	Bistro 45	45 S. Mentor Ave.	On-Sale General – Eating Place (47); Caterer's Permit (58)

The ABC considers there to be an overconcentration of licenses in the census tract because the number of existing licenses exceed the number allowed. However, the subject property possesses one of the existing licenses and this request would not add to the number of licenses in the tract. This application also concerns an existing business and would not involve the establishment of a new business, whose operation may otherwise be unfamiliar to the ABC or City.

The subject site is located in the Lake Avenue subdistrict of the Central District Specific Plan. The Central District is the primary business, financial, retail and government center of the City. This subdistrict lies in a transit-oriented development area (within one-half mile of Lake Station) along Colorado Boulevard, a major thoroughfare. The subdistrict generally consists of nonresidential uses and higher levels of pedestrian traffic. Uses include offices, commercial entertainment, retail sales, personal services, personal improvement services, and restaurants. The proposed on-site sales and consumption of alcohol would continue to serve as an amenity to the area, the same as it has since the establishment of the subject business, and for many years prior. T Boyles has offered accessory alcohol sales since 2009, and alcohol sales on-site date back to the 1980s. The applicant's request would upgrade an existing license that was previously granted to the site. In addition, a majority of the existing alcohol serving establishments nearby are located south of Colorado Boulevard. A limited number of existing alcohol serving establishments are located to the west along Mentor Avenue. There are no other existing alcohol serving establishments on-site, or to the north and east. The existing establishments nearby that sell alcohol remain in locations and at sufficient distances that it is unlikely the upgrade in license type would create an undesirable concentration that is detrimental to the area.

#### Proximity to Sensitive Uses

The subject property is not in close proximity to typically sensitive uses, such as park and recreation facilities, hospitals or schools. Playhouse Village Park, located at 701 East Union Street is approximately 1,600 feet west of the subject property at a substantial distance. There are no hospitals nearby. Schools nearest to the site are located to the north, east and south at approximate distances of 1,200 to 1,500 feet and are not in proximity. In addition, there are a limited number of religious facilities nearby. The nearest religious assembly is located along Wilson Avenue, approximately 500 feet to the east. Other religious facilities exist along Walnut Street to the north at further distances. The nearest residential zoning district and residential units are located to the east across Catalina Avenue.

The proposed sale and consumption of alcohol would occur on property that has offered alcohol on-site since the 1980s, and as part of the subject tenant's operation since 2009. The operation is anticipated to function no differently than it currently does after upgrading the alcohol license. The use will continue to provide food off a menu and make available nonalcoholic beverage options. The on-site sales of beer, wine and distilled spirits would not result in a detriment to the nearby uses. The activities of the operation would not change, there is no expansion in floor area,

and no off-site sales or outdoor dining are proposed, the same as the existing condition. In addition, all activities associated with the operation would continue to occur indoors. The applicant has noted that during times when increased patron traffic is expected, a security person is on-site and often stationed at the door to check patron identification and address any security issues that may arise. When increased patron traffic is anticipated, the business would add security personnel as needed. Security personnel generally begin around 6 p.m. and remain until closing time.

Based on available records, the existing establishment has operated without detriment to the surrounding area. There are no active complaints or documented code violations involving alcohol associated with the existing establishment. The Police Department did not object to this upgrade in license type noting that over the past year there were only unrelated transient calls and a single unknown trouble call that was resolved. The Police Department did not express any other comment or objection based on calls for service history. After considering the proximity and nature of the proposed use with respect to sensitive uses in the general area, it is staff's assessment that the on-site sale and consumption of full alcohol in conjunction with the existing Commercial Entertainment use would not detrimentally affect the surrounding area.

#### **GENERAL PLAN CONSISTENCY:**

The subject property is designated High Mixed Use in the General Plan Land Use Element. This designation is intended to support the development of multi-story mixed use buildings with a variety of compatible commercial (retail and office) and residential uses. The site is located in the Central District Specific Plan, which emphasizes a higher density, mixed-use environment that would support transit- and pedestrian-oriented mobility strategies. The existing Commercial Entertainment use is consistent with General Plan Land Use Element Policy 14.1 (Tourism and Hospitality), and Policy 31.7 (Expanded Economic Opportunities). The proposal supports the General Plan's goal of encouraging the growth of entertainment activities that attract visitors. It also strengthens the Central District's economic vitality by providing an opportunity in area that is currently experiencing several vacancies. The proposed upgrade in alcohol sales is consistent with General Plan Land Use Element Policy 12.1 (Vital Commercial Districts). The proposed on-site sale and consumption of alcohol in conjunction with the operation of a commercial entertainment use would enhance the commercial district by offering a quality dining experience. This supports the General Plan's goal of enabling residents to acquire desired goods as well as attracting customers from surrounding communities.

#### **ENVIRONMENTAL REVIEW:**

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15301, Class 1, Existing Facilities) and that there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. This exemption applies to the operation and permitting of uses in existing structures where there is no negligible or expansion of the use. The proposal involves an upgrade in alcohol license type and no expansion to the existing use would occur.

#### **REVIEW BY OTHER CITY DEPARTMENTS:**

The Building and Safety Section, Design and Historic Preservation Section, and Departments of Transportation, Fire, Public Works, and Police were given the opportunity to review the proposal. No comments were received, and the Police Department did not express concerns.

## **CONCLUSION:**

It is staff's assessment that the findings necessary for approval of the Conditional Use Permit to allow the on-site sale and consumption of full alcohol in conjunction with the operation of an existing Commercial Entertainment use can be made. The site is located in a nonresidential zoning district that encourages a diverse mix of land uses and services. The same principal operation (accessory alcohol, live entertainment, dancing) has occurred adequately on-site since 2009 with no reoccurring history of incident. The establishment would provide a full food menu during hours of operation with the sale of alcohol incidental to food sales. Conditions of approval would ensure that the use would not deviate from the planned operation reviewed under this application. Therefore, staff recommends that the Hearing Officer approve the application with the findings in Attachment A and the Conditions of Approval in Attachment B.

### Attachments:

Attachment A: Specific Findings of Approval

Attachment B: Conditions of Approval

**ATTACHMENT A**  
**SPECIFIC FINDINGS FOR CONIDITONAL USE PERMIT #7095**

Conditional Use Permit – To Allow the Sale and Consumption of Full Alcohol (Beer, Wine, and Distilled Spirits) in Conjunction with a Commercial Entertainment use

1. *The proposed location of the site for the Conditional Use Permit would not adversely affect the general welfare of the surrounding property owners.* The on-site sale and consumption of full alcohol will occur in conjunction with a commercial entertainment use on property that fronts Colorado Boulevard. The subject property is located in the Lake Avenue subdistrict of the Central District Specific Plan. The Central District is the primary business, financial, retail and government center of the City. This subdistrict lies in a transit-oriented development area that generally consists of nonresidential uses and higher levels of pedestrian traffic. Uses include offices, commercial entertainment, retail sales, personal services, personal improvement services, and restaurants. The proposed on-site sales and consumption of full alcohol will continue to serve as an amenity to the area that has been available on-site since the 1980's, and as part of the subject operation since 2009. The use will operate in accordance with City laws, ordinances, and conditions of approval that will ensure the use maintains compatibility with uses in the surrounding area.
  
2. *The proposed location of the site for the Conditional Use Permit would not result in an undesirable concentration of premises for the sale of alcoholic beverages, including wine, in the area.* Though the ABC considers there to be an overconcentration of licenses in the census tract, the request will not add a new license to the area, but rather replace a license that was previously allowed for the site. In addition, a majority of the existing alcohol serving establishments nearby are located south of Colorado Boulevard. A limited number of existing alcohol serving establishments are located to the west along Mentor Avenue. There are no other existing alcohol serving establishments on-site, or to the north and east. The existing establishments nearby that sell alcohol remain in locations and at sufficient distances that it is unlikely the upgrade in license type would create an undesirable concentration that is detrimental to the area. In addition, this Conditional Use Permit prohibits off-site consumption of alcohol, which should limit any undesirable situation off the premise.
  
3. *The proposed location of the site for the Conditional Use Permit would not detrimentally affect the nearby surrounding area after giving special consideration to the proximity and nature of the proposed use with respect to the following: a. Residential uses and residential districts; b. Hospitals, park and recreation facilities, places of public assembly, public or private schools, and religious assembly uses that attract minors and other similar uses; and c. Other establishments offering alcoholic beverages (including wine) for sale for consumption both on- and off-site.* The subject property is not in close proximity to typically sensitive uses, such as park and recreation facilities, hospitals or schools. Playhouse Village Park, located at 701 East Union Street is approximately 1,600 feet west of the subject property, at a substantial distance. There are no hospitals nearby. Schools nearest to the site are located to the north, east and south at approximate distances of 1,200 to 1,500 feet and are not in proximity. In addition, there are a limited number of religious facilities nearby. The nearest religious assembly is located along Wilson Avenue, approximately 500 feet to the east. Other religious facilities exist along Walnut Street to the north at further distances. The nearest residential zoning district and residential units are located to the east across Catalina Avenue.

The proposed sale and consumption of alcohol will occur on property that has offered alcohol on-site since the 1980s, and as part of the subject tenant's operation since 2009. The

operation is anticipated to function no differently than it currently does after upgrading the alcohol license. The use will continue to provide food off a menu and make available nonalcoholic beverage options. The on-site sales of beer, wine and distilled spirits will not result in a detriment to the nearby uses. The activities of the operation will not change, there is no expansion in floor area, and no off-site sales or outdoor dining are proposed, the same as the existing condition. In addition, all activities associated with the operation will continue to occur indoors. The applicant has noted that during times when increased patron traffic is expected, a security person is on-site and often stationed at the door to check patron identification and address any security issues that may arise. When increased patron traffic is anticipated, the business will add security personnel as needed. Security personnel generally begin around 6 p.m. and remain until closing time.

4. *The proposed location of the site for the Conditional Use Permit would not aggravate existing problems created by the sale of alcohol (e.g., littering, loitering, noise, public drunkenness, and sales to minors).* On-site sales and consumption have occurred on-site since the 1980s and as part of the current establishment since 2009 with no reoccurring history of complaints. The approval of a Conditional Use Permit for full alcohol sales is not expected to change the existing conditions. The Police Department reviewed the proposal and did not express concerns. Noncompliance with any of the conditions of approval or any of the provisions of the Zoning Code may result in the revocation of the Conditional Use Permit. These measures will limit any potential aggravation of existing or proposed problems created by the sale of alcohol.
  
5. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.* The subject property is designated High Mixed Use in the General Plan Land Use Element. This designation is intended to support the development of multi-story mixed use buildings with a variety of compatible commercial (retail and office) and residential uses. The site is located in the Central District Specific Plan, which emphasizes a higher density, mixed-use environment that would support transit- and pedestrian-oriented mobility strategies. The existing Commercial Entertainment use is consistent with General Plan Land Use Element Policy 14.1 (Tourism and Hospitality), and Policy 31.7 (Expanded Economic Opportunities). The proposal supports the General Plan's goal of encouraging the growth of entertainment activities that attract visitors. It also strengthens the Central District's economic vitality by providing an opportunity in area that is currently experiencing several vacancies. The proposed upgrade in alcohol sales is consistent with General Plan Land Use Element Policy 12.1 (Vital Commercial Districts). The proposed on-site sale and consumption of alcohol in conjunction with the operation of a commercial entertainment use would enhance the commercial district by offering a quality dining experience. This supports the General Plan's goal of enabling residents to acquire desired goods as well as attracting customers from surrounding communities.



**ATTACHMENT B**  
**CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #7095**

The applicant or successor in interest shall meet the following conditions:

General

1. The site/floor plans to be submitted for building permits shall substantially conform to the site/floor plans stamped "Approved at Hearing June 7, 2023," except as modified herein.
2. The right granted under this application must be enacted within 36 months from the effective date of approval. It shall expire and become void, except where an extension of time is approved in compliance with Zoning Code Section 17.64.040.C (Time Limits and Extensions).
3. The approval of this application authorizes the on-site sale and consumption of full alcohol (beer, wine and distilled spirits) as part of the operation of a Commercial Entertainment use.
4. The Zoning Administrator, at any time, can call for a review of the approved conditions at a duly noticed public hearing. These conditions may be modified or new conditions added to reduce any impacts of the use. The Hearing Officer may revoke the Conditional Use Permit if sufficient cause is given.
5. Any change to these conditions of approval or expansion of the use shall require the modification of this Conditional Use Permit or a new Conditional Use Permit.
6. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
7. The proposed project, Activity Number **ZENT2022-00168** is subject to a Final Zoning inspection. A Final Zoning Inspection is required for the project prior to the issuance of a Certificate of Occupancy. Contact the Planning Case Manager, Jason Van Patten at (626) 744-6760 to schedule an inspection appointment time.

Planning

8. Prior to serving alcohol, owner/operator must possess a valid on-sale alcoholic beverage license pursuant to Division 9, commencing with Section 23000, of the California Business and Professions Code of Type 47 (on-sale beer and wine eating place). Alcohol service shall be in compliance with all applicable regulations and guidance issued by the California Department of Alcoholic Beverage Control at all times. The premises shall not obtain any other public premises type licenses without the approval of a Conditional Use Permit.
9. The primary use shall be Commercial Entertainment with ancillary sale of full alcohol (beer, wine and distilled spirits) intended for on-site consumption only.
10. Off-site sale and consumption of alcohol is prohibited at all times.
11. The hours of operation shall be limited between 6 a.m. and 2 a.m., daily.
12. Live entertainment, dancing, and alcohol sales shall cease one-half hour before close, or 1:30 a.m., whichever is earlier.

13. All live entertainment, dancing, amplified music shall be contained indoors.
14. Live entertainment and dancing shall be limited only to the designated stage and dance areas as illustrated in the plans stamped "Approved at Hearing June 7, 2023."
15. The stage, dance, or bar area shall not be enlarged without a modification to this approval or approval of a new application.
16. No dancing shall be allowed where persons dance, appear, or perform attired in swimsuits, bikinis, lingerie, nude, or any other attire in a nude or semi-nude state, or in violation of Zoning Code Section 17.50.295 (Sexually Oriented Businesses).
17. Customized (i.e., color turning or mechanically moving) lighting and sound systems conducive of a nightclub atmosphere is permitted in the designated indoor dance floor area only and shall be prohibited outdoors at all times.
18. The applicant shall provide for safe queuing of patrons. Patrons queuing on the public sidewalk or public walkway shall not hinder, obstruct, or impede any person from freely passing by or entering an adjacent place of business. The applicant shall take reasonable steps to limit the number of patrons queuing on public property.
19. The establishment shall allow patrons of all ages, at all times.
20. Cover charges, entry fees, or minimum drinks fees may only be assessed between the hours of 10 p.m. and 2 a.m., daily.
21. Events sponsored and/or operated by a third party who profit from organizing and/or drawing large attendees to the third party sponsored events shall be prohibited at all times.
22. The reproduction of sound which is audible outside of the premise that will materially and adversely impact adjacent tenants shall not be permitted.
23. All doors and windows shall remain closed when live entertainment, amplified music, and/or dancing occur.
24. Loitering outside the premise is prohibited at all times.
25. Signs advertising brands and types of alcohol shall not be visible from the exterior of the premises. The display of alcoholic beverages shall be interior only (no outdoor display) at all times.
26. The following preventive measures shall be undertaken to reduce the potential for alcohol related problems:
  - Food service shall remain available during all hours of operation;
  - Rideshare service phone numbers shall be posted in a conspicuous location at all times in the area(s) where alcohol is served to customers;
  - All employees selling or serving alcohol shall be required to participate in an alcohol training program offered by the Alcoholic Beverages Control prior to the operation of selling/serving alcohol;

- The availability of a variety of non-alcoholic beverages shall be made known, posted in a conspicuous location, and offered to customers. The operator shall provide a Designated Driver program and offer free non-alcoholic drinks to designated drivers
27. The site and surrounding area shall be maintained in a litter and graffiti free manner. Any graffiti that should appear on the site shall be removed within 48 hours.
  28. Amplification of music shall comply with the regulations of Chapter 9.36 (Noise Restrictions) of the Pasadena Municipal Code.
  29. Smoking is prohibited in all dining areas. Violators may be subject to a fine.
  30. The Director may, in his or her sole discretion, place additional conditions upon the issuance of the permit in order to insure the protection of the rights of all adjoining property owners and the health, safety and welfare of the public.
  31. These conditions of approval must be posted in a conspicuous location for public viewing on a continuous basis for the life of this Conditional Use Permit beginning on the date the alcohol sales commence.
  32. Compliance with the City of Pasadena Refuse Storage regulations, see Section 17.40.120 (Refuse Storage Facilities) of the Pasadena Municipal Code, shall be maintained at all times.
  33. Compliance with Pasadena Municipal Code Chapter 8.78 (Tobacco Use Prevention Ordinance) shall be adhered to at all times.