



City of  
**LA HABRA**  
City Council Agenda Report

**Consent  
Item No. 6.**

**MEETING DATE: 02/06/2023**

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: JIM SADRO, CITY MANAGER**  
**By: Susan Kim, Director of Community & Economic Development**

**SUBJECT: APPROVE REQUEST TO INITIATE ZONE CHANGE 23-01 TO AMEND TITLE 18 (ZONING) OF THE LA HABRA MUNICIPAL CODE (LHMC OR "CODE") BY ADDING A "GENERAL RETAIL" DEFINITION AND ESTABLISHING LIMITATIONS ON THE HOURS OF OPERATION FOR GENERAL RETAIL USES**

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**RECOMMENDATION:**

That the City Council direct staff to initiate Zone Change 23-01 related to amendments to Title 18 (Zoning) of the La Habra Municipal Code (LHMC or "Code") related to general retail uses and their hours of operation.

**DISCUSSION:**

In 2022, some convenience stores in La Habra that operate on a 24-hours basis and that sell alcohol (classified by the LHMC as "General Retail") were the subject of criminal activity during the early morning hours. Based on these events, City Council requested staff to evaluate the hours of operation for these uses, as well as, other types of retail stores that typically fall within the category of "General Retail" and that have licenses from the California State Department of Alcohol Beverage Control (ABC) to sell alcohol for off-site consumption. Although "General Retail" is not defined in the Zoning Code, general uses that sell alcohol for off-site consumption fall into the following categories:

<b>Category</b>	<b>Example</b>
Grocery Store/Market	Vons, Stater Bros, Claro's
General Merchandise Store	Target, Walmart
Warehouse Store	Costco, Sam's Club
Dairy	Rockview Dairy
Pharmacy	Rite Aid
Liquor Stores	Walnut Liquor
Convenience Stores	7-11
Service Stations with Convenience Stores	Chevron, Arco

Although State law (Business and Professions Code Section 25631) prohibits the sale of alcohol for off-site consumption between the hours of 2:00 a.m. to 6:00 a.m., it does not require businesses with these licenses to be closed; therefore, these types of General Retail uses can be open 24-hours. However, based upon staff analysis of stores in La Habra, the only General Retail uses in the table above that are open 24-hours a day are five Convenience Stores and four Service Stations with Convenience Stores. The latest hours the other types of General Retail uses are open is 1:00 a.m. on Saturday nights and the earliest these other use types open in the morning is 6:00 a.m.

Currently, the City's Zoning Code allows General Retail uses to locate within the City's commercial zones without the requirement for the approval of a Conditional Use Permit (CUP). Therefore, the hours of operation for these businesses, or related safety measures, cannot be regulated by the City through conditions of approval. In order to put in place the necessary restrictions to limit safety concerns with these specific business types, and pursuant to Section 18.78.010 of the LHMC, staff is requesting that the City Council initiate Zone Change 23-01 to prepare a draft ordinance to address hours of operation for General Retail uses.

Staff anticipates that the draft ordinance will include regulations stating that General Retail uses that operate 24 hours a day require approval of a CUP to specifically allow 24 hour operations. However, staff does not recommend that a CUP be required for Service Stations with Convenience Stores, since the 24-hour nature of the Service Station business type is already addressed in CUP's that are already required for those types of businesses.

By requiring a CUP for 24-hour General Retail uses, the City will have the flexibility to analyze a subject property/business on a case-by-case basis and recommend the most appropriate conditions of approval focusing on the implementation of safety measures, such as security lighting and security cameras for each specific site. The CUP process will also involve public notification, allowing residents and property owners the opportunity to express their concerns regarding 24-hour operations. In the event that a General Retail business fails to uphold and comply with City standards related to their 24-operations, the City will have

the ability to recall, modify or terminate the CUP on a case by case basis. Staff surveyed other cities in the surrounding area and found that several require businesses that operate 24-hours a day to obtain a CUP.

In conjunction with the adoption of the draft ordinance, staff recommends that Council waive the CUP processing fee for the five existing Convenience Store/General Retail businesses that operate 24-hours per day and that would be subject to the City's modified code. The current fee to process a CUP is \$6,079; therefore, if each of the five Convenience Stores that currently operate 24-hours a day choose to continue to operate on that basis, and Council waives the CUP processing fee for those businesses, the impact to the General Fund would be \$30,395. It should be noted that there is a possibility that some of these business owners may willingly choose to discontinue operating 24-hours a day due to the requirement for a CUP, which would result in no net impact to the General Fund as there would not be a CUP issued.

Lastly, the proposed Zone Change 23-01 will provide a definition for "General Retail" since no definition presently exists in the LHMC. Other cities have defined general retail to mean any establishment focusing on the sale of merchandise to the public. These uses include apparel shops, appliance stores, beauty supply shops, bicycle shops, boutiques, candy shops, clothing shops, convenience stores, florists, general stores, grocery stores, hardware stores, health food stores, hobby shops, jewelry stores, pharmacies, photography studios, shoe stores, smoke/tobacco shops, sporting goods stores, stationery stores, toy and games stores. Establishing a clear definition for General Retail is important in order to identify which businesses would be subject to limitations on their hours of operation.

If the City Council directs staff to initiate proceedings for Zone Change 23-01, staff will reach out to existing General Retail businesses that would be potentially affected by this change, to inform them of the proposed Code amendment. Following public outreach, staff will present the draft ordinance to the Planning Commission at a noticed public hearing for consideration and recommendation to the City Council. The City Council would then consider the proposed ordinance and Planning Commission's recommendation at a noticed public hearing. If the proposed ordinance is approved by City Council and has received a first and second reading, and is then subsequently adopted by City Council, it will become effective 30 days after said adoption.

#### FISCAL IMPACT/SOURCE OF FUNDING:

Costs associated with City-initiated amendments to the LHMC are included as part of the Planning Division's annual budget. The current fee to process a CUP is \$6,079. If the City Council chooses to waive the CUP processing fee for existing Convenience Stores that currently operate 24 hours a day, and all five Convenience Stores that operate 24-hours a day request a CUP, the impact to the General Fund would be \$30,395. Any new Convenience Store owner that considers establishing a new 24 hour a day business in the City in the future would be subject to the CUP process and fee.

#### GENERAL PLAN RELEVANCE/CITY COUNCIL GOALS & OBJECTIVES:

The proposed recommendation achieves the following elements of the La Habra General Plan:

- PS 1.7 Security and Design Features. Require that security measures are integrated into the design of new development

projects, and support the incorporation of Crime Prevention through Environmental Design (CPTED) principles, or other comparable concepts.

- PS 1.8 Review of Development Proposals. Include the LHPD in the review of development proposals to ensure that projects adequately address crime and safety.

The proposed recommendation will achieve the following element of the Fiscal Year 2022-2023 City Council Goals and Objectives:

- Goal 5 - Development Activity and Business Assistance
    - Objective R: Review the Zoning Code on an ongoing basis and process amendments that ensure compliance with recent State legislation, streamline project processing, remove unnecessary regulations, and/or make the Zoning Code easier to implement.
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