



APPLICATION FOR LAND USE COMPATIBILITY DETERMINATION BY THE FRESNO COUNTY AIRPORT LAND USE COMMISSION

**Fresno County
ALUC Identification #
(ALUC staff only)**

WITHIN AIRPORT INFLUENCE AREA (AIA)? **YES** _____ **NO** _____
 To determine whether location is within AIA, refer to Airport Influence Area Map for the local jurisdiction, this can be obtained from Fresno County ALUC Staff, and is also available on the web at: www.fresnocog.org/FCALUC, see below for contact information. If answer is **YES** continue to provide project information below, if answer is **NO** application need not be submitted.

THIS SECTION TO COMPLETED BY FRESNO COUNTY ALUC STAFF

FINDING OF CONSISTENCY WITH FRESNO COUNTY AIRPORT COMPATIBILITY LAND USE POLICY PLAN :

CONSISTENT CONSISTENT WITH CONDITIONS INCONSISTENT

DATE OF RECEIPT: _____ **ALUC REVIEW DATE:** _____
APPROVAL/ADVISORY DATE: _____
STAFF REPORT ITEM #: _____
STAFF REPORT PROVIDED TO: _____
REPORT PROVIDED DATE: _____

DATE OF SUBMISSION: _____
PROJECT NAME: _____
APPLICANT INFORMATION-AGENCY/COMPANY: _____
CONTACT NAME: _____
TITLE: _____ **ADDRESS:** _____
PHONE: _____ **EMAIL:** _____

**FOR MORE INFORMATION PLEASE CONTACT
FRESNO COUNTY ALUC STAFF**

Brenda Veenendaal
 Senior Regional Planner
 559.233.4148 Ext. 219
 brendav@fresnocog.org



**Fresno Council
of Governments**

Fresno Council of Governments
 2035 Tulare Street, Suite 201, Fresno CA 93721
www.fresnocog.org

All submissions MUST be complete in order to be reviewed by the Fresno County ALUC, the following is a checklist of items that must be submitted for review:

- Project Type** - See Table A below: _____
 indicate project type and land use(s) if applicable
- Project Description** - Attach a typed project summary, or planning staff report, **TABLE A** below describes what should be included in the Project Description based on the Project Type.
- Project Site Location** - Attach a map of the project site, showing the location in proximity to the AIA. This check box may be checked if the map is included in the Project Description.

TABLE A - PROJECT TYPE	NEW AIRPORT CONSTRUCTION	GENERAL PLAN	SPECIFIC PLAN	ZONING ORDINANCE	INDIVIDUAL DEVELOPMENT PROJECT
	AIRPORT EXPANSION PLAN	MASTER PLAN	COMPATIBILITY LAND USE PLAN	BUILDING REGULATION	
I. Indication (in writing) that the proposed local action is referred to the ALUC for mandatory review under the provisions of the State of California Public Utilities Code.	Y	Y	Y	Y	N
II. Indication (in writing) that the proposed local action is referred to the ALUC for advisory review and comment.	N	N	N	N	Y
III. Full text of the proposed referring agency action, including whether the action is an amendment to an existing plan, and all dates of original adoption if applicable.	Y	Y	Y	Y	N/A
IV. Site map of the proposed local action.	N/A	N/A	N/A	N/A	Y
V. Map(s) and written description including:	Y	Y	Y	N/A	Y
① Geographic Area, highlighting the relationship of proposed action to the Airport Influence Area, including all associated site and Assessor's parcel maps.	Y	Y	Y	N/A	Y
② Site plans and elevations, including measurements of structural heights.	Y	Y	Y	N/A	Y
③ A description of land uses, densities, and open space conservation for the proposed action.	Y	Y	Y	N/A	N/A
VI. A copy of any CEQA or NEPA document, noise study, or other environmental evaluation prepared in conjunction with the proposed action.	Y	Y	Y	N/A	Y
VII. A written assurance that a real estate disclosure document will be provided for property offered for sale or lease within the AIA (Avigation Easement).	N	N	N/A	Y	Y

Abbreviations: Y - Yes, information is required; N - No, information is not required; N/A - Not applicable

2600 Fresno Street, Third Floor
Fresno, CA 93721-3604
(559) 621-8277 FAX (559) 498-1026

Jennifer K. Clark, AICP, Director

September 21, 2021

Please reply to:

Phillip Siegrist

559-621-8061

Phillip.Siegrist@fresno.gov

SUBJECT: REVIEW BY AIRPORT LAND USE COMMISSION OF TEXT AMENDMENT APPLICATION NO. P21-05185 TO MODIFY USE REGULATIONS FOR ALCOHOL SALES FOR OFF-SITE CONSUMPTION WITHIN THE CITY OF FRESNO.

To Whom It May Concern:

The City of Fresno has filed Text Amendment Application No. P21-05185 to modify use regulations for alcohol sales for off-site consumption within the City of Fresno boundaries.

Text Amendment Application No. P21-05185, as initiated by the Fresno City Council pursuant to Resolution No. 2021-162 (attached), proposes to amend the Citywide Development Code and modify Section 15-2706; otherwise known as the Responsible Neighborhood Market Act (RNMA). The RNMA provides regulations relating to the establishment of alcohol licenses and the sale of alcoholic beverages for off-site consumption.

The proposed text amendment would allow flexibility for existing establishments seeking to relocate by allowing an additional exception to the Location Restrictions and an exemption to the Cancel & Transfer Provisions.

Summary of Text Amendment

Text Amendment Application No. P21-05185 proposes to amend Section 15-2706 of the Citywide Development Code that conditionally permits alcohol uses in Mixed Use, Commercial, Employment, Public and Semi-Public, and Downtown zone districts. As proposed, the proposed Text Amendment includes:

1. **Provide flexibility for an Existing Establishments Seeking to Relocate.** The proposed text amendment would allow a little more flexibility for existing establishments seeking to relocate by adding an additional exception to Location Restrictions and allow an exemption to the Cancel & Transfer Provisions.
 - a. **Existing Establishment Relocation Exception.** An existing establishment that relocates and holds a Conditional Use Permit pursuant to this ordinance may be excepted from the location restrictions if the proposed relocation is located:
 - i. Across the street and within ¼ mile radius of the current location;

- ii. Within the same Council District;
 - iii. Within the same Census Tract;
 - iv. Not within 500 feet of a nursery school, preschool, a public or private State-licensed or accredited school or daycare facility; and
 - v. Not in an area of high crime, as defined by the California Business and Professions Code 23958.4(a)(1) et seq., and as determined by the Department of Alcoholic Beverage Control. The original location will be required to forfeit its existing alcohol entitlements for the original location.
- b. **Exemption from the Cancel and Transfer Requirements.** Existing establishments that seek to relocate are exempt from the Cancel and Transfer Requirements if the proposed relocation meets the requirements of Section 15-2706-F.7.

The appropriateness of the proposed text amendment has been examined with respect to its consistency with stated goals of the Fresno General Plan; compatibility with surrounding existing and proposed uses; and avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon completion of this evaluation, it can be concluded that Text Amendment Application No. P21-05185 is appropriate.

Sincerely,

Phillip Siegrist

Phillip Siegrist, Supervising Planner
Development Services Division

Enclosures:

- Fresno City Council Resolution 2021-162
- Proposed Text Amendment
- Draft Environmental Assessment

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING CHAPTER 15, ARTICLE 27, SECTION 15-2706 OF THE FRESNO MUNICIPAL CODE RELATING TO THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-SITE CONSUMPTION, AMENDING SECTION 15-2706 "THE RESPONSIBLE NEIGHBORHOOD MARKET ACT"

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

SECTION 1. Section 15-2706 of the Fresno Municipal Code is amended to read:

SECTION 15-2706. - ALCOHOL SALES - THE RESPONSIBLE NEIGHBORHOOD MARKET ACT

A. Regulations for On-Site Consumption. Refer to Section 15-2751, Restaurants with Alcohol Sales, Bars, Nightclubs, and Lounges for standards.

B. Regulations for Wholesalers. Operators who hold a Type 17 ABC license for the purpose of selling beer and wine to retailers or a type 18 ABC license for the purpose of selling distilled spirits to retailers, who meet the definition of a "wholesaler" within the meaning of California Business and Professions code section 23021, and who are located within the City of Fresno are subject to the following restrictions:

1. Wholesalers shall not supply establishments (as defined below) with any items that would violate this section of the Fresno Municipal Code.

Date Adopted:
Date Approved
Effective Date:
City Attorney Approval: _____

Ordinance No.

C. Purpose. The following regulations, known as “The Responsible Neighborhood Market Act,” are for establishments that sell alcoholic beverages for off-site consumption (henceforth "establishment"). These establishments possess certain characteristics that have the potential to cause deleterious effects and nuisances on surrounding neighborhoods and businesses, especially when such establishments are concentrated near one another. In order to ensure that establishments operate in a manner that is mutually beneficial to surrounding uses and to also provide mechanisms to prevent and correct any associated problems, the following special regulations are provided.

D. Applicability.

1. New or Expanded Use. Any proposed new establishment or any existing establishment that requests to modify their alcohol or business license type(s), reinstate their alcohol or business license(s) after an expiration or revocation, extend their hours of alcohol sales, or expand their floor area for retail sales of alcohol, shall obtain a Conditional Use Permit issued in compliance with the standards of this section. Should an establishment not comply with the strict application of the regulations provided for in this section, said improvements shall be made prior to commencing the sale of alcoholic beverages. Violation of these standards at any time may result in the revocation of a Conditional Use Permit.

2. Exemptions. This section does not apply to the following:

a. Establishments that serve alcohol for on-site consumption, where an off-site sales component is incidental to the main use.

b. Temporary uses issued a Temporary License by the California Department of Alcoholic Beverage Control and established in compliance with all City laws and ordinances.

3. Conditional Use Permit. Conditional Use Permits issued pursuant to this section shall also be subject to the following:

a. ABC Conditional Use Permit:

i. Establishments seeking to sell alcoholic beverages for off-site consumption, whether as a new or expanded use, shall obtain a Conditional Use Permit for alcohol sales.

E. Modifications to Existing Establishments. A modification to an existing establishment shall not be approved when a condition exists that has caused or resulted in repeated activities that are harmful to the health, peace, or safety of persons residing or working in the surrounding area.

F. Location Restrictions for New Establishments. The following location restrictions apply to new establishments, unless the establishment can be found qualified for exception by the Review Authority. These location restrictions shall not apply to existing establishments that must obtain a CUP pursuant to this ordinance due to proposed expansion or improvement of an existing use that is

currently operating pursuant to a CUP issued prior to the effective date of this ordinance.

1. Near Sensitive Uses. The establishment shall not be located within 1,000 feet of the following:

a. A public park, playground, recreational area, or youth facility, including a nursery school, preschool, or day care facility;

b. A public or private State-licensed or accredited school;

or

c. An alcohol or other drug abuse recovery or treatment facility.

2. Near Other Alcoholic Beverage Establishments. The establishment shall not be located within 1,000 feet of an existing establishment, nor may it lead to a grouping of more than four establishments within a 1,000 foot radius.

3. Within High Crime Areas. The establishment shall not be located in an area of high crime, as defined by the California Business and Professions Code 23958.4(a)(1) et seq., and as determined by the Department of Alcoholic Beverage Control.

4. Within High Concentration Areas. The establishment shall not be located in an area of high concentration, as defined by the California Business and Professions Code 23958.4(a)(3) et seq., and as determined by the Department of Alcoholic Beverage Control.

5. Citywide Ratio. No establishment shall be granted a

Conditional Use Permit under this Section if the number of sites selling alcohol for off-site consumption will exceed one license per 2,500 residents. This ratio requirement shall not apply to existing establishments that must obtain a CUP pursuant to this ordinance due to proposed expansion or improvement of an existing use that is currently operating pursuant to a CUP issued prior to the effective date of this ordinance.

6. Exceptions. A new establishment may be excepted from location restrictions if the Review Authority determines all of the following:

a. The proposed use is not located within an area in which the Chief of Police has determined, based upon quantifiable information, that the proposed use: (a) would be detrimental to the public health, safety, or welfare of persons located in the area; or (b) would increase the severity of existing law enforcement or public nuisance problems in the area.

b. The proposed off-premises sale of alcoholic beverages is incidental and appurtenant to a larger retail use and provides for a more complete and convenient shopping experience.

c. The proposed outlet for the off-premises sale of alcoholic beverages would act as a public convenience or necessity to an underserved portion of the community and/or enhance the vitality of an existing commercial area without presenting a significant adverse impact on public health or safety

d. The primary use of the establishment, based on information provided by the applicant, has been determined by the Review Authority to meet the definition of a General Market, a full size grocery store, or a supermarket.

[7.] [Existing Establishment Relocation Exception. An existing establishment that relocates and holds a Conditional Use Permit pursuant to this ordinance may be excepted from the location restrictions if the proposed relocation is located:

a. Across the street and within ¼ mile radius of the current location;

b. Within the same Council District;

c. Within the same Census Tract;

d. Not within 500 feet of a nursery school, preschool, a public or private State-licensed or accredited school or daycare facility; and

e. Not in an area of high crime, as defined by the California Business and Professions Code 23958.4(a)(1) et seq., and as determined by the Department of Alcoholic Beverage Control. The original location will be required to forfeit its existing alcohol entitlements for the original location.]

G. Landscaping.

1. New Buildings. Landscaping shall be provided per the underlying District.

2. Existing Buildings. Perimeter landscaping and Parking Lot Shading shall be provided per the underlying district. The Review Authority, at their discretion, may make exceptions to the prescribed standards, however in no case shall the reduction result in a net reduction of 35 percent or greater in the amount of landscaping provided. Landscaping may also be aggregated to minimize the impact on existing parking areas.

H. Lighting. The exterior of the premise, including adjacent public sidewalks and all parking lots under the control of the establishment, shall be illuminated during all hours of darkness during which the premises are open for business in a manner so that persons standing in those areas at night are identifiable by law enforcement personnel. However, required illumination shall be placed and or shielded in a way that minimizes interference with the neighboring residences.

I. Litter and Graffiti.

1. Trash and recycling receptacles shall be provided by public entrances and exits from the building.

2. The owner or operator shall provide for daily removal of trash, litter, and debris from premises and on all abutting sidewalks within 20 feet of the premises.

3. The owner or operator shall remove graffiti within 48 hours.

J. Pay Phones and Vending Machines. External pay phones and snack vending machines are prohibited.

K. Video Surveillance.

1. Establishments must equip a fully functional color digital video camera system.

2. The system must continuously record, store, and be capable of playing back images and be fully functional at all times, including during any hours the business is closed. The system must be maintained in a secured location inside of the business.

3. The system shall have the correct date and time stamped onto the image at all times.

4. The camera storage capacity should be for at least two weeks (14 calendar days). Such cameras must be capable of producing a retrievable and identifiable image than can be made a permanent record and that can be enlarged through projection or other means.

5. If utilizing a digital video recorder, it must be capable of storing at least 14 days of real-time activities.

6. The system shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno Police Department within 24 hours of the initial request relating to a criminal investigation only.

7. The interior of the business must have at least one camera placed to focus on each cash register transaction to include the clerk as well as the customer waiting area.

8. There shall be four exterior cameras placed so as to record activities in the primary customer parking areas of their business. These cameras should be of sufficient quality to be able to identify persons and or vehicles utilizing the business parking lot.

9. All interior cameras shall record in color.

10. All exterior cameras shall record in color and have automatic low light switching capabilities to black and white. Exterior cameras should be in weatherproof enclosures and located in a manner that will prevent or reduce the possibility of vandalism.

L. Signage.

1. The provisions specified under Article 26, Signs and this subsection shall apply. Where conflict may occur between the provisions of Article 26 and this subsection, the more restrictive provisions shall govern.

2. The following copy is required to be prominently posted in a readily visible manner on an interior wall or fixture and not on windows:

a. "California State Law Prohibits the Sale of Alcoholic Beverages to Persons Under 21 Years of Age."

b. "No Loitering is Allowed On or In Front of These Premises."

c. "No Open Alcoholic Beverage Containers are Allowed on These Premises."

3. No more than 5 percent of the square footage of each window and clear door that is visible to the public from a public thoroughfare, sidewalk, or parking lot of an off-sale alcohol retail outlet shall bear advertising, signs, or other obstructions of any sort.

a. The area covered by signs or advertising includes all clear areas within signs or advertising, such as the clear area within neon signs.

b. Signage, advertising, or other obstructions inside or outside the establishment that are not physically attached to the windows or doors, but are visible from a public thoroughfare, sidewalk, or parking lot in the same manner as if they were physically attached is included in the 5 percent limitation.

c. Any signage required by law shall not count towards the 5 percent limitation, but shall nonetheless follow rules related to visual obstruction.

4. Advertising and signage on windows and clear doors shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlets, including the area in which the cash registers are maintained, from exterior public sidewalks, parking lots, or entrance to the outlets.

5. Any establishment located within 250 feet of a sensitive use, as listed in Subsection E.1, shall not advertise alcohol sales in a manner

visible from the outside of the establishment, such as from a public thoroughfare, sidewalk, or parking lot.

6. Displays of alcoholic beverages, freestanding advertising structures of any kind such as cardboard floor stands, or other free-standing signs shall be prohibited within 10 feet of consumer entrance points, shall not be visible from the exterior of the establishment, and shall be prohibited on the exterior of the establishment.

M. Loitering and Other Nuisance Activities. The operation of the establishment shall not result in repeated nuisance activities on the property, which may include, but are not limited to, repeated disturbances of the peace, illegal drug activity, public drunkenness, drinking in public, alcoholic beverage and tobacco sales to minors, harassment of passerby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, loitering, excessive littering, graffiti, illegal parking, excessive loud noises (especially in the late night or early morning hours), traffic violations, curfew violations, lewd conduct, or other violations of City, State, or federal laws, especially when contributing to a proportionally high rate of police reports and arrests to the area. This section shall not apply to operators where offenses are the result of third party conduct beyond the operators' control.

N. Training. The owners and all employees of the establishment who are involved in the sale of alcoholic beverages must complete approved course(s) in training of liquor sales and handling within sixty days after approval of the Conditional Use Permit becomes final, or for employees hired after the approval of

the Conditional Use Permit, within sixty days from the date of hire. To satisfy this requirement, a certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service (CCC/RBS) or other certifying or licensing body designated by the State of California.

O. Compliance with Laws. The establishment must remain in compliance with all local, State, and federal laws, regulations, and orders, as well as all conditions of approval imposed on the use. This includes compliance with annual City business license fees. In the event of non-compliance, the operator shall be given written notice by the City and an opportunity to cure.

P. Posting of Conditions. A copy of all conditions of approval and training requirements shall either be posted in a conspicuous and unobstructed place near the entrance, cashier counter, or customer service area of the establishment or posted in an employee area and provided upon request (e.g. via flyer or brochure) to patrons and enforcement officials.

Q. Prohibited Products. The sale or distribution of one or more of the following shall be prohibited.

1. Wine in containers of less than 750 milliliters.
2. Single containers of beer, malt liquor, wine coolers, and similar alcoholic beverages not in original factory packages of four-packs or greater, subject to the following exception:
 - a. Craft beer which is originally packaged in a single 22 oz. bottle.
3. Distilled spirits in containers of less than 375 milliliters.

4. Paper or plastic cups in quantities less than their usual and customary packaging.

R. Additional Requirements.

1. The Director may require the applicant to submit additional information, of such type and in such form as the Director may specify, as the Director may deem relevant to the application, including, but not limited to, an operational statement, floor plans, architectural renderings, and technical studies, as appropriate.

2. The Director may refer the application to other City departments to determine whether the establishment's location will comply with building, health, zoning, and fire ordinances or other applicable ordinances or laws. City departments may conduct an inspection of the premises to determine compliance with the ordinances and other laws they administer, and may subsequently prepare reports summarizing their inspections and recommend whether to approve or deny the application based on their inspections.

3. Additional and/or security measures such as reduced hours of operation, security guards, door monitors, and burglar alarm systems may be required if harm, nuisance, or related problems are demonstrated to occur as a result of business practices or operations. This will be determined on a case-by-case basis upon review by the Police Department.

4. Establishments shall not acquire an ABC license for use that has been surrendered by another establishment in any jurisdiction, or is

from an establishment located outside the City of Fresno or a County island within the City of Fresno.

5. Establishments shall be subject to annual inspection to ensure compliance with this Section and any additional conditions of the Conditional Use Permit. If an annual inspection results in a finding that an operator is not in compliance with this section or the specific conditions of the CUP, that finding may be used as a basis for revoking the CUP.

a. If an operator is determined to be out of compliance with this section or the specific conditions of the CUP, that operator shall be subject to administrative fines set forth in the Master Fee Schedule as may be amended; the fine structure shall consist of progressively higher fines for violations occurring within twelve months of a prior violation, and upon the fourth violation being upheld within a three year period of the first violation, the CUP for the business shall be subject to revocation.

b. If an establishment operating under an existing ABC license is purchased by a unassociated and unrelated new operator seeking to continue operation of the establishment, and the new operator is not subject to administrative fines as set forth above at any other establishment in the City, the City Manager, with concurrence of the City Attorney, may waive any administrative fines imposed upon the existing establishment upon transfer to the new operator, if the new operator agrees to and obtains a new CUP.

S. Surrender and Transfer.

1. New establishments shall transfer and surrender the following number of ABC licenses in good standing, from within a Council District identified as having an overconcentration of ABC licenses for off-sale use, as determined by the Director following review of data prepared by the California Department of Alcoholic Beverage Control, as depicted in Table 15-2706.

TABLE 15-2706: SURRENDER AND TRANSFER RATIO		
Retail Floor Area	Transfer	Surrender
Less than 10,000 square feet	2	1
10,000 to 30,000 square feet	3	2
More than 30,000 square feet	4	3

2. Each ABC license that is surrendered also include surrender of all related Conditional Use Permits and waiver of any legal non-conforming use rights related to the sale of alcohol for off-site consumption.

3. Exemptions.

a. The Surrender and Transfer requirements shall not apply when an establishment is required to relocate as the result of a taking by eminent domain and a license transfer to a new establishment site is necessary due to such taking.

b. Existing establishments that seek to expand their floor area or extend their operating hours.

[c.] [Existing establishments that seek to relocate if the proposed relocation meets the requirements of Section 15-2706-F.7.]

SECTION 4: This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, BRIANA PARRA, Interim City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2021.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2021
Mayor Approval/No Return: _____, 2021
Mayor Veto: _____, 2021
Council Override Vote: _____, 2021

BRIANA PARRA, CMC
Interim City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Rina Gonzales Date
Senior Deputy City Attorney



RESOLUTION NO. 2021-162

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, INITIATING A TEXT AMENDMENT TO THE ZONING ORDINANCE OF THE CITY OF FRESNO TO AMEND CHAPTER 15, ARTICLE 27, SECTION 15-2706 OF THE FRESNO MUNICIPAL CODE RELATING TO THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-SITE CONSUMPTION

WHEREAS, on December 3, 2015, the Council of the City of Fresno, (Council) voted to adopt Ordinance Bill No. B-43, adding Chapter 15 to the Fresno Municipal Code, which is a comprehensive update to the City's Zoning Ordinance and is referred to as the "Citywide Development Code"; and

WHEREAS, Section 15-2700 et seq. of the Citywide Development Code sets forth standards for specific uses and activities that are permitted or conditionally permitted in some or all; and

WHEREAS, Fresno Municipal Code Section 15-5803-A(1) authorizes the Council to initiate an amendment to the text of the Citywide Development Code by adopting a Resolution of Initiation; and

WHEREAS, the Council desires to amend Section 15-2706 of the Citywide Development Code relating to the sale of alcoholic beverages for off-site consumption and to allow an exception from the Location Restrictions set forth at Section 15-2706 F. and an exemption from the Cancel and Transfer requirements at Section 15-2706 S., for an existing establishment that relocates to a new location across the street and within a 1/4 mile radius of the current location; within the same Council District; within the same Census Tract; not within 500 feet of a nursery school, preschool, a public or private



State-licensed or accredited school or daycare facility; and not in an area of high crime, as defined by the California Business and Professions Code 23958.4(a)(1) et seq., and as determined by the Department of Alcoholic Beverage Control; and the original location will be required to forfeit its existing alcohol entitlements for the original location.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. Pursuant to Fresno Municipal Code Section 15-5803-A(1), the Council initiates the necessary proceedings to amend the text of Section 15-2706 of the City of Fresno's Zoning Ordinance relating to the sale of alcoholic beverages for off-site consumption.

2. The Council further directs staff to review and analyze the proposed draft (attached as Exhibit A), prepare any environmental assessment pursuant to the requirements of the California Environmental Quality Act (CEQA), bring the Text Amendment before the Airport Land Use Commission for consideration upon completion of environmental review, before the Planning Commission for consideration within thirty days of it being reviewed by the Airport Land Use Commission, and back before the Council for consideration within thirty days of the Planning Commission's review.

* * * * *



STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 10th day of June, 2021.

AYES :Arias, Bredefeld, Esparza, Karbassi, Maxwell, Soria, Chavez
NOES :None
ABSENT :None
ABSTAIN :None

YVONNE SPENCE, MMC CRM
City Clerk

BY: Buani R 6/15/2021
Deputy Date

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

BY: R.M. Gonzales 6/15/2021
Rina M. Gonzales Date
Senior Deputy City Attorney



Exhibit A
Draft Text Amendment
[Attached behind this page.]



BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING CHAPTER 15, ARTICLE 27, SECTION 15-2706 OF THE FRESNO MUNICIPAL CODE RELATING TO THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-SITE CONSUMPTION, AMENDING SECTION 15-2706 "THE RESPONSIBLE NEIGHBORHOOD MARKET ACT"

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

SECTION 1. Section 15-2706 of the Fresno Municipal Code is amended to read:

SECTION 15-2706. - ALCOHOL SALES THE RESPONSIBLE NEIGHBORHOOD MARKET ACT.

A. Regulations for On-Site Consumption. Refer to Section 15-2751, Restaurants with Alcohol Sales, Bars, Nightclubs, and Lounges for standards.

B. Regulations for Wholesalers. Operators who hold a Type 17 ABC license for the purpose of selling beer and wine to retailers or a type 18 ABC license for the purpose of selling distilled spirits to retailers, who meet the definition of a "wholesaler" within the meaning of California Business and Professions code Section 23021, and who are located within the City of Fresno are subject to the following restrictions:

1. Wholesalers shall not supply establishments (as defined below) with any items that would violate this Section of the Fresno Municipal Code.

1 of 19

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: _____

Ordinance No. _____



C. Purpose. The following regulations, known as "The Responsible Neighborhood Market Act," are for establishments that sell alcoholic beverages for off-site consumption not otherwise exempt under Section 15-2706 D.2 (henceforth "establishment"). These establishments possess certain characteristics that have the potential to cause deleterious effects and nuisances on surrounding neighborhoods and businesses, especially when such establishments are concentrated near one another. In order to ensure that establishments operate in a manner that is mutually beneficial to surrounding uses and to also provide mechanisms to prevent and correct any associated problems, the following special regulations are provided.

D. Applicability.

1. New or Expanded Use. Any proposed new establishment or any existing establishment that requests to modify their alcohol or business license type(s), reinstate their alcohol or business license(s) after an expiration or revocation, extend their hours of alcohol sales, or expand their floor area for retail sales of alcohol, shall obtain a Conditional Use Permit issued in compliance with the standards of this section. An existing establishment that expands their floor area for non-alcohol related retail sales is allowed to retain the conditions on their existing Conditional Use Permit in relation to alcohol requirements. Should an establishment not comply with the strict application of the regulations provided for



in this section, said improvements shall be made prior to commencing the sale of alcoholic beverages. Violation of these standards at any time may result in the revocation of a Conditional Use Permit.

2. Exemptions. This section does not apply to the following:

a. Establishments that serve alcohol for on-site consumption, where an off-site sales component is incidental to the main use and as permitted through an establishment's ABC Conditional Use Permit License Type.

b. Temporary uses issued a Temporary License by the California Department of Alcoholic Beverage Control and established in compliance with all City laws and ordinances.

3. Conditional Use Permit. Conditional Use Permits issued pursuant to this section shall also be subject to the following:

a. ABC Conditional Use Permit:

i. Establishments seeking to sell alcoholic beverages for off-site consumption, whether as a new or expanded use, shall obtain a Conditional Use Permit for alcohol sales.

E. Modifications to Existing Establishments. A modification to an existing establishment shall not be approved when a condition exists



that has caused or resulted in repeated activities that are harmful to the health, peace, or safety of persons residing or working in the surrounding area.

F. Location Restrictions for New Establishments. The following location restrictions apply to new establishments, unless the establishment can be found qualified for exception by the Review Authority. These location restrictions shall apply to existing establishments that must obtain a CUP pursuant to this ordinance due to proposed expansion or improvement of an existing use that is currently operating pursuant to a CUP issued prior to the effective date of this ordinance unless the proposed expansion or improvement is only with respect to a necessary repair, or bringing the existing establishment into compliance with current building codes, including but not limited to the California Building Code, the California Fire Code, and the California Electrical Code, as may be amended and any local amendments thereto.

1. Near Sensitive Uses. The establishment shall not be located within 1,000 feet of the following:

a. A public park, playground, recreational area including a trail that is immediately adjacent to a public park, or youth facility, including a nursery school, preschool, or day care facility;

b. A public or private State-licensed or accredited school; or



c. An alcohol or other drug abuse recovery or treatment facility.

2. Near Other Alcoholic Beverage Establishments. The establishment shall not be located within 1,000 feet of an existing establishment, nor may it lead to a grouping of more than four establishments within a 1,000 foot radius. Notwithstanding this requirement, an establishment shall not be located within 500 feet of an existing establishment when an establishment is located in a Census Tract that is not oversaturated with off-sale licenses.

3. Within High Crime Areas. The establishment shall not be located in an area of high crime, as defined by the California Business and Professions Code 23958.4(a)(1) et seq., and as determined by the Department of Alcoholic Beverage Control.

4. Within High Concentration Areas. The establishment shall not be located in an area of high concentration, as defined by the California Business and Professions Code 23958.4(a)(3) et seq., and as determined by the Department of Alcoholic Beverage Control.

5. Citywide Ratio. No establishment shall be granted a Conditional Use Permit under this section if the number of sites selling alcohol for off-site consumption will exceed one license per 2,500 residents. This ratio requirement shall not apply to: (1) existing establishments that must obtain a CUP pursuant to this



ordinance due to proposed expansion or improvement of an existing use that is currently operating pursuant to a CUP issued prior to the effective date of this ordinance; (2) new establishments that utilize the Cancel and Transfer provisions stated in Section S., below; or (3) an existing establishment that is in good standing which has a change in the ABC License holder, specifically partner franchisees.

6. Exceptions. A new establishment may be excepted from location restrictions if the Review Authority determines all of the following:

a. The proposed use is not located within an area in which the Chief of Police has determined, based upon quantifiable information, that the proposed use: (a) would be detrimental to the public health, safety, or welfare of persons located in the area; or (b) would increase the severity of existing law enforcement or public nuisance problems in the area.

b. The proposed off-premises sale of alcoholic beverages is incidental and appurtenant to a larger retail use and provides for a more complete and convenient shopping experience.

c. The proposed outlet for the off-premises sale of alcoholic beverages would act as a public convenience or



necessity to an underserved portion of the community and/or enhance the vitality of an existing commercial area without presenting a significant adverse impact on public health or safety.

d. The primary use of the establishment, based on information provided by the applicant, has been determined by the Review Authority to meet the definition of a General Market including a supermarket, neighborhood grocery store or a Healthy Food Grocer.

[7. Existing establishment relocation exception. An existing establishment that relocates and holds a Conditional Use Permit pursuant to this ordinance may be excepted from the location restrictions if the proposed relocation is located: (a) across the street and within a 1/4 mile radius of the current location; (b) within the same Council District; (c) within the same Census Tract; (d) not within 500 feet of a nursery school, preschool, a public or private State-licensed or accredited school or daycare facility; and (e) not in an area of high crime, as defined by the California Business and Professions Code 23958.4(a)(1) et seq., and as determined by the Department of Alcoholic Beverage Control. The original location will be required to forfeit its existing alcohol entitlements for the original location.]



G. Landscaping.

1. New Buildings. Landscaping shall be provided per the underlying District.

2. Existing Buildings. Perimeter landscaping and Parking Lot Shading shall be provided per the underlying district. The Review Authority, at their discretion, may make exceptions to the prescribed standards, however in no case shall the reduction result in a net reduction of 35 percent or greater in the amount of landscaping provided. Landscaping may also be aggregated to minimize the impact on existing parking areas.

H. Lighting. The exterior of the premise, including adjacent public sidewalks and all parking lots under the control of the establishment, shall be illuminated during all hours of darkness during which the premises are open for business in a manner so that persons standing in those areas at night are identifiable by law enforcement personnel. However, required illumination shall be placed and or shielded in a way that minimizes interference with the neighboring residences.

I. Litter and Graffiti.

1. Trash and recycling receptacles shall be provided by public entrances and exits from the building.

2. The owner or operator shall provide for daily removal of trash, litter, and debris from premises and on all abutting sidewalks within 20 feet of the premises.



3. The owner or operator shall remove graffiti within 48 hours.

J. Pay Phones and Vending Machines. External pay phones and snack vending machines are prohibited.

K. Video Surveillance.

1. Establishments must equip a fully functional color digital video camera system.

2. The system must continuously record, store, and be capable of playing back images and be fully functional at all times, including during any hours the business is closed. The system must be maintained in a secured location inside of the business.

3. The system shall have the correct date and time stamped onto the image at all times.

4. The camera storage capacity should be for at least two weeks (14 calendar days). Such cameras must be capable of producing a retrievable and identifiable image than can be made a permanent record and that can be enlarged through projection or other means.

5. If utilizing a digital video recorder, it must be capable of storing at least 14 days of real-time activities.

6. The system shall be capable of producing a CD or digital playback feature and may be provided to an authorized



representative of the Fresno Police Department within 24 hours of the initial request relating to a criminal investigation only.

7. The interior of the business must have at least one camera placed to focus on each cash register transaction to include the clerk as well as the customer waiting area.

8. There shall be four exterior cameras placed so as to record activities in the primary customer parking areas of their business. These cameras should be of sufficient quality to be able to identify persons and or vehicles utilizing the business parking lot.

9. All interior cameras shall record in color.

10. All exterior cameras shall record in color and have automatic low light switching capabilities to black and white. Exterior cameras should be in weatherproof enclosures and located in a manner that will prevent or reduce the possibility of vandalism.

L. Signage.

1. The provisions specified under Article 26, Signs and this subsection shall apply. Where conflict may occur between the provisions of Article 26 and this subsection, the more restrictive provisions shall govern.

2. The following copy is required to be prominently posted in a readily visible manner on an interior wall or fixture and not on windows:



a. "California State Law Prohibits the Sale of Alcoholic Beverages to Persons Under 21 Years of Age."

b. "No Loitering is Allowed On or In Front of These Premises."

c. "No Open Alcoholic Beverage Containers are Allowed on These Premises."

3. No more than 5 percent of the square footage of each window and clear door that is visible to the public from a public thoroughfare, sidewalk, or parking lot of an off-sale alcohol retail outlet shall bear advertising, signs, or other obstructions of any sort.

a. The area covered by signs or advertising includes all clear areas within signs or advertising, such as the clear area within neon signs.

b. Signage, advertising, or other obstructions inside or outside the establishment that are not physically attached to the windows or doors, but are visible from a public thoroughfare, sidewalk, or parking lot in the same manner as if they were physically attached is included in the 5 percent limitation.

c. Any signage required by law shall not count towards the 5 percent limitation, but shall nonetheless follow rules related to visual obstruction.



4. Advertising and signage on windows and clear doors shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlets, including the area in which the cash registers are maintained, from exterior public sidewalks, parking lots, or entrance to the outlets.

5. Any establishment located within 250 feet of a sensitive use, as listed in Subsection E.1, shall not advertise alcohol sales in a manner visible from the outside of the establishment, such as from a public thoroughfare, sidewalk, or parking lot.

6. Displays of alcoholic beverages, freestanding advertising structures of any kind such as cardboard floor stands, or other free-standing signs shall be prohibited within 10 feet of consumer entrance points, shall not be visible from the exterior of the establishment, and shall be prohibited on the exterior of the establishment.

M. Loitering and Other Nuisance Activities. The operation of the establishment shall not result in repeated nuisance activities on the property, which may include, but are not limited to, repeated disturbances of the peace, illegal drug activity, public drunkenness, drinking in public, alcoholic beverage and tobacco sales to minors, harassment of passerby, gambling, prostitution, sale of stolen goods, public urination, theft,



assaults, batteries, acts of vandalism, loitering, excessive littering, graffiti, illegal parking, excessive loud noises (especially in the late night or early morning hours), traffic violations, curfew violations, lewd conduct, or other violations of City, State, or federal laws, especially when contributing to a proportionally high rate of police reports and arrests to the area. This section shall not apply to operators where offenses are the result of third party conduct beyond the operators' control.

N. Training. The owners and all employees of the establishment who are involved in the sale of alcoholic beverages must complete approved course(s) in training of liquor sales and handling within sixty days after approval of the Conditional Use Permit becomes final, or for employees hired after the approval of the Conditional Use Permit, within sixty days from the date of hire. To satisfy this requirement, a certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service (CCC/RBS) or other certifying or licensing body designated by the State of California.

O. Compliance with Laws. The establishment must remain in compliance with all local, State, and federal laws, regulations, and orders, as well as all conditions of approval imposed on the use. This includes compliance with annual City business license fees. In the event of non-compliance, the operator shall be given written notice by the City and an opportunity to cure. Article 63 of Chapter 15, regarding Enforcement of the Citywide Development Code shall also apply in relation to compliance



issues, in addition to the annual inspection requirements listed within Section R, below.

P. Posting of Conditions. A copy of all conditions of approval and training requirements shall either be posted in a conspicuous and unobstructed place near the entrance, cashier counter, or customer service area of the establishment or posted in an employee area and provided upon request (e.g. via flyer or brochure) to patrons and enforcement officials.

Q. Prohibited Products. The sale or distribution of one or more of the following shall be prohibited.

1. Wine in containers of less than 750 milliliters.
2. Single containers of beer, malt liquor, wine coolers, and similar alcoholic beverages not in original factory packages of three-packs or greater, subject to the following exception:
 - a. Craft beer which is originally packaged in a single 22 oz. bottle.
3. Distilled spirits in containers of less than 375 milliliters.
4. Paper or plastic cups in quantities less than their usual and customary packaging.

R. Additional Requirements.

1. The Director may require the applicant to submit additional information, of such type and in such form as the Director



may specify, as the Director may deem relevant to the application, including, but not limited to, an operational statement, floor plans, architectural renderings, and technical studies, as appropriate.

2. The Director may refer the application to other City departments to determine whether the establishment's location will comply with building, health, zoning, and fire ordinances or other applicable ordinances or laws. City departments may conduct an inspection of the premises to determine compliance with the ordinances and other laws they administer, and may subsequently prepare reports summarizing their inspections and recommend whether to approve or deny the application based on their inspections.

3. Additional and/or security measures such as reduced hours of operation, security guards, door monitors, and burglar alarm systems may be required if harm, nuisance, or related problems are demonstrated to occur as a result of business practices or operations. This will be determined on a case-by-case basis upon review by the Police Department.

4. Establishments shall not acquire an ABC license for use that has been temporarily surrendered by another establishment in any jurisdiction, or is from an establishment located outside the City of Fresno or a County island within the City of Fresno. Establishments must comply with the Cancel and



Transfer provisions, set forth below, which require an establishment to acquire active ABC licenses from overconcentrated areas in the City of Fresno.

5. Establishments shall be subject to annual inspection to ensure compliance with this section and any additional conditions of the Conditional Use Permit. If an annual inspection results in a finding that an operator is not in compliance with this section or the specific conditions of the CUP, that finding may be used as a basis for revoking the CUP. An establishment that is subject to a revocation proceeding will be referred to the Responsible Neighborhood Market Act Committee for review and prior to the start of the revocation process.

a. If an operator is determined to be out of compliance with this section or the specific conditions of the CUP, that operator shall be subject to administrative fines set forth in the Master Fee Schedule as may be amended; the fine structure shall consist of progressively higher fines for violations occurring within twelve months of a prior violation, and upon the fourth violation being upheld within a three year period of the first violation, the CUP for the business shall be subject to revocation.

b. If an establishment operating under an existing ABC license is purchased by a unassociated and unrelated



new operator seeking to continue operation of the establishment, and the new operator is not subject to administrative fines as set forth above at any other establishment in the City, the City Manager, with concurrence of the City Attorney, may waive any administrative fines imposed upon the existing establishment upon transfer to the new operator, if the new operator agrees to and obtains a new CUP.

S. Cancel and Transfer.

1. New establishments shall transfer and cancel ABC licenses in good standing as set forth in Table 15-2706 below, from within a Council District identified as having an overconcentration of ABC licenses for off-sale use, as determined by the Director following review of data prepared by the California Department of Alcoholic Beverage Control. The ABC license will be submitted to the Alcoholic Beverage Control for permanent cancellation. A canceled ABC license cannot be reactivated or reinstated.

TABLE 15-2706: CANCEL AND TRANSFER RATIO

Retail Floor Area	Transfer	Cancel
Less than 10,000 square feet	2	1
10,000 to 30,000 square feet	3	2
More than 30,000 square feet	4	3

2. Each ABC license that is canceled also includes surrender of the alcohol-sales portion of all related Conditional Use



Permits and waiver of any legal non-conforming use rights related to the sale of alcohol for off-site consumption.

3. Exemptions.

a. The Cancel and Transfer requirements shall not apply when an establishment is required to relocate as the result of a taking by eminent domain and a license transfer to a new establishment site is necessary due to such taking.

b. Existing establishments that seek to expand their floor area or extend their operating hours.

[c. Existing establishments that seek to relocate if the proposed relocation meets the requirements of Section 15-2706 F.7.]

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

* * * * *



STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2021.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2021
Mayor Approval/No Return: _____, 2021
Mayor Veto: _____, 2021
Council Override Vote: _____, 2021

YVONNE SPENCE, MMC CRM
City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Rina M. Gonzales Date
Senior Deputy City Attorney

**CITY OF FRESNO
ENVIRONMENTAL FINDING OF NO POSSIBILITY OF SIGNIFICANT EFFECT
ENVIRONMENTAL ASSESSMENT NO. P21-05185**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO HAVE NO
SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 20 OF THE
STATE OF CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES

APPLICANT: City of Fresno
Planning and Development Department,
2600 Fresno Street Room 3043
Fresno, California 93721

PROJECT LOCATION: Areas within the jurisdiction of the City of Fresno, generally located within the corporate boundaries

PROJECT DESCRIPTION:

A proposed Text Amendment to Section 15-2706 of the Citywide Development Code; otherwise known as the Responsible Neighborhood Market Act (RNMA). The RNMA currently provides regulations relating to the sale of alcoholic beverages for off-site consumption. The proposed text amendment would allow an exception from the existing Location Restrictions set forth in Section 15-2706-F and would allow an exemption from the existing Cancel and Transfer requirements set forth in Section 15-2706-S for an existing off-sale establishment that relocates to a new location across the street and within a ¼ mile radius of the current location; within the same Council District; within the same Census Tract; not located within 500 feet of a nursery school, preschool, a public or private State-licensed or accredited school or daycare facility; and not in an area of high crime, as defined by the California Business and Professions Code 23958.4(a)(1) et seq., and as determined by the Department of Alcoholic Beverage Control; and the original location will be required to forfeit its existing alcohol entitlements for the original location.

This project is exempt under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines.

Finding:

Staff has conducted a preliminary review of the project and has determined that it is exempt from CEQA pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) under the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Because the proposed Text Amendment is for Council to approve in order to modify the established framework for future and existing alcohol uses and approvals and does not commit the City to any specific project, it can be seen with certainty that there is no possibility that accepting the Strategy document may have a significant effect on the environment. Therefore, this action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3)

Evidence:

The proposed Text Amendment modifies the existing regulations for off-sale establishments by allowing an exception to the established Location Restrictions and an exemption to the Cancel and Transfer Provisions for qualifying establishments seeking to relocate.

There will be no physical change to the environment as a result of the adoption of this Text Amendment as it is an amendment to the application process for new or modified alcohol licenses. The Text Amendment does not relate to any physical project.

The regulations of the proposed Text Amendment will not intensify the use of any establishment. The application process already exists within the Fresno Municipal Code and the proposed Text Amendment creates modifies existing regulations for reviewing and approving a project. As such, the proposed Text Amendment will not intensify any existing uses.

All individual projects under the proposed Text Amendment will be subject to discretionary review with a Conditional Use Permit (CUP). Each individual CUP will be evaluated pursuant to the requirements of CEQA and the appropriate level of environmental review will be completed when the scope and impacts of each individual entitlement are known.

Approval of this Text Amendment does not automatically permit alcohol uses in any district. Rather, it creates flexibility for existing establishments seeking to relocate by allowing an additional exception to the Location Restrictions and an exemption to the Cancel & Transfer Provisions. In this way, the actual ABC CUP is not yet approved and is subject to future discretionary approval. Because this Text Amendment does not effectuate any approvals, and does not result in any changes in use or intensity, it can be seen with certainty that there is no possibility that approval of this Text Amendment will have a significant effect on the environment or a reasonably foreseeable indirect effect on the environment.

Therefore, Text Amendment P21-05185 is exempt from CEQA pursuant to the common sense exemption set forth in Section 15061(b)(3) of the CEQA Guidelines.

Date: October , 2021

Submitted By: _____

Phillip Siegrist
City of Fresno
Planning and Development
Department