

EXHIBIT D

Fresno Municipal Code

Text Amendment Findings

EXHIBIT D – FRESNO MUNICIPAL CODE FINDINGS

Section 15-5811 of the Fresno Municipal Code provides that the “Planning Commission shall not recommend and the City Council shall not approve an application unless the proposed Text Amendment meets Criteria A (1 and 2) as noted below.

1. The Code text amendment is consistent with the General Plan, the Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5 and any applicable operative plans; and”

The proposed Text Amendment meets Criteria A-1 for the following reasons: The purpose of the proposed Text Amendment is to establish permitting procedures and regulations for Smoke Shops and amortize existing Smoke Shop establishments by allowing up to seven (7) establishments per City Council District.

Text Amendment Application No. P23-03410 has been examined with respect to its consistency with the Fresno General Plan and it has been concluded that the proposed Text Amendment is consistent with the following General Plan Objectives and Policies:

- Objective LU-1: Establish a comprehensive citywide land use planning strategy to meet economic development objectives, achieve efficient and equitable use of resources and infrastructure, and create an attractive living environment.
 - Policy LU-1-b: **Land Use Definition and Compatibility.** Include zoning districts and standards in the Development Code that provide for the General Plan land use designations and create appropriate transitions or buffers between new development with existing uses, taking into consideration the health and safety of the community.
- Objective LU-4: Enhance existing residential neighborhoods through regulations, code enforcement, and compatible infill development.
 - Policy LU-4-a: **Neighborhood Nuisance Abatement.** Continue proactive and responsive code enforcement and nuisance abatement programs to improve the attractiveness of residential neighborhoods
- Objective D-5: Maintain and improve community appearance through programs that prevent and abate blighting influences.
 - Policy D-5-a: **Code Enforcement.** Continue enforcement of the Fresno Municipal Code to remove or abate public nuisances in a timely manner.

- Policy D-5- b: **Clean Streets.** Promote community partnerships and continued City efforts toward litter clean-up and abatement of trash stockpiles on public and private streets.
- Policy D-5-d. **Graffiti Prevention and Abatement.** Seek ways to end graffiti, continue and expand the City's effective Graffiti Abatement Program.
- Objective PU-1: Provide the level of law enforcement and crime prevention services necessary to maintain a safe, secure, and stable urban living environment through a Police Department that is dedicated to providing professional, ethical, efficient and innovative service with integrity, consistency and pride.
 - Policy PU-1-c: **Safety Considerations in Development Approval.** Continue to identify and apply appropriate safety, design and operational measures as conditions of development approval, including, but not limited to, street access control measures, lighting and visibility of access points and common areas, functional and secure onsite recreational and open space improvements within residential developments, and use of State licensed, uniformed security.
 - Policy PU-1-e: **Communication with Public.** Maximize communication and cooperative efforts with residents and businesses in order to identify crime problems and optimize the effectiveness of crime prevention measures and law enforcement programs.
- Objective HC-2: Create complete, well-structured, and healthy neighborhoods and transportation systems.
 - Policy HC-2-a: **Healthy Neighborhoods.** Promote the design of Complete Neighborhoods whose physical layout and land use mix allow for walking to local stores and services, biking, and transit use; foster community pride; enhance neighborhood identity; encourage public safety; are family-friendly; and address the needs of residents of all ages and abilities.
 - Policy HC-2-c: **Prevent Crime through Design.** Incorporate Crime Prevention Through Environmental Design (CPTED) principles and best practices into project review procedures for new development and major renovations.
- Objective HC-4: Improve property maintenance.

- Policy HC-4-a: **Business Maintenance Standards.** Update property maintenance standards, codes, and enforcement provisions to include businesses.
- Policy HC-4-f: **Chronic Violators.** Design and implement procedures to address chronic code violations at single properties.

Text Amendment No. P23-03410 is in conformance with the above-referenced Objectives and Policies of the Fresno General Plan in that it will update Sections 15-2761 and 15-6802 of the Fresno Municipal Code to include terms and definitions relating to Smoke Shops and replace existing regulations for tobacco and vapor sales and establish regulations relating to New and Existing Smoke Shops. The amendment will amortize existing Smoke Shop establishments by allowing up to seven (7) establishments per City Council District (49 Smoke Shops Citywide) and establish permitting and procedural requirements, location restrictions, and operational regulations for all New Smoke Shops. This Text Amendment supports General Plan Policies LU-1-b and HC-2-a in that it will provide location restrictions and separation requirements for Smoke Shops in relation to sensitive uses and other Smoke Shops and establishes a limitation on the number of Smoke Shops allowed within each council district and citywide. In addition, this Text Amendment supports Policies LU-4-a, D-5-a, D-5-b, D-5-d, HC-4-e in that it will establish procedures for annual inspections, fines for violations, and operational requirements to abate trash, graffiti, and nuisances, as well as administrative oversight by permitting the City Manager, or their designee, to issue rules and regulations interpreting and enforcing the provisions of the proposed Text Amendment. Further, this Text Amendment supports Policies PU-1-c and HC-2-c, and HC-4-a in that it will provide design and operational standards for Smoke Shops relating to landscape, lighting, window glazing, signage, and security requirements as well as prohibited products and permissible hours of operation for Smoke Shops. Finally, the Text Amendment supports Policy PU-1-e because Smoke Shops licensed pursuant to the new law will be required to cooperate with law enforcement during investigations of crimes alleged to have taken place within view of the security cameras the Smoke Shops will be required to maintain. The Text Amendment further supports Policy PU-1-e in that the required Conditional Use Permit process includes public notice requirements and opportunities for residents and businesses to provide comments on proposed businesses.

Further, each project applying for a conditional use permit under the proposed text amendment will be individually reviewed and assessed for consistency with the General Plan, the Fresno County Airport Land Use Compatibility Plan, the underlying base zone district, and any applicable specific or community plans. Text Amendment Application No. P23-03410 has been examined with respect to its consistency with the Fresno General Plan and applicable operative plans and it was concluded that Text Amendment Application No. P23-03410 is consistent with said plans.

2. "The amendment is consistent with the purpose of the Development Code to promote the growth of the city in an orderly and sustainable manner and to promote and protect the public health, safety, peace, comfort, and general welfare."

The proposed Text Amendment meets Criteria A-2 for the following reasons: The purpose of the proposed Text Amendment is to provide a City-initiated process for Smoke Shop establishments to comply with regulations and provisions. The proposed Text Amendment is consistent with the purpose of the Development Code, in that it will seek to address ongoing nuisances created as a result of Existing Smoke Shops which are not currently subject to the proposed regulations, therefore promoting and protecting the public health, safety, peace, comfort and general welfare. The proposed Text Amendment does not relate to any physical project and it does not intensify the use of Smoke Shops beyond what is already in place. Further, the proposed Text Amendment requires that Existing Smoke Shops amortize their use and future applications for Smoke Shops meet the additional regulations to obtain discretionary approval from the City via a Conditional Use Permit, at which time the particular impacts of each known proposed project will be assessed specifically relating to public health, safety, peace, comfort, and general welfare. Thus it can be concluded that Text Amendment Application No. P23-03410 is consistent with the purpose of the Development Code.