

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, TO FIND THE CITY OF FRESNO'S LAND USE PLANS AND REGULATIONS CONSISTENT WITH THE AIRPORT LAND USE COMPATIBILITY PLAN OF 2018

WHEREAS, in December of 2018 the Fresno County Airport Land Use Commission (ALUC) adopted a new Fresno County Airport Land Use Compatibility Plan (ALUCP); and

WHEREAS, the new ALUCP significantly expands the scope and scale of airport land use planning, including expanding the Airport Influence Area for Chandler airport by 67%, and expanding the Airport Influence Area for Fresno-Yosemite International by 84%; and

WHEREAS, Government Code Section 65302.3(a) states that a county's or city's land use plans and regulations shall be consistent with an ALUCP; and

WHEREAS, this matter was considered by the Airport Land Use Commission on May 13, 2019, and June 3, 2019, at which time they rejected the City of Fresno's proposed Consistency Finding; and

WHEREAS, the Citywide Development Code implements the General Plan by regulating land use within Fresno's City Limits; and


WHEREAS, in any instance of conflict between the ALUCP and any City of Fresno planning documents, including the Citywide Development Code and the General Plan, the Citywide Development Code states unequivocally that all such conflicts shall be resolved in favor of the ALUCP; and

1 of 6

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: 

Resolution No.

WHEREAS, all discretionary planning entitlements require that the Director of Planning and Development or the Planning Commission must find the project to be consistent with the ALUCP before the application is approved; and

WHEREAS, the above measures in the Citywide Development Code are the most effective way to achieve consistency with the ALUCP and provide for public health by ensuring immediate compliance with the most current version of the ALUCP and eliminating the risk of conflicts between City of Fresno Regulations and the ALUCP; and

WHEREAS, California Public Utilities Code Section 21676(a) provides that a local agency may propose to overrule the ALUC's determination that a land use plan is inconsistent with the ALUCP if by a two-thirds vote of its governing body it makes specific findings that the proposed action is consistent with the purposes of California Public Utilities Code Section 21670.; and

WHEREAS, California Public Utilities Code Section 21676(b) provides that a local agency may propose to overrule the ALUC's determination that a proposed amendment to the zoning ordinance is inconsistent with the ALUCP if by a two-thirds vote of its governing body it makes specific findings that the proposed action is consistent with the purposes of California Public Utilities Code Section 21670; and

WHEREAS, pursuant to the requirements of California Public Utilities Code Sections 21676(a) and (b) the City provided a copy of its proposed decision and findings to the ALUC on [insert date], 45 days prior to the anticipated date of the proposed decision to overrule the ALUC; and

WHEREAS, the California Department of Transportation, Division of Aeronautics was also provided with a copy of the proposed decision and accompanying findings; and

WHEREAS, the ALUC and the California Department of Transportation, Division of Aeronautics were allowed to provide comments within 30 days of receiving the proposed decision and findings and any such comments received have been included in the public record.

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

1. Pursuant to California Public Utilities Code Section 21676(a) and (b), The City of Fresno hereby overrules the May 13, 2019, inconsistency determination of the ALUC and finds the City's land use plans and regulations, inclusive of the proposed text amendment attached as Exhibit A, are consistent with the Fresno County Airport Land Use Compatibility Plan, and with the purposes of California Public Utilities Code Section 21670.

2. Based on its independent judgment, the Council finds that the proposed text amendment is consistent with the purpose set forth in Public Utilities Code Section 21670(a)(2) of protecting the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses as follows:

- a. Development Permits, Conditional Use Permits, Variances, Text Amendments, Planned Development Permits, Development Agreements, and

Annexations require a specific finding that the approval is consistent with the most current version of the Airport Land Use Compatibility Plan (ALUCP) as adopted by the ALUC. Without this finding, proposed projects cannot be approved.

b. By requiring that projects shall be consistent with the ALUC's adopted plan, the proposed text amendment prioritizes the ALUC's planning document such that the land use measures contained in the ALUCP cannot be set aside or superseded by provisions of the Fresno Municipal Code.

c. Deference to the provisions of the ALUCP ensures strict adherence to land use measures that protect the public and minimize their exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

d. Requiring compliance with the provisions of the ALUCP as a specific finding eliminates the risk of conflicting provisions between the Fresno Municipal Code, adopted planning documents within the City of Fresno, and future updates to the ALUCP because the most current adopted version of the ALUCP is the basis for the proposed findings.

e. Because the ALUCP was adopted by the ALUC to fulfill the purpose set forth in Public Utilities Code Section 21670(a)(2), required compliance with the ALUPC, by its nature, is consistent with that purpose.

f. Upon adoption of the proposed text amendment, development within all planning areas within the City of Fresno will be subject to its provisions. In addition, the proposed text amendment states that the ALUCP shall supersede

all other land use plans within the City of Fresno. Therefore, the Council also finds that based on its independent judgment, upon adoption of the proposed text amendment, the City's land use plans and regulations are consistent with the purpose set forth in Public Utilities Code Section 21670(a)(2) of protecting the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

\* \* \* \* \*

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 \_\_\_\_\_ day of \_\_\_\_\_ 2019.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

YVONNE SPENCE, MMC CRM  
City Clerk

By: \_\_\_\_\_ Date  
Deputy

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

By: \_\_\_\_\_ Date  
Talía Kolluri-Barbick  
Supervising Deputy City Attorney

Attachment: Exhibit A