

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, INITIATING A TEXT AMENDMENT TO CHAPTER 15 OF THE FRESNO MUNICIPAL CODE PURSUANT TO FMC SECTION 15-5803-A RELATING TO REGULATION OF E-COMMERCE PARCEL DELIVERY WAREHOUSES WITHIN THE CITY OF FRESNO

WHEREAS, on December 3, 2015, the Council of the City of Fresno 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, the Citywide Development Code sets forth development standards and use requirements for various uses within the City of Fresno; and

WHEREAS, the establishment of e-commerce parcel delivery warehouses and similar facilities requires a clear definition of the use, clear regulations as to where such uses are permitted, and may require conditions unique to their proposed locations and features; and

WHEREAS, City Council desires to clarify the definition of and amend the requirements for e-commerce parcel delivery warehouses and similar facilities so that the City may consider the unique features of each proposal and require conditions if needed; and

WHEREAS, requiring a Conditional Use Permit (CUP) for e-commerce parcel delivery warehouses and similar facilities is the procedural mechanism that allows the City to impose conditions on certain uses.

1 of 10

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval:



Resolution No. _____

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

1. The Council, pursuant to Fresno Municipal Code Section 15-5803-A, hereby initiates an amendment to Fresno Municipal Code Chapter 15 relating to the establishment of a clear definition of e-commerce parcel delivery warehouses and setting forth procedures for the application for and regulation of e-commerce parcel delivery warehouses pursuant to a CUP.

2. The Council directs staff to prepare a Text Amendment proposing to clearly articulate a definition for e-commerce parcel delivery warehouses, to establish which zone districts will allow e-commerce parcel delivery warehouse uses, and to require a CUP for e-commerce parcel delivery warehouses in all districts in which they are permitted. Staff is further directed to consider the proposed draft Text Amendment attached as Exhibit A and revise as necessary prior to presenting to the Airport Land Use Commission, Planning Commission, and City Council. The Text Amendment shall be prepared along with an appropriate environmental assessment consistent with the requirements of the California Environmental Quality Act.

3. The Council further directs staff to bring the Text Amendment before the Airport Land Use Commission for review, before the Planning Commission for review subsequent to it being reviewed by the Airport Land Use Commission, and back before Council for consideration following the Planning Commission review, pursuant to the procedure for Text Amendments set forth within the Fresno Municipal Code.

* * * * *

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

I, TODD STERMER, 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 _____ 2023.

AYES :
NOES :
ABSENT :
ABSTAIN :

TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
TALIA KOLLURI Date
Assistant City Attorney

Attachment: Exhibit A

Exhibit A

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA AMENDING SECTIONS 15-6705, TK, TK OF THE FRESNO MUNICIPAL CODE RELATING TO E-COMMERCE WAREHOUSE FACILITIES

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

SECTION 1. Section 15-6705 is amended to read,

Sec. 15-6705. - INDUSTRIAL USE CLASSIFICATIONS.

Construction and Material Yards. Storage of construction materials or equipment on a site other than a construction site.

Custom Manufacturing. Establishments primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle making shops, woodworking, and custom jewelry manufacturers.

Limited Industrial. Establishments engaged in light industrial activities taking place primarily within enclosed buildings and producing minimal impacts on nearby properties. This classification includes manufacturing finished parts or products primarily from previously prepared materials; micro-breweries where retail sales are clearly incidental and no alcoholic beverages are consumed on-site; commercial laundries and dry cleaning plants; monument works; printing, engraving and publishing; computer and electronic product manufacturing; furniture and related product manufacturing; and industrial services.

General Industrial. Manufacturing of products from extracted or raw materials or recycled or secondary materials, or bulk storage and handling of such products and materials. This classification includes operations such as food and beverage processing (excluding animal food manufacturing); production apparel manufacturing; photographic processing plants; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; primary metal manufacturing; fabricated metal product manufacturing; and automotive and heavy equipment manufacturing. This classification does not include recycling or rendering.

Food and Beverage Processing. A facility combining raw food ingredients to produce packaged food products that can be easily prepared and served by the consumer. Examples include: parboiling, cooking, canning, bottling, freezing, or other methods to provide shelf-stable or

freezer commodities for sale for human consumption. Additionally, this classification does not include the processing of animals.

Intensive Industrial. Industrial uses that regularly use hazardous chemicals or procedures or produce hazardous byproducts, including the following: manufacturing of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins, and radioactive materials. This subcategory also includes biomass energy conversion, chemical manufacturing, animal food manufacturing, petrochemical tank farms, gasification plants, smelting, animal slaughtering, oil refining, asphalt and concrete plants, and tanneries. Intensive industrial uses have high potential for external impacts on the surrounding area in terms of noise, vibration, odor, hours of operation, and traffic. This classification does not include rendering.

Recycling Facility. A facility for receiving, temporarily storing, transferring and/or processing materials for recycling, reuse, or final disposal. This use classification does not include facilities that deal with animal matter nor does it include waste transfer facilities that operate as materials recovery, recycling, and solid waste transfer operations, which are classified as utilities.

Reverse Vending Machine. An automated mechanical device that accepts, sorts, and processes recyclable materials and issues a cash refund or a redeemable credit slip.

CRV Recycling Center. A facility available for the general public for the recycling of California Redemption Value (CRV) products such as glass, aluminum cans, and plastic beverage containers as defined by the State's Department of Resources Recycling and Recovery. Processing and sorting is not conducted on-site.

Recycling Processing Facility. A facility that receives, sorts, stores and/or processes recyclable materials.

Research and Development. A facility for scientific research and the design, development, and testing of electrical, electronic, magnetic, optical, pharmaceutical, chemical, and biotechnology components and products in advance of product manufacturing. Includes assembly of related products from parts produced off-site where the manufacturing activity is secondary to the research and development activities.

Salvage and Wrecking. Storage and dismantling of vehicles and equipment for sale of parts, as well as their collection, storage, exchange or sale of goods including, but not limited to, any used building materials, used containers or steel drums, used tires, and similar or related articles or property.

Warehousing, Storage, and Distribution. Storage and distribution facilities without sales to the public on-site or direct public access except for public storage in small individual spaces exclusively and directly accessible to specific tenants. This classification includes mini-warehouses.

Chemical and Mineral Storage. Storage of hazardous materials including, but not limited to: bottled gas, chemicals, minerals and ores, petroleum or petroleum-based fuels, and fireworks.

Indoor Warehousing and Storage. Storage within an enclosed building of commercial goods prior to their distribution to wholesale and retail outlets and the storage of industrial equipment, products and materials including, but not limited to, automobiles, feed, and lumber. Also includes cold storage, draying or freight, moving and storage, and warehouses. This classification excludes the storage of hazardous chemical, mineral, and explosive materials.

Outdoor Storage. Storage of vehicles or commercial goods or materials in open lots.

Personal Storage. Facilities offering enclosed storage with individual access for personal effects and household goods including mini-warehouses and mini-storage. This use excludes workshops, hobby shops, manufacturing, or commercial activity.

Wholesaling and Distribution. Indoor storage and sale of goods to other firms for resale; storage of goods for transfer to retail outlets of the same firm; or storage and sale of materials and supplies used in production or operation, including janitorial and restaurant supplies.

Wholesalers are primarily engaged in business-to-business sales, but may sell to individual consumers through mail or internet orders. They normally operate from a warehouse or office having little or no display of merchandise, and are not designed to solicit walk-in traffic. This classification does not include wholesale sale of building materials.

(Added Ord. 2015-39, § 72, eff. 1-9-16; Am. Ord. 2018-66, § 72, eff. 1-18-19).

SECTION 2. Section 15-6706 is amended to read,

Sec. 15-6706. - TRANSPORTATION, COMMUNICATION, AND UTILITIES USE CLASSIFICATIONS.

Airports and Heliports. Facilities for the takeoff and landing of airplanes and helicopters, including runways, helipads, aircraft storage buildings, public terminal building and parking, air freight terminal, baggage handling facility, aircraft hangar and public transportation and related facilities, including bus operations, servicing, and storage. Also includes support activities such as fueling and maintenance; storage; airport operations and air traffic control; incidental retail sales, coffee shops and snack shops; and airport administrative facilities, including airport offices, terminals, operations buildings, communications equipment, buildings and structures, control towers, lights; and other equipment and structures required by the United States Government and/or the State for the safety of aircraft operations.

Communication Facilities. Facilities for the provision of broadcasting and other information relay services through the use of electronic and telephonic mechanisms.

Antenna and Transmission Towers. Broadcasting and other communication services accomplished through electronic or telephonic mechanisms, as well as structures and equipment cabinets designed to support one or more reception/transmission systems. Typical

uses include wireless telecommunication towers and facilities, radio towers, television towers, telephone exchange/microwave relay towers, cellular telephone transmission/personal communications systems towers, and associated equipment cabinets and enclosures.

E-Commerce Parcel Delivery Warehouses. "E-Commerce Parcel Delivery Warehouse" means a facility that falls under one of the following categories:

(a) Fulfillment center. A facility whose primary purpose is storage and distribution of e-commerce goods to consumers or end-users, either directly or through a parcel hub. (b) Parcel hub. A last mile facility or similar facility whose primary purpose is processing or redistribution of goods for delivery directly to consumers or end-users, by moving a shipment from one mode of transport to a vehicle with a rated capacity of less than ten thousand pounds. (c) Parcel sorting facility. A facility whose primary purpose is sorting or redistribution of goods from a fulfillment center to a parcel hub.

Facilities within Buildings. Includes radio, television, or recording studios; telephone switching centers, but excludes Antennae and Transmission Towers.

Freight/Truck Terminals and Warehouses. Facilities for freight, courier, and postal services by truck or rail. This classification does not include local messenger and local delivery services (see Light Fleet-Based Services).

Light Fleet-Based Services. Passenger transportation services, local delivery services, medical transport, and other businesses that rely on fleets of three or more vehicles with rated capacities less than 10,000 lbs. This classification includes parking, dispatching, and offices for taxicab and limousine operations, ambulance services, non-emergency medical transport, local messenger and document delivery services, home cleaning services, and similar businesses. This classification does not include towing operations (see Automobile/Vehicle Sales and Service, Towing and Impound) or taxi or delivery services with two or fewer fleet vehicles on-site (see Business Services).

Transportation Passenger Terminals. Facilities for passenger transportation operations. Includes rail stations and bus terminals, but does not include terminals serving airports or heliports.

Utilities, Major. Generating plants; electric substations; solid waste collection, including transfer stations and materials recovery facilities; solid waste treatment and disposal; water or wastewater treatment plants; and similar facilities of public agencies or public utilities.

Utilities, Minor. Facilities necessary to support established uses involving only minor structures, such as electrical distribution lines, and underground water and sewer lines.

Waste Transfer Facility. A public or private facility that operates as a materials recovery, recycling, and solid waste transfer operation providing solid waste recycling and transfer services for other local jurisdictions and public agencies that are not located within the City of Fresno. The facility sorts and removes recyclable materials (including paper, metal, wood, inert

materials such as soils and concrete, green waste, glass, aluminum and cardboard) through separation and sorting technologies to divert these materials from the waste stream otherwise destined for landfill.

(Added Ord. 2015-39, § 1, eff. 1-9-16).

SECTION 3. Article 27 is amended to add Section 15-2769, reading,

SEC. 15-2769. - E-COMMERCE PARCEL DELIVERY WAREHOUSES

"E-Commerce Parcel Delivery Warehouse" means a facility that falls under one of the following categories:

(a) Fulfillment center. A facility whose primary purpose is storage and distribution of e-commerce goods to consumers or end-users, either directly or through a parcel hub. (b) Parcel hub. A last mile facility or similar facility whose primary purpose is processing or redistribution of goods for delivery directly to consumers or end-users, by moving a shipment from one mode of transport to a vehicle with a rated capacity of less than ten thousand pounds. (c) Parcel sorting facility. A facility whose primary purpose is sorting or redistribution of goods from a fulfillment center to a parcel hub.

All E-Commerce Parcel Delivery Warehouses shall be located, developed and operated in compliance with applicable Federal and State laws and regulations, and the required standards of the underlying zoning district and all applicable conditions, as well as the following.

- A. Application Content. Applications for E-Commerce Parcel Delivery Warehouses shall include the following:
1. Site Plan. A detailed site plan depicting all buildings, land uses, storage areas, parking areas, driveways, internal and surrounding traffic circulation. Occupancy type and rating for each building or structure shall be identified.
 2. Air Quality Analysis. An analysis of all anticipated air quality impacts and proposed mitigation measures. This includes but is not limited to impacts from operation of the facility, mobile sources such as delivery vehicles, and potential health impacts on sensitive receptors along delivery routes and on neighboring properties and properties within 1,000 feet of the subject property.
 3. Traffic Analysis. Applicants shall submit a traffic analysis which addresses, at a minimum, vehicle-truck trips, effects on nearby intersections, and any special characteristics of the project site. The traffic analysis shall include the number and location of daily routes for delivery and courier vehicles. Applicants shall also identify the most likely transportation routes within the city and the county.
 4. Closure Plan. The owner or operator of a E-Commerce Parcel Delivery Warehouse shall, prior to any local land use decision, submit a written

Closure Plan to the Fresno Planning Department. The Closure Plan shall be approved the Fresno Planning Department. The Closure Plan shall include specific plans for security and upkeep of the facility if it should cease operation. All revisions to such Closure Plans shall also be submitted to the Fresno Planning Department.

5. Labor Market Study. The applicant shall submit a labor market analysis to determine the net impact on employment and wages in the relevant labor market.

B. Monitoring. At minimum, E-Commerce Parcel Delivery Warehouses are subject to the following monitoring requirements:

1. Upon reasonable notice, and for the purpose of ensuring compliance with all standards, conditions, and other requirements which the City is authorized to enforce under its police power, City Officials or their designated representatives may enter the premises on which a E-Commerce Parcel Delivery Warehouse permit has been granted.
2. The owner or operator of a facility shall report yearly to the Fresno Planning Department the total number, individual dates, and descriptions of all safety incidents at the facility, including worker injuries, vehicle accidents both on the subject property and involving a courier in the course of their delivery and within the City or County, and complaints of noise, noxious smells, or light pollution made by neighbors or the general public of which the owner or operator has knowledge.
3. Owners/Operators of all facilities shall submit an annual Air, Soil, and Groundwater Monitoring Report to the City Engineer.

C. Enforcement. All costs of compliance with this Ordinance shall be borne by the facility owner/operator. The City shall employ any and all methods permitted by law to enforce this Ordinance.

D. Maintenance. The owner/operator shall keep all equipment and buildings in good repair and shall employ technological advances as may be required by the California Department of Health Services, San Joaquin Valley Air Pollution Control District, or U.S. Environmental Protection Agency.

E. Findings. The following findings shall be made in writing prior to making a land use decision which will allow the siting of a hazardous waste facility project:

1. The project is consistent with the General Plan.
2. The project will not be detrimental to the health, safety, general welfare, or property values of the community or nearby residents.
3. The project will not detrimentally impact wages, employment, and labor standards.
4. The project will not have a net negative impact air quality in the City;
5. There are adequate City services available to service the project.
6. The project has met or exceeded each requirement of this ordinance.

7. Any potentially significant impacts identified in the CEQA analysis will be adequately mitigated.

SECTION 4. Section 15-1302 is amended to add,

Warehousing, Storage, and Distribution						
Chemical and Mineral Storage	-	-	-	C	C	§ 15-2732, Hazardous Waste Management Facilities
Indoor Warehousing and Storage	-	P	P	P	P	
Outdoor Storage	-	P(8) (16)	P(8) (16)	P(16)	P(16)	§ 15-2721, Concrete Batch Plants, Storage Yards, and Similar Uses
Personal Storage	C	P	P	P	P	§ 15-2747, Personal (Mini) Storage
Wholesaling and Distribution	-	P	P	P	P	
<u>E-Commerce Parcel Delivery Warehouse</u>	=	=	=	<u>C</u>	<u>C</u>	<u>§ 15-2769, E-Commerce Parcel Delivery Warehouse</u>

SECTION 5. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the fifteenth day after its initial passage.