

EXHIBIT E

Environmental Assessment No.

P23-03410 dated January 15, 2025

**CITY OF FRESNO
CEQA EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. P23-03410**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS PURSUANT TO ARTICLE 5 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:

Current regulations for tobacco and vapor sales included in Fresno Municipal Code (FMC) Section 15-2761 only provide restrictions for signage when establishments are near sensitive uses. Specifically, any establishment located within 400 feet of a park, school (private or public), day care, or other youth-sensitive places (e.g., boys and girls club, youth activity centers) may not advertise smoking sales (such as for tobacco, vapor, or similar products) or related paraphernalia in a manner visible from the outside of the establishment, such as from a public thoroughfare, sidewalk, or parking lot.

Text Amendment Application No. P23-03410 (Text Amendment), as initiated by the Fresno City Council pursuant to Resolution No. 2022-052, proposes to amend Section 15-6802 (Definitions) and Section 15-2761 (Tobacco and Vapor Sales) of the Citywide Development Code. The proposed Text Amendment will add the following terms and definitions to Section 15-6802 (Definitions) of the Citywide Development Code: Cigarette, Electronic Cigarette (or E-Cigarette), Existing Smoke Shop, Smoke and Vapor Products, Smoke Shop, Smoke Shop Operator, Smoking, Smoking Paraphernalia, Tobacco Product; and Tobacco Retailer. The new definitions will make the Text Amendment cohesive with State law and provide clarity on specific terms.

In addition, the proposed Text Amendment would replace existing regulations for tobacco and vapor sales in accordance with Section 15-2761 (Tobacco and Vapor Sales) and establish regulations relating to New and Existing Smoke Shops. The amendment will amortize Existing Smoke Shop establishments and allow 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 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 business establishments engaged in the sale of tobacco and vapor products (e.g. Smoke Shops) and does not commit the City to any specific project, it can be seen with certainty that there is no possibility that accepting the Text Amendment 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 adds to existing definitions and modifies the existing regulations for retail establishments engaged in the sale of Smoke and Vapor Products as a primary use, which are not incidental to a larger retail use such as supermarkets and convenience stores; otherwise known as "Smoke Shops."

There will be negligible physical change to the environment as a result of the adoption of this Text Amendment as it is an amendment to the application establishments which sell tobacco and vapor products. 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 processes required for new Smoke Shops already exist within the Fresno Municipal Code and the proposed Text Amendment modifies existing regulations for reviewing and approving a project to establish a new Smoke Shop. 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.

Under the proposed Text Amendment, Existing Smoke Shops will be subject to amortization requirements which allows Existing Smoke Shops up to 18 months to change the nature of their business or wind them down and close operations. Alternatively, Existing Smoke Shops may apply for a CUP alongside new Smoke Shops. Any closure of business operations under the proposed amortization requirements, where the business does not qualify for a CUP to continue operating or does not change the nature of their business, will not result in blight, fire hazards, or attractive nuisance because property owners must comply with the requirements under FMC Section 10-617 (Blighted Vacant Building Ordinance).

Approval of this Text Amendment does not automatically permit the sale of tobacco and vapor products or the establishment of Smoke Shops in any district. Rather, it creates application rules and procedures for Existing and New Smoke Shop establishments seeking

to sell tobacco and vapor products. In this way, the actual CUP for individual projects are not yet approved and will be subject to future discretionary approval. Because this Text Amendment does not effectuate any approvals, and does not result in any intensification in use, 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 P23-03410 is exempt from CEQA pursuant to the common sense exemption set forth in Section 15061(b)(3) of the CEQA Guidelines.

Date: **JANUARY 15, 2025**

Submitted By:



Phillip Siegrist

City of Fresno

Planning and Development Department