

SEC. 15-2706. - ALCOHOL SALES.

- A. **Regulations for On-Site Consumption.** Refer to Section 15-2751, Restaurants with Alcohol Sales, Bars, Nightclubs, and Lounges for standards.
- B. **Purpose.** The following regulations 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.
- C. **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 operation, or expand their floor area, 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 are 10,000 square feet or larger.
 - b. Establishments that serve alcohol for on-site consumption, where an off-site sales component is incidental to the main use.
 - c. Temporary uses issued a Temporary License by the California Department of Alcoholic Beverage Control and established in compliance with all City laws and ordinances.
- D. **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.
- E. **Location Restrictions for New Establishments.** The following location restrictions apply, unless the establishment can be found qualified for exception by the Review Authority.
1. **Near Sensitive Uses.** The establishment shall not be located within 500 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 500 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. **Exceptions.** A new establishment may be excepted from location restrictions if the Review Authority determines any 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.

F. 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.

- G. 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.

H. 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.

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

J. 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.

K. 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 15 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 15 percent limitation.
 - c. Any signage required by law shall not count towards the 15 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, may not advertise alcohol sales in a manner visible from the outside of the establishment, such as from a public thoroughfare, sidewalk, or parking lot.
- L. **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.
- M. **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.

- N. **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.
- O. **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.
- P. **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.
 - 3. Distilled spirits in containers of less than 375 milliliters.
 - 4. Paper or plastic cups in quantities less than their usual and customary packaging.
- Q. **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.

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

SEC. 15-2755. - SERVICE STATIONS.

Service stations and any other commercial use that provide fuel pumps for retail sales of gasoline are subject to the following standards:

A. Site Design.**1. Access.**

- a. There shall be no more than two vehicular access points to/from a public street. Additional access may be provided by neighboring properties.
 - b. Should a site be redeveloped (i.e., the existing building and/or fuel canopy is removed and reconstructed), and more than two vehicular points of access exist, they shall be removed per Public Works Standards.
 - c. Fleet Fuel Stations in Industrial Districts may provide additional access points, as determined by the Public Works Director.
2. Designs shall incorporate landscaping and half screen walls to screen vehicles while allowing eye level visibility into the site. Fleet Fuel Stations in Industrial Districts are excepted from this provision.
 3. Significant architectural or landscape features shall be provided at the corner of intersecting streets to enhance the streetscape.
 4. Noise-generating uses, such as auto service bays, car wash openings, vacuum stations, outdoor loading areas, garbage storage, and stacking lanes, shall be located away from sensitive uses such as residential areas.
 5. Propane tanks, vapor recovery systems, air compressors, utility boxes, garbage, recycling containers/enclosures, and other similar mechanical equipment shall be screened from public view. Propane tanks, vapor recovery tanks, etc. shall be laid horizontally and shall be screened with a hedge and/or wall.

B. Air and Water Stations. Air and Water Stations shall be identified on plans and shall comply with the setbacks of the underlying District.

C. Pump Islands. Pump islands shall be located a minimum of 15 feet from any property line to the nearest edge of the pump island, unless a greater setback is required by an operative plan. A canopy or roof structure over a pump island may encroach up to 10 feet within this distance. In areas with distinct architecture (to be determined by the Director), the canopy must match the architecture of the main building on the site.

D. Auto Repair. Auto Repair shall comply with Section 15-2710, Automobile/Vehicle Service and Repair, Major and Minor.

E. Temporary Car Washes. Refer to Section 15-2760, Temporary Uses.

F. Proximity to Other Service Stations. No more than two service stations may be located

on the corners of the same intersection.

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

ARTICLE 52 - DEVELOPMENT PERMIT (FORMERLY SITE PLAN REVIEW)

SEC. 15-5201. - PURPOSE.

Development Permit approval is required to ensure that new development is carried out in accord with this Code and the goals and objectives of the General Plan and any other adopted plans and guidelines.

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

SEC. 15-5202. - APPLICABILITY.

- A. **Development.** A Development Permit shall be required for all development of property which is ineligible for a Zone Clearance as put forth in Article 51 to confirm that the project is being proposed in a manner which is compliant with all applicable development standards prior to securing a building permit.
- B. **Deviations.** Deviations from applicable standards will require a Variance or Minor Deviation in conjunction with a Development Permit as put forth in Articles 55 and 56.

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

SEC. 15-5203. - REVIEW AUTHORITY.

The Director shall approve, conditionally approve, or deny applications for a Development Permit based on consideration of the requirements of this article. The Director may refer items directly to the Planning Commission when in their opinion the public interest would be better served by having the Planning Commission conduct the Development Permit review. In the event a referral, the Planning Commission shall hold a public hearing prior to making the decision.

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

SEC. 15-5204. - APPLICATION REQUIREMENTS.

- A. Applications for a Development Permit shall be submitted in accordance with the provisions set forth in Section 15-5002, Application and Fees.
- B. The Development Permit application shall be accompanied by a written narrative, operational statement, site plans, elevations, three-dimensional renderings, and other related materials necessary to show that the proposed development, alteration, or use of the

site complies with all applicable provisions of this Code. The Director may require attachments of other written or graphic information, including, but not limited to, statements, numeric data, floor plans, and building cross sections, as a record of the proposal's conformity with the applicable regulations of this Code.

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

SEC. 15-5205. - PUBLIC NOTICE.

Public notice shall not be required.

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

SEC. 15-5206. - REQUIRED FINDINGS.

The Director or Planning Commission may only approve a Development Permit application if it finds that the application is consistent with the purposes of this article and with the following:

- A. The applicable standards and requirements of this Code.
- B. The General Plan and any operative plan or policies the City has adopted.
- C. Any applicable design guidelines adopted by the City Council.
- D. Any approved Tentative Map, Conditional Use Permit, Variance, or other planning or zoning approval that the project required.

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

SEC. 15-5207. - CONDITIONS OF APPROVAL.

In granting Development Permit approval, the Review Authority may impose conditions that are reasonably related to the application and deemed necessary to achieve the purposes of this article and ensure compliance with the applicable criteria and standards established by this Code or mitigation required pursuant to environmental review. Conditions may be related to the following objectives:

- A. Ensure long-term maintenance of adequate clean water resources.
- B. The proposed design will not lead to an overburdening of existing or planned infrastructure capacities, including, but not limited to, capacities for water, runoff, storm water, wastewater, and solid waste systems.
- C. The proposed design incorporates air quality measures or can demonstrate that it will not negatively impact air quality.

(Added Ord. 2015-39, § 1, eff. 1-9-16; Am. Ord. 2018-25, § 31, eff. 6-11-18).

SEC. 15-5208. - APPEALS.

Development Permit decisions are subject to the appeal provisions of Section 15-5017, Appeals.

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

SEC. 15-5209. - MODIFICATIONS.

Development Permit approval may only be modified as provided for in Article 50, Common Procedures.

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

ARTICLE 53 - CONDITIONAL USE PERMITS

SEC. 15-5301. - PURPOSE.

The Conditional Use Permit review process is intended to apply to uses that are generally consistent with the purposes of the district where they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties or adversely affect the City's infrastructure, the built or natural environment, City resources, or the City's ability to provide public services.

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

SEC. 15-5302. - APPLICABILITY.

Conditional Use Permit approval is required for the following:

- A. Uses specifically identified in Part II, Base and Overlay Districts, and/or any other section of this Code which requires a Conditional Use Permit.
- B. Alcoholic beverage sales.
 - 1. **Exception.** Within Downtown Districts, uses with alcoholic beverage sales shall not require a Conditional Use Permit, but shall comply with the requirements of the California Department of Alcoholic Beverage Control.
- C. Any use with drive-in or drive-through facilities.
- D. When a Conditional Use Permit is required for exceptions to certain development standards that are specifically identified in Part II, Base and Overlay Districts.

(Added Ord. 2015-39, § 1, eff. 1-9-16; Am. Ord. 2016-32, § 38, eff. 10-21-16).

SEC. 15-5303. - REVIEW AUTHORITY.

The Director shall approve, conditionally approve, or deny applications for Conditional Use Permits based on consideration of the requirements of this article. The Director may, at their discretion, refer any application that may have significant public interest to the Planning Commission for a decision. In the event of a referral, the Planning Commission shall hold a public hearing prior to making the decision.

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

SEC. 15-5304. - APPLICATION REQUIREMENTS.

- A. Applications for a Conditional Use Permit shall be submitted in accordance with the provisions set forth in Section 15-5002, Application and Fees.
- B. The Conditional Use Permit application shall be accompanied by a written narrative, operational statement, site plans, and other evidence in support of the applicable findings required by Section 15-5306, Required Findings.
- C. The Director may require attachments of other written or graphic information, including, but not limited to, statements, numeric data, site plans, floor plans, and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this Code.

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

SEC. 15-5305. - PUBLIC NOTICE.

Public Notice shall be provided 10 days prior to the date of action pursuant to Section 15-5007.

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

SEC. 15-5306. - REQUIRED FINDINGS.

A Conditional Use Permit shall only be granted if the decision-maker determines that the project as submitted or as modified conforms to all of the following criteria. If the decision-maker determines that it is not possible to make all of the required findings, the application shall be denied.

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Code and all other chapters of the Municipal Code;
- B. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted;
- C. The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements;
- D. The design, location, size, and operating characteristics of the proposed activity are

compatible with the existing and reasonably foreseeable future land uses in the vicinity;
and

- E. The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required.

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

SEC. 15-5307. - CONDITIONS OF APPROVAL.

In approving a Conditional Use Permit, the decision-maker may impose reasonable conditions or restrictions deemed necessary to:

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies and design guidelines adopted by the City Council;
- B. Achieve the general purposes of this Code or the specific purpose of the zoning district in which the project is located;
- C. Achieve the findings for a Conditional Use Permit listed in Section 15-5306, Required Findings; or
- D. Mitigate any potential impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

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

SEC. 15-5308. - EXPIRATION.

An expiration date of seven years from the date of approval shall be established by the Review Authority, except as follows:

- A. Uses which may have a substantial public interest may be given an expiration date of less than seven years.
- B. Conditional Use Permits for permanent physical property improvements, such as building height, shall not have an expiration date if deemed appropriate by the Review Authority.

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

SEC. 15-5309. - APPEALS.

Conditional Use Permit decisions are subject to the appeal provisions of Section 15-5017, Appeals.

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

SEC. 15-5310. - MODIFICATIONS.

Conditional Use Permits may only be modified as provided for in Article 50, Common Procedures. Conditional Use Permits for projects that are anticipated to develop over the course of six years or more may require reallocation or adjustment to residential densities. Such adjustments may be processed through the modification procedures set forth in section 15-5015.

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