

2600 Fresno Street, Room 3043  
Fresno, California 93721-3604  
(559) 621-8277  
[www.fresno.gov](http://www.fresno.gov)

**Jennifer K. Clark, AICP, HDFP**  
Director

November 25, 2019

*Please reply to:*  
Cheryl Aanonson  
559-621-8038  
[Cheryl.Aanonson@fresno.gov](mailto:Cheryl.Aanonson@fresno.gov)

Mr. Lewis Everk  
Vyxn Restaurant and Lounge  
[kikkukitchen@gmail.com](mailto:kikkukitchen@gmail.com)  
(Sent via email only)

**SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. P19-04266 FOR PROPERTY  
LOCATED AT 9455 NORTH FORT WASHINGTON ROAD, SUITE 101 (APN: 401-  
830-08)**

Dear Mr. Lewis Everk:

The Planning and Development Department Director, on November 25, 2019, approved Conditional Use Permit Application No. P19-04266, which requested authorization to modify a State of California Alcoholic Beverage Control Type 47 alcohol license (Restaurant – sale of beer and wine for consumption on or off the premises where sold) for an existing restaurant located in an existing tenant space. Alcohol service/consumption hours to be extended to 12:00 a.m. Service/consumption to be expanded to include existing outdoor dining/patio area. The proposed project was determined to be exempt from the California Environmental Quality Act by the Planning and Development Department on October 30, 2019 through a Class 1 and 11 Categorical Exemption. The approval of this project is subject to compliance with the following Conditions of Approval:

1) Development shall take place in accordance with the Conditions of Approval prepared for P19-04266 dated November 25, 2019.

2) Miscellaneous Requirements

a) Approval of this special permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:

i) All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property;

ii) All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,

iii) Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.

b) Approval of this special permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this special permit, the Zoning Ordinance, and all Public Works Standards and Specifications. The Planning and Development Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions.

### **APPEALS**

**A notice indicating the Planning and Development Department Director's intended approval of this project was mailed to nearby property owners on October 16, 2019, which commenced a 10 day comment period. No comments were received and the Director approved the project on November 25, 2019. This commences a 15 day appeal period. Should an appeal be received, it shall be scheduled to be heard before the Planning Commission.**

Please be advised that this project may be subject to a variety of discretionary conditions of approval. These conditions based on adopted City plans, ordinances and policies; those determined to be required through the interdepartmental/interagency review process; and those determined through the environmental assessment process as necessary to mitigate adverse effects on the health, safety and welfare of the community. The conditions of approval may also include requirements for development and use that would, on the whole, enhance the project and its relationship to the neighborhood and environment.

All conditions of approval based on adopted plans, codes, and regulations are mandatory. Conditions based on the FMC may only be modified by variance, provided the findings required by FMC Section 15-5506 can be made. Discretionary conditions of approval may be appealed, but will ultimately be deemed mandatory unless appealed in writing to the Director within 15 days. In the event you wish to appeal the Director's decision, you may do so by filing a written appeal with the Project Planner. The appeal shall include the appellant's interest in or relationship to the subject property, the decision or action appealed and specific reasons why the applicant believes the decision or action appealed should not be upheld.

If you wish to appeal the decision, a written request must be received at the Planning and Development Department by **December 10, 2019**. The written request should be addressed to the Project Planner, and include the application number referenced above.

### **EXPIRATION DATES**

Pursuant to Section 15-5308 of the FMC an expiration date of seven years from the date of approval has been established for Conditional Use Permits. Therefore, the approval for P19-04266 shall expire on **November 25, 2026** and a new conditional use permit must be obtained prior to that expiration date for the use only (not the physical structure(s)).

Our goal is to continuously improve our customer service. Please take a moment to complete a quick survey linked [here](#). If you have any questions regarding this letter, feel free to give me a call at the number listed above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cheryl Aanonson". The signature is fluid and cursive, with a large loop at the end.

Cheryl Aanonson, Planner  
Development Services Division

**City of Fresno  
Planning and Development Department**

**Conditional Use Permit Application No. P19-04266**

**Conditions of Approval  
November 25, 2019**

**PROJECT DESCRIPTION**

Authorization to modify a State of California Alcoholic Beverage Control Type 47 alcohol license (Restaurant – sale of beer and wine for consumption on or off the premises where sold) for an existing restaurant located in an existing tenant space to extend alcohol service/consumption hours until 3:00 a.m. Extension of service/consumption hours is approved to 12:00a.m. The application also requests an expansion of an existing outdoor patio area, which is approved.

**APN: 401-830-08    ADDRESS: 9455 NORTH FORT WASHINGTON ROAD SUITE 101**

The Conditional Use Permit shall expire if the rights granted under this permit are not exercised within three (3) years; are discontinued for one (1) continuous year, or seven (7) years after permit issuance, whichever comes first.

This permit shall run with the tenant space. Expansion of tenant space or outdoor dining area will require a modification to this Conditional Use Permit.

**PART A - ITEMS TO BE COMPLETED**

**The following items are required prior to commencement of land activity.**

Planner to check when completed:

- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | Create and submit a security plan, consistent with Fresno Police Department requirements.   |
| <input type="checkbox"/> | Identify of the height and material of the patio barrier for the patio expansion on the Site Plan per FMC Section 15-2744.  |
| <input type="checkbox"/> | Revise the Operational Statement to include:<br>1. Revise Hours of Operation for Bar to close a 12:00 AM.<br>2. Include description of the expansion of the outdoor patio area.   |
| <input type="checkbox"/> | Establish a City of Fresno business license.  |
| <input type="checkbox"/> | Obtain approval of the modification of the existing Type 47 alcohol sales license from the State of California Department of Alcohol Beverage Control (ABC) to include the additional service area for the expanded outdoor dining. |

**PART B - OTHER AGENCY COMMENTS AND CONDITIONS**

To be checked when completed where applicable

- |                          |  |
|--------------------------|--|
| <input type="checkbox"/> | 1. <b>Building and Safety Services</b> <ul style="list-style-type: none"><li>Building plans are required to be submitted to the Building and Safety Department for approval and permits.</li></ul> |
| <input type="checkbox"/> | 2. <b>Fresno County Environmental Health</b>   |

	<ul style="list-style-type: none"> <li>• Prior to issuance of building permits, the applicant will be required to submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Contact the Consumer Food Protection Program at (559) 600-3357 for more information.</li> <li>• Prior to operation, the applicant shall apply for and obtain permits to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 600-3357 for more information.</li> <li>• Prior to alcohol sales, the applicant shall first obtain their license to sell alcoholic beverages. Contact the California Alcoholic Beverage Control Department at (559) 225-6334 for more information.</li> <li>• If the applicant proposes to use and/or store hazardous materials and/or hazardous wastes, they shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. Any business that handles a hazardous material or hazardous waste may be required to submit a Hazardous Materials Business Plan pursuant to the California Health and Safety Code (HSC), Division 20, Chapter 6.95, Section 25507 (<a href="http://cers.calepa.ca.gov/">http://cers.calepa.ca.gov/</a>). Contact the Fresno County Hazmat Compliance Program at (559) 600-3271 for more information.</li> <li>• The proposed construction/remodel project has the potential to expose nearby residents to elevated noise levels. Consideration should be given to your City's municipal code. Prior to operation, the applicant shall apply for and obtain permits to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 600-3357 for more information.</li> </ul>
<input type="checkbox"/> 3.	<b>Police Review</b> <ul style="list-style-type: none"> <li>• Comply with Fresno Police Department Restaurant ABC CUP conditions dated November 22, 2019.</li> </ul>
<input type="checkbox"/> 4.	<b>Fire Review</b> <ul style="list-style-type: none"> <li>• Provide minimum 2A:10B:C portable fire extinguishers (per NFPA 10). One extinguisher is required for each 3,000 square feet or portion thereof of floor space, with travel distance not to exceed 75 feet. A minimum of 2 portable fire extinguishers are required based on the square footage. Show locations of portable fire extinguishers on plan. 2016 CFC, Section 906.3.</li> <li>• Provide note on plan: Every room or space that is an assembly occupancy shall have the occupant load of the room or space posted in a conspicuous place, near the main exit or exit access doorway from the room or space. Posted signs shall be of an approved legible permanent design and be maintained by the owner or the owner's</li> </ul>

authorized agent. 2016 CFC, Section 1004.3.

- Note on plan: In every A, E, I, R-1, R-2.1, R-3.1 and R-4 occupancies all decorative materials shall be of non-combustible or approved flame retardant treated materials. CCR Title 19, Section 3.08.
- Provide note on plan: Provide an exterior Knox box on the ground floor adjacent the main entrance at a height of 6 feet from grade. Knox boxes shall be provided for buildings where any of the following conditions exist: high-rise building, interior elevator (s), fire sprinkler system with interior riser(s), fire pump rooms, fire alarm system, unduly difficult access, and/or where required by the Fire Marshal (or designee). Keys placed in the Knox box shall be identified with a tag or label. Knox boxes may be ordered on line at <https://www.knoxbox.com/store/departmentsSearch.cfm>.

### **PART C - PLANNING DEVELOPMENT CODE STANDARDS**

Development shall take place in accordance with Exhibits A, F, and O dated 09/23/2019.

#### **Alcohol Use Requirements.**

1. Sale and consumption of alcoholic beverages shall be subordinate to on-site food service.
2. This special permit approval is subject to compliance with all applicable provisions of FMC Section 15-2751 (Restaurants with alcohol sales) and FMC Section 15-2744 (Outdoor Dining and Patio areas) of the Citywide Development Code.
3. A valid Business License Tax Certificate for the establishment shall be maintained at all times.
4. Dancing is permitted, however it shall be incidental to the primary use.
5. Alcohol sales shall cease at 12:00 a.m.
6. The owner and/or proprietor and/or applicant shall be responsible to conspicuously post the hours of operation for each phase type (i.e., restaurant, nightclub) near the entrance of the establishment. It shall be 8.5 x 11 inches in size, to be in a format provided by the City. This posting shall be made available to City officials upon request.

#### **Outdoor Dining Requirements**

1. Music may not be amplified. All music shall comply with all applicable noise standards.
2. Covers, including umbrellas, tents, and/or awnings to protect patrons from inclement weather are permitted subject to review and approval by the Review Authority.
3. Weathered and/or damaged coverings shall be removed immediately.
4. Enclosed tents are permitted year round, however they shall only be permitted on a temporary basis and shall not substitute for permanent structures.
5. A building permit is required for any temporary tent or canopy larger than 400 square feet.
6. Outdoor dining areas shall not interfere with required pedestrian and/or vehicular access.
7. Walkways shall be provided per California Code of Regulations, Title 24, Part 2, California Building Code.

### **PART D - OPERATIONAL REQUIREMENTS**

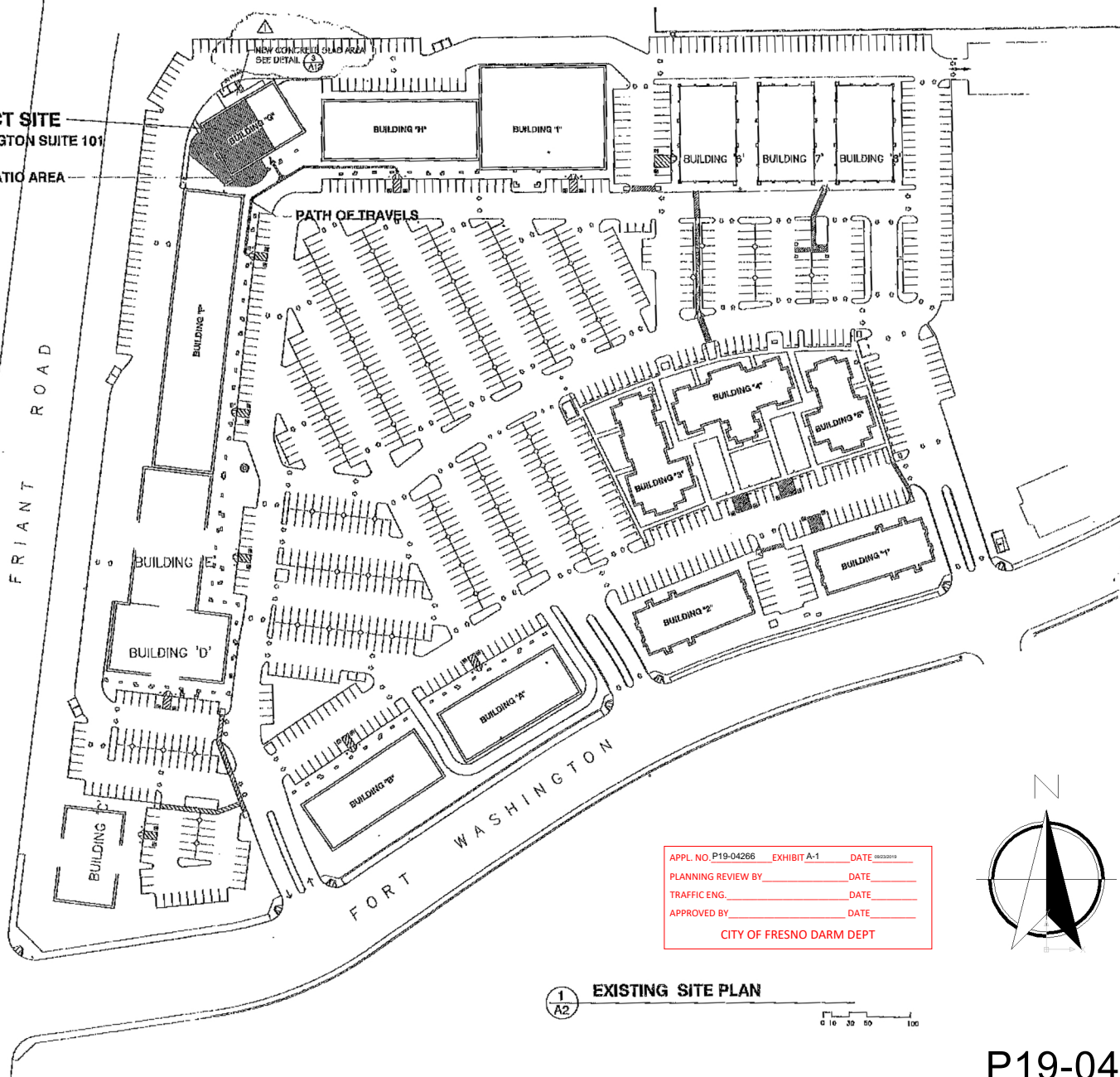
1. Maintain a Type 47 alcohol sales license from the State of California Department of Alcohol Beverage Control (ABC).
2. Noise decibel levels shall be monitored by the establishment to ensure compliance with all applicable Noise Standards. Doors and windows shall remain closed, after 10 p.m. to minimize noise, except as needed to allow for the normal entry and exit of patrons to and from the

establishment. Emergency access shall be maintained per City standards.

3. The owner and/or operator of the establishment are responsible in providing supervision (i.e. security) to prevent loitering in the immediate vicinity of the restaurant.
4. Development shall take place in accordance with the policies of the Fresno General Plan, Woodward Park Community Plan and with the Community Commercial planned land use designation.
5. Development shall take place in accordance with the CC/EA/UGM/cz (*Commercial - Community/Expressway Area/Urban Growth Management/conditions of zoning*) zone district and all other applicable sections of the Fresno Municipal Code.
6. This permit shall run with the tenant space. Expansion of tenant space or outdoor dining area will require a modification to this Conditional Use Permit.

**PROPOSED PROJECT SITE**  
9455 NORTH FORT WASHINGTON SUITE 101

PROPOSED PATIO AREA



APPL. NO. P19-04266 EXHIBIT A-1 DATE 02/20/2019  
 PLANNING REVIEW BY \_\_\_\_\_ DATE \_\_\_\_\_  
 TRAFFIC ENG. \_\_\_\_\_ DATE \_\_\_\_\_  
 APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_  
 CITY OF FRESNO DARM DEPT



1  
A2

EXISTING SITE PLAN

0 10 20 30 40 50 60 70 80 90 100

P19-04266

**LEE DUKSU**  
**DESIGN**

66 NORTHWOOD DR.  
SAN FRANCISCO  
CALIFORNIA 94112

TEL: 415. 480. 2069  
FAX: 415. 405. 9859  
LEED@DUKSDUDESIGN.COM

This is a preliminary drawing. It is not to be used for construction. It is subject to change without notice. The user of this drawing assumes all liability for its use. The user of this drawing warrants that it is for the sole use of the project identified in the title block. No other use is permitted without the written consent of Lee Duksu Design.

*Vylen* RESTAURANT AND BAR  
9455 NORTH FORT WASHINGTON, SUITE 101  
FRESNO, CA 93720

Issued:	Date:
REV	
Project No:	
Sheet No:	
SITE PLAN	
P19-04266	
Scale:	
Sheet No:	



## VYXN RESTAURANT & LOUNGE OPERATIONAL STATEMENT (BAR)

Vyxn Restaurant & Lounge is an intimate upscale-dining restaurant & lounge with a West Hollywood vibe. Our focus is on an American shared plate menu centered around a brick oven. We will also offer a Sunday brunch with a mimosa and bloody Mary bar. Our happy hour will highlight our social bites menu, great wine selection and craft cocktails setting the scene for a fun dinner to Instagram about!

We will be open seven days a week. We will offer special theme nights to attract new customers. The restaurant will be unpretentious fine dining in an intimate atmosphere. Warm colors, fresh flowers, vibrant music, candles and chic décor sets the scene. This will contribute to a sense of socializing where like-minds find each other and go home with a story at the end of the night. During the busy summer months you can also sit outside on our patio and we will offer a special summer menu, featuring lighter fare, seasonal drinks, as well as non-alcoholic offerings. The patio and garden setting will be a fun and casual atmosphere for the summer crowd.

The menu will offer specialties like brick oven pizzas and gastropub favorites to appeal to a diverse clientele. Our prices will be competitive with other upscale restaurants in the area. However, it is our strategy to give a perception of higher value than the others, through our food, service and ambiance.

Most important to us is our financial success and we believe this will be achieved by offering high-quality service and excellent food & beverage with an interesting twist. We have created financial projections based on our experience and knowledge of the area. With a self-financed start-up expenditure of \$350,000 we can generate \$2 million in sales annually, and produce good net profits by the end of year one.

We are requesting a major amendment to Conditional Use Permit No. C-11-121/ABCUP for authorization to operate a full service restaurant & lounge, serving alcoholic beverages and food from 12 a.m. to 2 a.m., 7 days a week. We will obtain a State of California Alcoholic Beverage Control Type 47 license (restaurant – sale of beer, wine, and distilled spirits for consumption on the licensed premises) There is no change to the building only updating the paint, carpet, tables, chairs and décor.

Security Plan will require the approval from the district commander. The security plan shall incorporate the conditional of approval from existing CUP C -11-121. We will provide all contact info for management to be contacted 24 hours a day, seven days a week. There will always be a manager on site to monitor and control the behavior of all patrons. **There will be no persons under the age of 21 years of age allowed after 12 a.m. (midnight).** All staff will be ABC LEAD trained to recognize the symptoms of an obviously intoxicated person. Burglar and fire alarm will be monitored 24/7 by a security company. Parking lot and interior will be monitored with a mix of in house, guard carded security and licensed and bonded security personal from a security firm. Patrons and their vehicles will be cleared from parking lot and adjacent areas one half hour after closing. We will work closely with the Fresno Police Department to correct any safety or security issues if they may arise.

Bar Hours of Operation:  
Daily 12 a.m. to 2 a.m.  
No minors allowed

APPL. NO. P19-04266	EXHIBIT O	DATE 09/23/2019
PLANNING REVIEW BY		DATE
TRAFFIC ENG.		DATE
APPROVED BY		DATE
CITY OF FRESNO DARM DEPT		

## VYXN RESTAURANT & LOUNGE OPERATIONAL STATEMENT (RESTAURANT)

Vyxn Restaurant & Lounge is an intimate upscale-dining restaurant & lounge with a West Hollywood vibe. Our focus is on an American shared plate menu centered around a brick oven. We will also offer a Sunday brunch with a mimosa and bloody Mary bar. Our happy hour will highlight our social bites menu, great wine selection and craft cocktails setting the scene for a fun dinner to Instagram about!

We will be open seven days a week. We will offer special theme nights to attract new customers. The restaurant will be unpretentious fine dining in an intimate atmosphere. Warm colors, fresh flowers, vibrant music, candles and chic décor sets the scene. This will contribute to a sense of socializing where like-minds find each other and go home with a story at the end of the night. During the busy summer months you can also sit outside on our patio and we will offer a special summer menu, featuring lighter fare, seasonal drinks, as well as non-alcoholic offerings. The patio and garden setting will be a fun and casual atmosphere for the summer crowd.

The menu will offer specialties like brick oven pizzas and gastropub favorites to appeal to a diverse clientele. Our prices will be competitive with other upscale restaurants in the area. However, it is our strategy to give a perception of higher value than the others, through our food, service and ambiance.

Most important to us is our financial success and we believe this will be achieved by offering high-quality service and excellent food & beverage with an interesting twist. We have created financial projections based on our experience and knowledge of the area. With a self-financed start-up expenditure of \$350,000 we can generate \$2 million in sales annually, and produce good net profits by the end of year one.

We are requesting a major amendment to Conditional Use Permit No. C-11-121/ABCUP for authorization to operate a full service restaurant & lounge, serving alcoholic beverages until 12 a.m. and food until 12 a.m. 7 days a week. We will obtain a State of California Alcoholic Beverage Control Type 47 license (restaurant – sale of beer, wine, and distilled spirits for consumption on the licensed premises) There is no change to the building only updating the paint, carpet, tables, chairs and décor.

Security Plan will require the approval from the district commander. The security plan shall incorporate the conditional of approval from existing CUP C -11-121. We will provide all contact info for management to be contacted 24 hours a day, seven days a week. There will always be a manager on site to monitor and control the behavior of all patrons. All staff will be ABC LEAD trained to recognize the symptoms of an obviously intoxicated person. Burglar and fire alarm will be monitored 24/7 by a security company. Parking lot and interior will be monitored with a mix of in house, guard carded security and licensed and bonded security personal from a security firm. Patrons and their vehicles will be cleared from parking lot and adjacent areas one half hour after closing. We will work closely with the Fresno Police Department to correct any safety or security issues if they may arise.

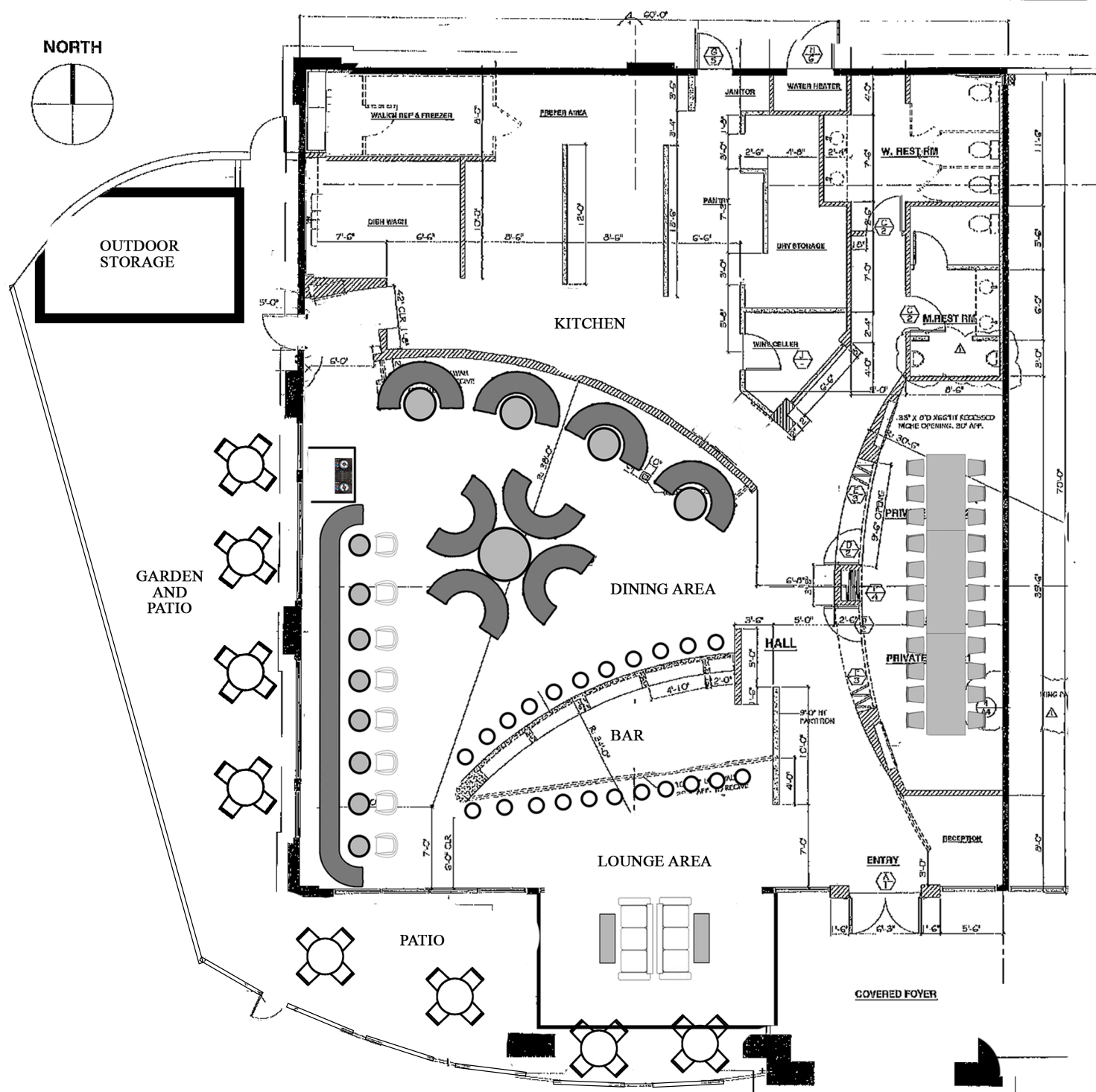
Restaurant Hours of Operation:  
Daily 9am to 12am

Vyxn

VYXN RESTAURANT & LOUNGE

9455 N FORT WASHINGTON RD  
FRESNO, CA 93730

APPL. NO. P19-04266	EXHIBIT F-1	DATE 08/08/2019
PLANNING REVIEW BY	DATE	
TRAFFIC ENG.	DATE	
APPROVED BY	DATE	
CITY OF FRESNO DARM DEPT		





**POLICE DEPARTMENT**  
***Northeast Problem Oriented Policing***  
1450 E. Teague  
Fresno, California 93720  
(559) 621-6400 Fax: (559) 436-6245



Jerry Dyer  
Chief of Police

### RESTAURANT ABCUP CONDITIONS

November 22, 2019

City of Fresno, Development Department  
Director of Planning & Development  
Special Permit, Conditional Use Permit  
2600 Fresno Street  
Fresno, California, 93721-3604

**Attn. Margo Lerwill, Planning & Development**

**Re: SPECIAL PERMIT NO. P-19-04266-ABCUP**  
**Vyxn Restaurant & Lounge**  
**9455 N. Fort Washington Road Suite #101**  
**Fresno, Ca. 93730**  
**A.P.N. 401-830-08**

Dear Lewis Everk,

The City of Fresno has requested that the Fresno Police Department review the application of the property development at **9455 N. Fort Washington Road, Fresno**. The applicant requests for major revision of a State of California Alcoholic Beverage Control Type 47 alcohol license (*Restaurant – authorizes the sale of beer and wine for consumption on or off the premises where sold*) for the Vxyn Restaurant & Lounge. The property has been **zoned CC/EA/UGM/cz** (*Commercial-Community/Expressway Area/Urban Growth Management/Conditions of Zoning*). The Fresno Police Department's primary concern with the application is the propensity of the premise to generate calls for police service.

We understand from the Operational Statement that the applicant intends to operate this establishment from **9:00 a.m. to 2:00 a.m.**, The Fresno Police Department recommended the hours of operation for both Restaurant/Bar as stated below:

**Restaurant / Bar operations:**      **Monday - Sunday    9:00 a.m. – 12:00 a.m.**

As you know, to approve any Conditional Use Permit (CUP), the City must make the following findings:

1. All applicable provisions of the Fresno Municipal Code are complied with and the site of the proposed use is adequate in size and shape to accommodate the use, including, all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,
2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,
3. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. This third finding shall not apply to uses which are subject to the provisions of Section 12-306-N-39 of the Fresno Municipal Code (Regulating Adult Businesses).

The conditions are established to ensure public safety, and to minimize any impact for the surrounding area. If approved, this Conditional Use Permit would allow for an **on-sale Type 47 ABC license** (*Restaurant - sale of beer and wine for consumption on or off the premises where sold*). We request the following conditions be included as Conditions of Approval for **Conditional Use Permit Application # P-19-04266**. These conditions will help to ensure an environment that is least likely to generate public complaints or calls for police service.

The Fresno Police Department is not in opposition of this Conditional Use Permit, provided the applicant agrees to the listed conditions. If the following conditions are not included as conditions of approval of **CUP # P-19-04266**, the Fresno Police Department shall oppose the approval of this Conditional Use Permit, and shall appeal such approval to the Planning Commission. As such, we request that you provide Detective Danny Kim #1049 with notice of the Director's decision regarding this Conditional Use Permit as well as a complete copy of the conditions of approval, should the Director approve the Conditional Use Permit.

**Requested Conditions of Approval:**

1. **Fresno Municipal Codes**

The applicant shall comply with all applicable provisions of the Fresno Municipal Codes ("FMC"), including but not limited to:

- FMC 9-502 (Amusement Devices - Permit Required)
- FMC 9-1803 (Hours of Operation Billiard Hall)
- FMC 9-1804 (Restriction on Attendance of Minors in Billiard Rooms)
- FMC 9-1805 (Minors allowed: Family Billiard Rooms)
- FMC 10-105 (Noise Ordinance)
- FMC 10-708 (Unlawful Nuisances - High Calls for Police Service)

FMC 12-306-N-30 (Limitations on Adult Business Activities. Applicant shall also verify with the Planning Division that Adult Business Activities are permitted in the zone district where the applicant seeks to operate his/her business)

A current version of the Fresno Municipal Code (FMC) may be viewed at the City of Fresno's website: [www.Fresno.gov](http://www.Fresno.gov). The link to the FMC is located on the Home Page of that website.

**2. State and Federal Law**

The applicant shall comply with all applicable state, federal, and local law, including but not limited to the following California Business and Professions Code sections and the California Department of Alcoholic Beverage Control rules:

- BP 24046 (Required to Post ABC License on Premises)
- BP 25612.5 (Loitering, Open Alcoholic Beverage Containers, Consuming Alcoholic Beverages on Premises, Exterior Lighting, Litter Removal, Graffiti Removal, Signs and Barriers in Windows and Doors, Public Phones Blocked From Incoming Calls, Areas to Display Harmful Matter, Required Copies of Operating Standards Available for Public Viewing)
- BP 25665 (Minors Remaining in Public Premises)
- ABC Act Rule 106 (No Buy One Get One Free Drinks)
- ABC Act Rule 107 (No One Under 21 Allowed Signs Posted)
- ABC Act Rule 139 (Interior Lighting Required for Identification of Patrons)

**3. ABC Education**

Any and all employees hired to sell alcoholic beverages shall provide evidence that they have either:

- (1) Completed training from the State of California Department of Alcoholic Beverage Control--Fresno District Office-administered "Leadership and Education in Alcohol and Drugs" (LEAD) Program as confirmed by receipt of an ABC-issued certificate of completion; or,
- (2) Completed equivalent training acceptable to the ABC-- Fresno District Office to ensure proper distribution of beer, wine, distilled spirits, to adults of legal age.

If any prospective employee designated to sell alcoholic beverages, does not currently have such training then:

- (1) The ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the final approval of the CUP, that a date certain has been scheduled with the local ABC Office for the prospective employees to take the LEAD Program course; and

- (2) Within 30 days of taking the course the employee(s) or responsible employer shall deliver each required LEAD Program Certificate evidencing completion of said course.

#### **4. Contests or Promotions**

At least two weeks prior to the event, the establishment shall notify the District Commander, or his/her designee of any events operating outside of the approved Conditional Use Permit. In addition, the establishment shall obtain written approval that the current Security Plan is adequate to address security issues that may arise from the special event operating outside of the approved CUP or approval of a new Security Plan that will be in place for the event.

#### **5. Security Plan.**

Prior to the approval of this Conditional Use Permit, the establishment shall prepare and submit to the District Commander a security plan for approval. Approval of the security plan by the District Commander or his/her designee shall not be unreasonably denied. The contents of the Security Plan shall be incorporated as conditions of approval of CUP # P-19-04266. The establishment shall be responsible to have the District Commander or his/her designee re-approve the security plan annually running from the anniversary date of the final approval of the CUP. The establishment is responsible for providing both the District Commander and the Planning and Development Department a copy of the approved security plan.

##### All establishments Security Plan shall:

- Identify the establishment's designated contact person for all safety and security management and shall provide the telephone numbers where the contact person may be reached 24 hours a day, seven days a week.
- Confirm that a manager will be on duty during business hours and will be responsible for monitoring and controlling the behavior of patrons.
- Identify all managers of the establishment and their contact telephone numbers.
- Confirm that all bartenders and other employees shall be trained to recognize the symptoms of an obviously intoxicated patron, to refuse serving alcoholic beverages to obviously intoxicated patrons, and to report emergencies to the manager on duty and to law enforcement.
- Confirm that first aid supplies and operational fire extinguishers are located in the kitchen, service areas and the manager's office.

- Confirm that the burglar and fire alarm is monitored by a security company 24 hours a day, seven days a week.
- Identify an adequate number of acceptable interior security personnel and exterior security personnel who will monitor and control the behavior of customers inside and outside the building, the parking lot and any adjacent property under the establishment's control. The security personnel may be employees of the establishment or licensed security personnel retained from a security firm.
- Confirm that the security personnel shall regularly monitor the parking lot and any adjacent property under the establishment's control to ensure the areas are (a) free of people loitering or causing a disturbance and (b) are cleared of patrons and their vehicles one-half hour after closing.

The establishment may receive from the Fresno Police Department a form of a security plan that the establishment may refer to in preparing its security plan.

The establishment shall correct any safety or security problem or security plan violation as soon as possible after receiving written notice of such problem from the Fresno Police Department. After the initial security plan is approved and implemented, it is the responsibility of the owner or owner's representative to contact the Fresno Police Department to inquire about police calls for service or public safety problems at the location. Contact may be made in person, by telephone or by electronic mail. Review of police calls for services may be conducted at any time by the Fresno Police Department.

The applicant will maintain a copy of the current Security Plan and shall present the Security Plan immediately upon request by a peace officer.

**If it is determined that police calls for service become "Frequent" (see definition below) the Fresno Police Department may initiate proceedings to amend these conditions to require state licensed uniformed security and/ or to recommend suspension or revocation proceedings.**

- **The total number of state licensed uniformed security guards shall be based upon the maximum permitted occupancy as established by the Fresno Fire Department, and determined as follows:**

**0-100 guests: No state licensed uniformed security required. Onsite manager and employees will be responsible for monitoring and controlling the behavior of patrons.**

**101-200 guests: A minimum of one (1) state licensed uniformed security guard.**

**201-300 guests: A minimum of two (2) state licensed uniformed security guards.**



**301-400 guests: A minimum of three (3) state licensed uniformed security guards.**

**If the maximum permitted occupancy exceeds 400 guests, one additional state licensed uniformed security guard shall be required for each additional one-hundred guests.**

**The Maximum Permitted Occupancy for the entire premises, including any patios, shall be included on the Security Plan maintained at the business, to be made available immediately upon request of a Fresno Police Officer.**

**All on-duty licensed security guards shall comply with the uniform requirements set forth in California Business & Professions code section 7582.26.**

**6. Video Camera**

Prior to exercising any privileges granted by CUP No. **P-19-04266** the applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:

6.1 The System must continuously record, store, 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.

6.2 The System shall have the correct date and time stamped onto the image at all times.

6.3 The camera storage capacity should be for at least two weeks (fourteen 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.

6.4 Digital video recorder must be capable of storing at least fourteen days of real-time activities.

6.5 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**.

6.6 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.

6.7 There shall be four (4) 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.

6.8 All interior cameras shall record in color.

6.9 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. It is recommended, but not required, that the owner/operator provide the IP address(s) to the Fresno Police Department Communications Center for any system that is browser-based or viewable from a remote site. The Fresno Police Department may perform periodic inspections of the System to ensure compliance with these specifications. An inoperable System may be good cause for seeking revocation of this Conditional Use Permit.

7. **Property Responsibility**

Frequent responses by the FPD arising out of or relating to the operation or management of the real property owned or controlled by the permittee causing any combination of the following: animal disturbances; violent criminal acts; illegal consumption of intoxicants in public view; gaming activities; and juvenile disturbances, or any of the other activities set forth in the Fresno Municipal Code section 10-708(g) may result the commencement of CUP revocation proceedings pursuant to FMC, section 12-326-H and 12-405-E. In addition to recommending the commencement of revocation proceedings, the FPD may pursue any of the other remedies set forth in FMC, section 10-710, including assessing fines against the proprietor for the violations of the Management of Real Property Ordinance.

“Frequent” is defined by FMC, section 12-326-H-1-a.

8. **Revocation of Conditional Use Permit**

The City is permitted to revoke a Conditional Use Permit for “good cause” pursuant to the procedures set forth in FMC, sections 12-326-H and 12-405-E. Applicant is strongly encouraged to review these FMC sections to understand the circumstances that constitute “good cause.”

9. **Posting hours of operation and address**

The owner and/or proprietor and /or applicant shall be responsible to conspicuously post the hours of operation for each phase type (i.e., restaurant, nightclub) near the entrance of the establishment. It shall be 8.5x11 inches in size, to be provided for by the City. This posting shall be made available to City officials upon request. Additionally, the address of each facility shall be posted in compliance with all City codes.

10. **Posting Property**

The applicant shall post the property with the appropriate Fresno Municipal Code signs advising that consumption of alcoholic beverages, gambling, trespassing or loitering will be in violation of municipal ordinances. The applicant shall send a letter to the Fresno Police Department, signed and dated by the applicant, every 180 days that authorizes FPD peace officers to enter the applicant's real property and/or establishment to enforce against the aforementioned activities at the business. The owners and employees are responsible for abating those activities when they occur during business hours.

The establishment shall not allow alcoholic beverages to be consumed outside the building premises or any other adjacent property under its control. No alcoholic beverage will be consumed on any property adjacent to the premises (i.e., parking lot and sidewalks). If the alcoholic beverages are consumed on property not owned or controlled by the applicant, the applicant shall immediately report such consumption to the Fresno Police Department.

The establishment shall not allow any loitering on building premises or any adjacent property under its ownership or control.

The establishment shall not allow any gambling on building premises or any adjacent property under its control.


There shall be no amusement devices or Billiard tables maintained upon the premises without the proper permits issued through the City of Fresno Business Tax Division.


**11. Patio Area**

The applicant shall follow all requirements regarding outdoor dining as set forth in Fresno Municipal Code, Article 22 – Outdoor Dining.


- 12. The establishment shall ensure that all employees are aware of and comply with these conditions. The establishment shall have each employee sign a written acknowledgment that he/she has reviewed and understood each of these conditions. The written acknowledgement shall be maintained by the establishment and made available to the Fresno Police Department upon reasonable request.**

FRESNO POLICE DEPARTMENT

  
Date: 11/22/19  
Detective Danny Kim #P1049  
Northeast District POP Detective

  
Date: 11.22.19  
Sgt. Craig Attkisson  
Northeast District Investigations

For C.A.

  
Date: 11.22.19  
Captain Mindy Casto  
Northeast District Commander

## **SECURITY PLAN**

### **PREMISES MAXIMUM PERMITTED OCCUPANCY:**

This security plan is written to address issues inside and outside of the restaurant, including the safety and security of the business, as well as the immediate surrounding areas.

- **24/7 Contact:** \_\_\_\_\_  
will be the contact person(s) for all safety and security management. He/She can be reached 24 hrs/seven days a week at \_\_\_\_\_. If this number changes, the Development and Resource Management Department (DARM), Development Services Division and the Fresno Police Department (FPD) will be provided the new/updated number.
- **Onsite Manager:** A manager will be on duty during business hours and will be responsible for monitoring and controlling the behavior of patrons.
- **Manager(s) name and contact information:**
  - \_\_\_\_\_, store manager who can be contacted at \_\_\_\_\_.
  - \_\_\_\_\_, bar manager who can be contacted at \_\_\_\_\_.
  - \_\_\_\_\_, floor manager who can be contacted at \_\_\_\_\_.
  - \_\_\_\_\_, security supervisor who can be contacted at \_\_\_\_\_.

If there is a change regarding these listed managers and/or phone numbers, the Fresno PD will be provided the new/updated information.

- **Alcohol Related Issues:** Bartenders and all employees responsible for the sale and service of alcohol beverages are trained to recognize the symptoms of an obviously intoxicated patron and will not allow the serving of alcohol to an obviously intoxicated patron.
- **ABC Education:** All primary positions that deal with alcohol have already attended the Stat of California Department of Alcoholic Beverage Control (ABC) "Leadership and Education in Alcohol and Drugs" (LEADS) class and evidence will be provided at the request of the FPD. As ABC offers classes by appointment on their schedule, current un-

trained employees and new hires, hired to sell or serve alcoholic beverages, should be assigned to attend the first available class, and shall have completed the class within 6 months of the date of hire, for all new hires, with proof provided to the FPD at request within thirty (30) days of course completion.

- **First Aid:** Supplies are located in the kitchen, service areas and the manager's office.
- **Fire Protection:** Fire extinguishers are located in the kitchen, service areas and outside the manager's office.
- **Alarm:** Burglary and fire alarm is monitored by a security company 24 hrs/7 days a week.
- **Emergencies:** All employees are trained to report emergencies to law enforcement and to the manager on duty.
- **Taxi Service:** We will offer taxi coordination service to our customers. We will place signage at the exit from 10:00 p.m. to 2:00 a.m. with the following: "THANK YOU FOR COMING OUT TONIGHT. WE APPRECIATE YOU, AND WANT TO SEE YOU BACK, SO WE WANT TO MAKE SURE YOU GET HOME SAFE. DON'T DRINK AND DRIVE. IF YOU NEED OR WANT A CAB, LET US KNOW AND WE WILL CALL ONE FOR YOU. BE SAFE FRESNO."
- **Surveillance Video:** Currently we have \_\_\_\_\_ cameras. There will be at least one camera placed to focus on each area where alcoholic beverages are being dispensed. Additionally, there shall be at least one camera placed to focus on the front door, the outside area where patrons wait to enter the establishment, and the majority of open floor space. The video camera storage capacity should be for at least fourteen (14) days. Recordings of (any) -criminal activity **either occurring at and/or related to** \_\_\_\_\_ shall be provided to the Fresno Police Department within 24 hours of the initial request. Cameras should be periodically monitored during the time the premises are operating as a nightclub.
- A Digital Video Recorder-DVR shall be the preferred means of recording, and shall be operational during open business hours, will be properly maintained at all times and an employee will be present during business hours that has been instructed in its use and down-load capabilities. All cameras shall be properly maintained and operational during business hours and positioned toward their specified area.
- **Incident Reports:** Security Incident Reports, related to known calls for service, completed by both State Licensed Uniformed Security Guards and/or on-site State Licensed Proprietary Security Officers, shall be completed and **sent to** the Police Department within ten (10) days of the incident. In kind, the Fresno Police Department has indicated that it will review all calls for service that relate to the establishment and share applicable information by each Tuesday of the month or no later than twelve (12) days from any incident. This exchange is done in the spirit of cooperation to assist in maintaining a working relationship, and helping recognize security and/or training issues.

- **Zero Tolerance:** All members of our staff are aware of and agree to support the “zero tolerance” approach to criminal behavior. This will include calling police, and otherwise cooperating with law enforcement. The business will post a sign at the entrance to inform patrons that the establishment has a “Zero Tolerance Policy” and will prosecute any criminal behavior which occurs.
- All staff are to have a good working knowledge of California Business and Professions Code sections 25753 and 25755 in relation to Law Enforcement inspection of the premises.
- **Dress Code:** The below listed dress code will be enforced from \_\_\_\_\_ to close of business on each Friday and Saturday that the establishment is open as a Nightclub. A sign describing the dress code will be placed at the entrance during those hours.

For example, the following items are not permitted:

- Excessively baggy clothing
- Motorcycle or Gang attire
- Athletic wear, sweats or sports jerseys (game day exceptions)
- Construction boots
- Headgear (exceptions for non sports related ball caps and stylish hats)
- Tattoos on the neck, face and head (exceptions for neck tattoos if the tattoo is not offensive, gang related or depicting an illegal substance or activity and is preapproved by management)

■ Management will, at all times, reserve the right to enforce the full dress code.

- **Contests or Promotions:** Notification will be made to the FPD District Commander or his/her designee, at least two weeks prior to any “Advertised-Contest, Promotional Event or Special Entertainment Event,” **which is reasonably anticipated to attract a larger or different type of crowd than the business is currently accustomed to and will include any adjustments needed to the current security plan (“Event”).** “Event” does not include things like ordinary weekly advertising or social media publications, which are a part of regular nightclub/restaurant operations. The Fresno Police Department has indicated it is committed to timely review notifications.

In those cases where the business commits to an event less than two weeks before the expected date, notification will be made as soon as possible to the Police Department. During this “Abbreviated Approval Process,” the Police Department has indicated it is committed to expeditious overview of the event, along with any security plan needs, to complete the review process.

The Police Department has indicated it is committed to provide a written response within three (3) business days regarding approval or the need to update the existing security plan for an above noticed Event. If the Police Department does not respond within this time period, Event approval will be deemed granted.

- **As a courtesy and in the spirit of communication we will keep the Police Department informed of any changes in DJ's.**

All notices under this section will be sent via text message or email.

- **State Licensed Uniformed Security Guards:**

Bar Security Requirements

State licensed uniformed security guards are required to be on the premises at all times from 11:00 p.m. to 2:30 a.m. on any and all days of the week that the establishment is open and operating after 11:00 p.m. The total number of state licensed uniformed security guards shall be based upon the maximum permitted occupancy as established by the Fresno Fire Department, and determined as follows:

- 0 - 100 guests: No state licensed uniformed security required. Onsite manager and employees will be responsible for monitoring and controlling the behavior of patrons.
- 101 - 200 guests: A minimum of one (1) state licensed uniformed security guard.
- 201 - 300 guests: A minimum of two (2) state licensed uniformed security guards.
- 301 - 400 guests: A minimum of three (3) state licensed uniformed security guards.
- If the maximum permitted occupancy exceeds 400 guests, one additional state licensed uniformed security guard shall be required for each additional one-hundred guests.
- The Maximum Permitted Occupancy for the entire premises, including any patios, shall be included on the Security Plan maintained at the business, to be made available immediately upon request of a Fresno Police Officer.
- All on-duty licensed security guards shall comply with the uniform requirements set forth in California Business & Professions code section 7582.26.

Nightclub Security Requirements

**Two (2)** state-licensed uniformed security guards or **one (1)** state licensed uniformed security guard per one hundred of the total number of guests permitted, whichever is greater, **shall** be required to be on the premises at all times from 10:00 p.m. to thirty (30) minutes after closing on any and all days that the establishment is open and operating as a "Nightclub."

Any change from the required total number of State licensed uniformed security guards, must be approved by the Fresno Police Department.

- \* **In the event that Fresno Police Department Contract Services are engaged by the business, one (1) of the contract officers on hand may count towards the total number of State licensed uniformed security guards on Thursday, Friday and Saturday. Whenever the business is open and operating as a “Nightclub,” at least four state licensed security guard will be on the premises.**

**Contract services will be used during the Halloween and New Years, and for Special Events.**

- Our security staff will monitor a reasonable radius around the entrance and exits of the establishment, as well as the parking lot, to ensure compliance with security protocols and to ensure the area is free from loitering. Individuals found to be consuming alcohol outside the establishment will be denied entry and asked to leave the lot.
- We are in the process of signing a security services agreement with \_\_\_\_\_. Currently, each member of our Security staff has completed proper training and all members hold a guard card. We will provide you with a copy of the contract within two weeks.

**Fresno Police Department to be notified of any company change.**

- **Proprietary (plain-clothes) Security Officers:** The premises shall also provide State licensed proprietary security officers on staff to assist in monitoring and controlling the behavior of patrons during nightclub hours on nights when additional security is needed.
- **At Closing:** Members of our security team will actively direct individuals away from the establishment and to their transportation. Members of our security staff will direct traffic to the most effective exit routes. Once our security staff has cleared the facility, they will ensure that the adjacent parking lot under the establishment’s control is free of people loitering, drinking or causing a disturbance and clear the lot by one-half hour after closing.

The hours of closing for the affected age groups will be the following;

18 to 20 will be at 1:00 am (0100 hrs.). At approx. 12:55 am (0055 hrs.) staff will have the music stopped, the lights will come on and an announcement will be made stating that all patrons who are under 21 years must leave. They will then be ushered outside where security will make sure there is no loitering.

21+ will be at 2:00 am (0200 hrs.) with last call being no later than 0130 hrs.). The last call meaning no further sales or service of alcoholic beverages will take place.

**Additionally:**

No member of staff (including management) shall consume any alcoholic beverages while “on-duty,” including just before and/or just after their work shift).



All alcoholic beverages shall only be served and poured by on-duty premises employees. Patrons are prohibited from serving themselves alcoholic beverages.)

There will be no "VIP" or segregated areas within the premises, except the areas where the 21+ year old gather, versus where those under the age of 21 will be.

This security plan will be in effect for **six (6) months**, commencing at the time all parties agree and sign this document. By the six (6) month mark, a review of the operations of this business will be conducted by the Fresno Police Department to determine if changes need to be made. This review process will repeat every six (6) months. Operations as a "night-club" will not proceed without an updated and/or current security plan.

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Signature of Owner / Manager

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Date