

Stockton, California Municipal Code, Charter, and Civil Service Rules

Title 16 DEVELOPMENT CODE

Division 3. Site Planning and General Development Regulations

Chapter 16.80 STANDARDS FOR SPECIFIC LAND USES

**16.80.040 Alcoholic beverage sales (on-sale and off-sale).**

A. **Title and Purpose.** These provisions shall be known as the alcoholic beverage sales regulations. The general purposes of these regulations are to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare of the residents of the City of Stockton by requiring alcoholic beverage sales activities to comply with the operational standards in this section and to achieve the following objectives:

1. Protecting residential, commercial, industrial, and civic areas from and minimizing the adverse impacts of alcoholic beverage sales activity;
2. Providing opportunities for alcoholic beverage sales establishments to operate in a mutually beneficial relationship to each other and to other commercial and civic services;
3. Providing mechanisms to address problems associated with the public consumption of alcoholic beverages such as litter, loitering, graffiti, unruly behavior, and escalated noise levels;
4. Ensuring that alcoholic beverage sales activities are not a source of undue public nuisance in the community;
5. Providing for properly maintained alcoholic beverage sales establishments so that the negative impacts generated by these activities are not harmful to the surrounding environment in any way; and
6. Monitoring deemed approved activities or establishments to ensure they do not substantially change in mode or character of operation such that they pose a nuisance to the surrounding area.

B. **Applicability of Alcoholic Beverage Sales Regulations.**

1. **To Which Property Applicable.** These regulations shall apply, to the extent permissible under other laws, to all new, deemed approved, and by-right alcoholic beverage sale activities or establishments within the City.

2. **Duplicated Regulation.** Whenever any provision of these regulations or any other provision of law, whether set forth in this code, or in any other law, ordinance, or resolution of any kind, imposes overlapping or contradictory regulations, or contain restrictions covering the same subject matter, the provision that is more restrictive or imposes higher standards shall control, except as otherwise expressly provided in these regulations.

C. **Definitions.**

**Administrative Hearing Officer.** A hearing officer as provided for in Chapter 1.44. For the purposes of these regulations, decisions rendered by an Administrative Hearing Officer will be treated as a decision by the Director and, therefore, subject to Stockton Municipal Code Chapter 16.100, Appeals.

**Alcoholic Beverage.** Alcohol, distilled spirits, liquor, wine, beer, and any liquid or solid containing alcohol, distilled spirits, wine, or beer, that contains one-half (1/2) of one (1) percent or more of alcohol by volume that is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances, the sale of which requires an ABC license.

**Alcoholic Beverage Sales Activity.** The retail sale of alcoholic beverages for on-site or off-site consumption, including liquor stores (defined as any retail establishment having more than 20 percent of its gross floor area devoted to the sale, storage and/or display of alcohol), convenience stores, markets, taverns, bars, and restaurants with bars. This does not include restaurants that serve alcoholic beverages as part of a meal.

**Alcoholic Beverage Sales Establishment.** An establishment where alcoholic beverage sales activity occurs, including but not limited to: liquor stores, beer and wine stores, convenience markets, neighborhood specialty food markets, retail sales establishments, wine shops, service stations, taverns, clubs, cocktail lounges, ballrooms, cabarets, dance bars, piano bars, billiard or game parlors, bowling alleys, nightclubs, dance halls, cafes, bars, restaurants with bars, full-service restaurants, and fast food establishments.

**Bars and Nightclubs (On-Sale)(Land Use).** Businesses where alcoholic beverages are sold for on-site consumption and which are not part of a larger restaurant. Includes bars, taverns, pubs, cigar bars, and similar establishments where any food service is subordinate to the sale of alcoholic beverages; cabarets and other adult-related establishments that comply with the standards for adult-related establishments (Section 16.80.030); and beer brewing as part of a microbrewery or other beverage tasting facilities. May include entertainment (e.g., live music and/or dancing, comedy, etc.) which shall comply with the standards for live entertainment (Section 16.80.180). Bars and nightclubs shall also comply with the standards for problem uses (16.80.270).

**By-Right Activity or Establishment.** An activity or establishment that is not subject to consideration and approval of a commission use permit or land development permit under the Development Code. For purposes of these regulations, by-right activities or establishments shall be subject to the same operational standards and violations and penalties as deemed approved activities or establishments.

**California Department of Alcoholic Beverage Control (ABC).** The Department empowered by the State of California to act pursuant to Article 20, Section 22, of the California Constitution and authorized to administer the provisions of the Alcoholic Beverage Control Act.

**Commission Use Permit.** A use permit for an alcoholic beverage sales activity or establishment issued by the Planning Commission pursuant to the provisions of the Development Code.

**Conditions of Approval.** A requirement imposed on permits issued to new alcoholic beverage sales activities or establishments and legal nonconforming alcoholic beverage sales activities or establishments to comply with applicable operational standards.

**Crime Reporting District.** A geographically designated area used by the Police Department to track crime statistics in the City of Stockton.

**Deemed Approved Activity or Establishment.** Any previous legal nonconforming alcoholic beverage sales activity or establishment pursuant to Chapter 16.228 that continues its activities after the effective date of the ordinance codified in this section in compliance with all deemed approved standards and provisions.

**Deemed Approved Status.** An activity or establishment as defined in subsection (E)(2).

**Full-Service Restaurant.** A place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant. A "full-service restaurant" shall make actual and substantial sales of "meals" to guests for compensation. Substantial sales shall mean that no less than 60 percent of total revenue shall be generated from food service and no more than 40 percent of revenue from the sales of alcohol.

**Illegal Activity.** An activity that has been determined to be out of compliance with the alcoholic beverage sales standards.

**Incidental or Secondary Use.** Revenue from the sale of alcohol that is equal to or less than 40 percent of the establishment's total gross revenue. Records of gross receipts shall be provided to the Department upon request.

**Legal Nonconforming Alcoholic Beverage Sales Activity or Establishment.** Alcoholic beverage sales activity or establishment pursuant to Chapter 16.228 for which a valid state of California Alcoholic Beverage Control license had been issued and used in the exercise of the rights and privileges conferred by the license at a time prior to the effective date of the ordinance codified in this section.

**New Alcoholic Beverage Sales Activity or Establishment.** An activity or establishment that requires consideration and approval of a commission use permit or land development permit under the Development Code.

**Off-Sale Alcoholic Beverage Establishment.** An establishment that conducts retail sales of alcoholic beverages for consumption off the premises where sold.

**On-Sale Alcoholic Beverage Establishment.** An establishment that conducts retail sales of alcoholic beverages for consumption on the premises where sold.

**Problem Use.** The off-sale of alcoholic beverages, bars, and night clubs with the on-sale of alcoholic beverages shall be deemed a problem use, subject to a commission use permit in compliance with Chapter 16.168 (Use Permits) and the requirements of Section 16.80.270 (Problem uses).

**Repeated Nuisance.** A person, thing, or a circumstance that constitutes a repeat violation of the regulations of this section and/or that interferes with the use and enjoyment by the general public.

**Sidewalk Café.** Any restaurant with outdoor dining that serves alcohol on a public sidewalk or public right-of-way as authorized by the Council under Section 9.64.020 (Drinking liquor in public) and Section 16.72.127 (Revocable permit). The applicable permit is obtained in compliance with Table 2-2 (Allowable Land Uses and Permit Requirements).

#### D. **Standards (New Alcoholic Beverage Sales).**

1. **Purpose.** The purpose of these standards is to control dangerous or objectionable environmental effects of alcoholic beverage sales activities. These standards shall apply to all new alcoholic beverage sales activities or establishments requiring consideration and approval of a commission use permit or land development permit under the Development Code for the purpose of achieving the following objectives:

- a. Protect surrounding neighborhoods from the harmful effects attributable to the sale of alcoholic beverages and to minimize the adverse impacts of nonconforming and incompatible uses.
- b. Encourage businesses selling alcoholic beverages to operate in a manner that is mutually beneficial to other such businesses and other commercial and civic activities.
- c. Provide a mechanism to address problems often associated with the public consumption of alcoholic beverages, such as litter, loitering, graffiti, and noise levels.
- d. Ensure that businesses selling alcoholic beverages are not the source of undue public nuisances in the community.
- e. Ensure that sites where alcoholic beverages are sold are properly maintained so that negative impacts generated by these activities are not harmful to the surrounding environment in any way.

The provisions of this section are intended to complement the State of California alcohol-related laws. The City does not intend to replace or usurp any powers vested in the California Department of Alcoholic Beverage Control.

#### 2. **Location Restrictions.**

- a. New alcoholic beverage sales activities or establishments shall not be located within 500 feet of any of the following:

- i. A public or private academic school for students in kindergarten through 12th grade, nursery school, preschool, or day-care facility. For the purpose of this section, distances shall be measured between the closest property lines of the affected locations; and
- ii. A public park, playground, recreational area, or youth facility.

Each application shall be analyzed by the applicable Review Authority to ensure that the application is consistent with the purpose and intent of this provision. The applicable Review Authority has the discretion to waive these restrictions to promote and support local economic business growth throughout the City including areas like the Downtown District, Miracle Mile, and Yosemite Shopping Center.

- b. The following new alcoholic beverage sales activities or establishments (on-sale and off-sale) may be exempt from location restrictions:
  - i. Establishments containing 10,000 square feet or more with a maximum of 10 percent of its gross floor area devoted to the sale, display, and/or storage of alcohol, including, but not limited to, supermarkets and drug stores, which do not sell alcoholic beverages as their principal business.
  - ii. **Full-Service Restaurants.** A place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant. A “full-service restaurant” shall make actual and substantial sales of “meals” to guests for compensation. Substantial sales shall mean that no less than 60 percent of total revenue shall be generated from food service and no more than 40 percent of revenue from the sales of alcohol.
  - iii. Establishments where the on-site consumption of alcoholic beverages is allowed as an incidental or secondary use, subject to consideration by and recommendations from the Police Department, including, but not limited to, beauty salons, nail salons, or movie theaters.
  - iv. Establishments where the on-site consumption of alcoholic beverages is an incidental or secondary use, including, but not limited to, membership clubs, social, veterans or fraternal organizations.
  - v. Establishments with an ancillary tasting room or craft brewery with a full-service restaurant, including, but not limited to, an alcoholic beverage manufacturer, such as a craft brewery.
  - vi. Establishment whose application has been deemed complete prior to the effective date of this Development Code.

c. **Special Circumstances.** Upgrade or transfer of an existing off-sale alcoholic beverage license in the same census tract where there is already an over-concentration of off-sale alcoholic beverage licenses as defined by [Business and Professions Code Section 23958.4](#).

i. Upgrading an existing off-sale alcoholic beverage license at the same location shall comply with the following requirements:

(A) Not result in a net increase of the number of such licenses in a census tract where an over-concentration currently exists;

(B) Be exempt from location restrictions under subsection (2)(a);

(C) Transfer the existing off-sale alcoholic beverage license to outside another census tract or cancel such license;

(D) Obtain a new commission use permit.

ii. Transferring an existing off-sale alcoholic beverage license from one location to another location within the same census tract where there already exists an over-concentration of off-sale alcoholic beverage licenses shall comply with the following requirements:

(A) Not result in a net increase of the number of such licenses in an existing over-concentration census tract;

(B) Comply with the location restrictions under subsection (2)(a);

(C) Voluntarily surrender a previously-approved commission use permit, if applicable, at the original location from the property owner. The form for "Surrender of Use" shall be notarized by a notary public; and

(D) Obtain a new commission use permit.

d. In the review of commission use permit applications for new alcoholic beverage sales establishments and upgrades or transfers of existing ABC licenses, which are considered problem uses as defined herein, the following shall be considered and may be grounds for denial based upon potential adverse effects to the public interest, health, safety or convenience:

i. **On-Sale of Alcoholic Beverage Sales Establishment.**

(A) Establishment shall not be located in a crime reporting district, where the average number of crimes in that district exceeds the average number of crimes for all reporting districts citywide by more than 20 percent; or

(B) Establishment shall not be located in an area within 500 feet of an existing on-sale alcoholic beverage establishment or any location that would lead to the grouping of more than four (4) on-sale alcoholic beverage establishments within a 1,000-foot radius.

ii. **Off-Sale of Alcoholic Beverage Sales Establishment.**

(A) Establishment shall not be located in a crime reporting district, where the average number of crimes in that district exceeds the average number of crimes for all reporting districts citywide by more than 20 percent; or

(B) Establishment shall not be located in an area within 500 feet of an existing off-sale alcoholic beverage establishment or any location that would lead to the grouping of more than four (4) off-sale alcoholic beverage establishments within a 1,000-foot radius.

Each application shall be analyzed by the applicable Review Authority to ensure that the application is consistent with the purpose and intent of this provision. The applicable Review Authority has the discretion to waive these restrictions to promote and support local economic business growth, throughout the City including areas like: the Downtown District, Miracle Mile, and Yosemite Shopping Center.

3. **Permitting Requirements.**

a. The following alcoholic beverage sales activities and establishments must obtain a land development permit with the applicable Review Authority approval.

i. Establishments where the on-site consumption of alcoholic beverages is allowed as an incidental or secondary use, subject to consideration by and recommendations from the Police Department, including, but not limited to, beauty salons, nail salons, or movie theaters.

ii. Establishments where the on-site consumption of alcoholic beverages is an incidental or secondary use, including, but not limited to, membership clubs, social, veterans or fraternal organizations.

iii. Establishments with an ancillary tasting room or craft brewery with a full-service restaurant, including, but not limited to, an alcoholic beverage manufacturer, such as a craft brewery.

Each application shall be analyzed by the applicable Review Authority to ensure that the application is consistent with the purpose and intent of this provision. The applicable Review Authority has the discretion to defer action and refer the application directly to the Planning Commission, pursuant to Section [16.136.020](#) (Review Authority) and in compliance with Section [16.88.050\(C\)](#) (Public hearing review procedure).

b. The following alcoholic beverage sales activities shall be by-right uses.

- i. **Full-Service Restaurants.** A place which is regularly and in a bona fide manner used and kept open for the serving of at least lunch and dinner to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals. The sale or service of sandwiches (whether prepared in a kitchen or made elsewhere and heated up on the premises) or snack foods shall not constitute a full-service restaurant. A “full-service restaurant” shall make actual and substantial sales of “meals” to guests for compensation. Substantial sales shall mean that no less than 60 percent of total revenue shall be generated from food service and no more than 40 percent of revenue from the sales of alcohol;
  - ii. Establishments containing 40,000 square feet or more with a maximum of 10 percent of its gross floor area devoted to the sale, display, and/or storage of alcohol, including, but not limited to, super markets, drug stores, or retail stores which do not sell alcoholic beverages as their principal business;
  - iii. Establishments with a temporary alcohol license issued by the California Department of Alcoholic Beverage Control and established in compliance with all City codes and regulation;
  - iv. Catering businesses for private parties or banquets in compliance with ABC regulations; and
  - v. Wholesale of alcoholic beverages on-line or in a commercial or warehouse building.
4. **Permit Application.** Any person(s), association, partnership, corporation or other legal entity desiring to obtain a commission use permit or land development permit for an alcoholic beverage sales activity or establishment shall file an application with the City of Stockton Community Development Department pursuant to Chapters [16.168](#) and [16.136](#). The application shall be accompanied by a nonrefundable application processing fee in an amount adopted by the City Council in compliance with Section [16.168.040](#), Application filing, processing, and review.

The Planning Commission shall only approve the issuance of a commission use permit to allow new alcoholic beverage sales activity or establishment after making the findings listed in Section [16.168.050](#)(A) through (C), Findings and decision.

5. **Conditions of Approval.**

- a. **On-Sale Alcoholic Beverage Establishments.** The following condition(s) may be imposed by the applicable Review Authority:
  - i. **Pay Telephone.** Pay telephones on the site of the establishment shall be required to be of the type restricted to allow only outgoing calls and shall be located inside the building in a visible and well-lit area, subject to approval by the Chief of Police.



- ii. **Program.** A “complaint response community relations” program established and maintained by the establishment conducting the alcoholic beverage sales activity may be required. The program may include the following:
- (A) Posting at the entry of the establishment that provides the telephone number for the area commander of the local law enforcement substation.
  - (B) Coordinating efforts with the Police Department to monitor community complaints about the establishment’s activities.
  - (C) Having a representative of the establishment meet with neighbors, or the applicable neighborhood association on a regular basis and at their request to attempt to resolve any neighborhood complaints regarding the establishment.
- iii. **Posting and Presentation of Documents.** The commission use permit or land development permit shall be posted in a conspicuous place and shall be immediately made available to City personnel or police officers upon inspection of the premises.
- iv. **Hours of Operation.** The City may limit the hours of operation for alcoholic beverage sales activities or establishments.
- v. **Security Cameras.** Prior to the initiation of alcoholic beverage sales activity, the most current technology for a video surveillance system with at least a seven (7) day continuous recording capability shall be in place. Video recordings shall be archived for at least 30 days. The video surveillance system shall cover the entire exterior of the premises, including the parking lot and the entrances to the building.
- vi. **Security Guards.** An establishment may be required to retain a specified number of security guards. The number of security guards shall vary, based upon the specific facts and circumstances of each establishment and the proposed operation. All security guards shall be required to have all applicable State and City permits and licenses in place prior to the initiation of alcoholic beverage sales activity.
- vii. **Loitering.** The establishment’s operators or employees shall be required to discourage loitering on or near the premises and to ask persons loitering longer than 15 minutes to leave the area and contact local law enforcement officials for enforcement of applicable trespassing and loitering laws, if persons requested to leave fail to do so.
- viii. **Lighting.** Exterior areas of the premises and adjacent parking lots shall be provided with sufficient lighting in a manner that provides adequate illumination for alcoholic beverage sales establishment patrons while not spilling onto surrounding parcels and rights-of-way. A photometric study may be required to demonstrate compliance once the use is initiated.

ix. **Expiration.** The commission use permit or land development permit shall be valid for the duration of the use, but if the alcohol sale license is revoked by the State of California, is transferred off-site, or if the establishment does not sell alcohol for a period of 24 months or more, the use permit may be subject to revocation following a public hearing.

x. **Mitigating Alcohol-Related Problems.** The establishment shall be required to operate in a manner appropriate with mitigating alcohol-related problems that negatively impact those individuals living or working in the neighborhood, including, but not limited to, sales to minors, the congregation of individuals, violence on or near the premises, drunkenness, public urination, solicitation, drug-dealing, drug use, loud noise, and litter.

xi. **Training Program.** The owners and all employees of the alcoholic beverage sales establishment who are involved in the sale of alcoholic beverages shall complete an approved course in "Responsible Beverage Sales" (RBS), or any other ABC approved course, within 60 days of hire for employees hired after the passage of the ordinance codified in this section or within six (6) months of the passage of the ordinance codified in this section for existing employees. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board, other certifying/licensing body Service Advisory Board, or other certifying/licensing body designated by the State of California.

The applicable Review Authority has the discretion to impose additional condition(s) of approval, as warranted by the application under consideration.

b. **Off-Sale Alcoholic Beverage Establishments.** The following condition(s) may be imposed by the applicable Review Authority:

i. **Prohibited Products.** To discourage nuisance activities, off-sale alcoholic beverage establishments may be prohibited from selling one (1) or more of the following products:

(A) Wine or distilled spirits in containers of less than 750 milliliters.

(B) Malt beverage products with alcohol content greater than five and one-half (5 1/2) percent by volume.

(C) Wine with an alcoholic content greater than 14 percent by volume unless in corked bottles and aged at least two (2) years.

(D) Beer or malt liquor sold individually in containers of 40 ounces or less.

(E) Containers of beer or malt liquor not in their original factory packages of six (6) packs or greater.

(F) Distilled spirits in bottles or containers smaller than 375 milliliters.

(G) Cooler products, either wine- or malt beverage-based, in less than four (4) pack quantities.

ii. **Pay Telephone.** Pay telephones on the site of an alcoholic beverage sales establishment shall be the type restricted to allow only outgoing calls and shall be located inside the building in a visible and well-lit area, subject to approval by the Chief of Police.

iii. **Program.** A “complaint response community relations” program established and maintained by the establishment conducting the Alcoholic Beverage Sales Activity may be required. The program may include the following:

(A) Posting at the entry of the establishment that provides the telephone number for the area commander of the local law enforcement substation to any requesting individual.

(B) Coordinating efforts with the Police Department to monitor community complaints about the establishment’s activities.

(C) Having a representative of the establishment meet with neighbors, or the applicable neighborhood association on a regular basis and at their request to attempt to resolve any neighborhood complaints regarding the establishment.

iv. **Chilled Alcoholic Beverages.** An off-sale alcoholic beverage sales establishment may be prohibited from maintaining refrigerated or otherwise chilled alcoholic beverages on the premises.

v. **Cups.** In off-sale alcoholic beverage establishments, the sale or distribution to the customer of paper or plastic cups in quantities less than their usual and customary packaging may be prohibited.

vi. **Hours of Operation.** The City may limit the hours of operation for an alcoholic beverage sales activity or establishment.

vii. **Signs.** The following signs are required to be prominently posted in a readily visible manner on an interior wall or fixture, and not on windows, in English, Spanish, and any other predominant language of the patrons:

(A) “California State Law prohibits the sale of alcoholic beverages to persons under 21 years of age.”

(B) “No Loitering or Public Drinking” signs shall be posted on the exterior of the business.

(C) The business shall post E.A.S.Y. (Eliminate Alcohol Sales to Youth) materials that are visible from outside the business.

(D) The consumption or carrying of open containers of alcoholic beverages on the premises of the off-sale alcohol establishment is not permitted. Signs advising patrons of this prohibition shall be posted adjacent to the front door on the interior of the building.

- viii. **Posting and Presentation of Documents.** The commission use permit or land development permit shall be posted in a conspicuous place and shall be immediately made available to City personnel or police officers upon inspection of the premises.
- ix. **Mitigating Alcohol-Related Problems.** The establishment shall be required to operate in a manner appropriate with mitigating alcohol-related problems that negatively impact those individuals living or working in the neighborhood, including, but not limited to: sales to minors, the congregation of individuals, violence on or near the premises, drunkenness, public urination, solicitation, drug-dealing, drug use, loud noise, and litter.
- x. **Drug Paraphernalia.** Off-sale alcoholic beverage establishment shall be prohibited from selling drug/tobacco paraphernalia products as defined in [Health and Safety Code](#) Sections 11014.5 and 11364.5. "Drug paraphernalia" means all equipment products and materials of any kind, that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the California Uniform Controlled Substances Act, commencing with California [Health and Safety Code](#) Section 11000.
- xi. **Loitering.** The establishment's operators or employees shall be required to discourage loiterers on or near the premises and to ask persons loitering longer than 15 minutes to leave the area and contact local law enforcement officials for enforcement of applicable trespassing and loitering laws if persons requested to leave fail to do so.
- xii. **Security Cameras.** Prior to the initiation of alcoholic beverage sales activity, the most current technology for a video surveillance system with at least a seven (7) day continuous recording capability shall be in place. Video recordings shall be archived for at least 30 days. The video surveillance system shall cover the entire exterior of the premises, including the parking lot and the entrances to the building.
- xiii. **Security Guards.** An establishment may be required to retain a specified number of security guards. The number of security guards shall vary, based upon the specific facts and circumstances of each establishment site and operation. All security guards shall have all required state and City permits and licenses prior to the initiation of alcoholic beverage sales activity.
- xiv. **Prohibited Vegetation.** Exterior vegetation shall not be planted or maintained, if it could be used as a hiding place for persons on the premises. Exterior vegetation shall be planted and maintained in a manner that minimizes its use as a hiding place.
- xv. **Window Obstructions.** No more than 20 percent of windows or clear doors shall bear advertising of any sort and all advertising signage 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 premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance.

xvi. **Training Program.** The owners and all employees of the alcoholic beverage sales establishment who are involved in the sale of alcoholic beverages shall complete an approved course in “Responsible Beverage Sales” (RBS), or any other ABC approved course, within 60 days of hire for employees hired after the passage of the ordinance codified in this section or within six (6) months of the passage of the ordinance codified in this section for existing employees. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board, other certifying/licensing body Service Advisory Board, or other certifying/licensing body designated by the State of California.

xvii. **Lighting.** Exterior areas of the premises and adjacent parking lots shall be provided with sufficient lighting in a manner that provides adequate illumination for alcoholic beverage sales establishment patrons while not spilling onto surrounding parcels and rights-of-way. A photometric study may be required to demonstrate compliance once the use is initiated.

xviii. **Expiration.** The commission use permit or land development permit shall be valid for the duration of the use, but if the alcohol sales license is revoked by the State of California, is transferred off-site or if the establishment does not sell alcohol for a period of 24 months or more, the use permit may be subject to revocation following a public hearing.

The applicable Review Authority has the discretion to impose additional condition(s) of approval as warranted by the application under consideration.

6. **Appeal of Action from Planning Commission.** Any decision rendered by the Planning Commission, or the Community Development Director may be appealed to the City Council pursuant to Stockton Municipal Code Chapter [16.100](#).

7. **Modification or Revocation of a Commission Use Permit.** A commission use permit or land development permit for an alcoholic beverage sales activity or establishment may be modified or revoked by the Planning Commission pursuant to Stockton Municipal Code Chapter [16.108](#), for failure to comply with operational standards, training requirements, or conditions imposed through the commission use permit.

Notice of intention to modify or revoke shall be in writing and shall state the grounds therefor, pursuant to Stockton Municipal Code Section [16.108.030](#). At least 10 days before the date of the hearing, a notification shall be delivered in writing, via certified mail, with a return receipt requested.

8. **Appeal from Modification or Revocation of Commission Use Permit.** Any applicant or other person aggrieved by a determination of the Planning Commission to modify or revoke a commission use permit may appeal the decision to the City Council pursuant to Stockton Municipal Code Chapters [16.100](#) and [16.108](#).

E. **Standards for Deemed Approved Alcoholic Beverage Sales.**

1. **Purpose.** The purpose of these standards is to control dangerous or objectionable environmental effects of alcoholic beverage sales activities or establishments. These standards shall apply to all deemed approved alcoholic beverage sales activities or establishments under the Development Code for the purpose of achieving the following objectives:

- a. Protect surrounding neighborhoods from the harmful effects attributable to the sale of alcoholic beverages and to minimize the adverse impacts of nonconforming and incompatible uses.
- b. Encourage businesses selling alcoholic beverages to operate in a manner that is mutually beneficial to other such businesses and other commercial and civic activities.
- c. Provide a mechanism to address problems often associated with the public consumption of alcoholic beverages, such as litter, loitering, graffiti, and noise levels.
- d. Ensure that businesses selling alcoholic beverages are not the source of undue public nuisances in the community.
- e. Ensure that sites where alcoholic beverages are sold are properly maintained so that negative impacts generated by these activities are not harmful to the surrounding environment in any way.

The provisions of this section are intended to complement the State of California alcohol-related laws. The City does not intend to replace or usurp any powers vested in the California Department of Alcoholic Beverage Control.

2. **Automatic Deemed Approved Status.** All alcoholic beverage sales activities or establishments, that were legal nonconforming activities or establishments, with respect to Chapter [16.228](#) of the Development Code, immediately before the effective date of the ordinance codified in this section shall automatically become deemed approved activities as of the effective date of the deemed approved alcoholic beverage sale regulations and shall no longer be considered legal nonconforming activities. Each deemed approved activity shall retain its deemed approved status as long as it complies with the operational standards in this chapter. However, any change in ABC license type including, but not limited to, a change from a type 20 to a type 21 license, or a substantial physical change of character of premises as defined in Title 4 of the [California Code of Regulations](#) Section 64-2(b), shall terminate the deemed approved status of the business activity and shall require a commission use permit or land development permit to continue operation. For purposes of this section, the approval of a commission use permit or land development permit shall not be automatic upon termination of the activities deemed approved status.

3. **Notification to Owners of Deemed Approved Activities.** The City or its designated enforcement authority shall notify the owner of each deemed approved activity, and also the property owner if not the same, of the activity's deemed approved status. The notice shall be sent by regular mail and shall include a copy of the operational standards in this section with the requirement that they be posted in a conspicuous and unobstructed place visible from the entrance of the establishment for public review. This notice shall also provide that the activity is required to comply with all operational standards and that the activity is required to comply with all other aspects of these regulations.

4. **Termination and Discontinuance of Deemed Approved Status.** Whenever an alcoholic beverage sales activity discontinues active operation for more than 180 consecutive days, ceases to be licensed by the State Department of Alcoholic Beverage Control (ABC) for a period of 180 days or greater, changes its activity so that ABC requires a different type of license, substantially changes its mode or character of operation, or extends its hours of operation, the deemed approved status shall be rescinded. Any subsequent alcoholic beverage sales commercial activity may be resumed only upon the granting of a commission use permit or land development permit, pursuant to the commission use permit or land development permit procedures in Chapters 16.136 and 16.168 of the Development Code. However, this requirement shall not apply to a closure for restoration of premises rendered totally or partially inaccessible by an extraordinary natural event that cannot be reasonably foreseen or prevented (such as a flood or earthquake) or a toxic accident, provided that the restoration does not increase the square footage of the business used for the sale of alcoholic beverages. Nor shall this requirement apply to a closure for purposes of repair, if that repair does not change the nature of the premises and does not increase the square footage of the business used for the sale of alcoholic beverages.

If another use has been substituted before the 180 consecutive days have lapsed, then the original deemed approved activity shall not be resumed.

Once it is determined by the City that there has been a discontinuance of active operation for 180 consecutive days or a cessation of ABC licensing, the matter shall be reviewed in a public hearing by the Administrative Hearing Officer following the same notice and public hearing procedures outlined in Stockton Municipal Code Section 16.108.030.

The phrase "substantial change of the mode or character of operation" shall apply to on-sale and off-sale alcoholic beverage establishments and includes, but is not limited to, the following:

- a. The alcoholic beverage sales establishment increases the floor or land area or shelf space devoted to the display or sales of any alcoholic beverage.
- b. The alcoholic beverage sales establishment expands the sale or service of any alcoholic beverages and/or increases the number of customer seats primarily devoted to the sale or service of any alcoholic beverages.
- c. The alcoholic beverage sales establishment extends the hours of operation.
- d. The alcoholic beverage sales establishment proposes to reinstate alcohol sales after the ABC license has been either revoked or suspended for a period 180 days or greater by ABC.

The alcoholic beverage sales establishment voluntarily discontinues active operation for more than 180 consecutive days or ceases to be licensed by the ABC.

5. **Operational Standards.** A deemed approved alcoholic beverage sales activity or establishment (“deemed approved activity”) shall retain its deemed approved status only if it conforms to all of the following deemed approved operational standards:

- a. The deemed approved activity shall not cause adverse effects to the health, peace or safety of persons residing or working in the surrounding area.
- b. The deemed approved activity shall not jeopardize or endanger the public health, or safety of persons residing or working in the surrounding area.
- c. The deemed approved activity shall not allow repeated nuisance activities within the premises or in close proximity of the premises, including, but not limited to: disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, or lewd conduct.
- d. The deemed approved activity shall comply with all provisions of local, state or federal laws, regulations, or orders, including, but not limited to, those of the ABC, California [Business and Professions Code](#) Sections 24200, 24200.6, and 25612.5, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders. This includes compliance with annual City business license fees.
- e. The deemed approved activity’s upkeep and operating characteristics shall be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
- f. A copy of these operational standards, any applicable ABC or City operating conditions, and any training requirements shall be posted in at least one (1) prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment.
- g. The owners and all employees of deemed approved establishments involved in the sale of alcoholic beverages shall complete an approved course in Licensee Education on Alcohol and Drugs (LEAD), or other “Responsible Beverage Service” (RBS) training or any other ABC approved course within 60 days of hire for employees hired after the passage of this Development Code, or within six (6) months of the passage of the Development Code for existing employees. To satisfy this requirement, the RBS course must be recognized by the California Department of Alcoholic Beverage Control. The RBS course shall include at a minimum the following: a review of ABC laws and regulations; administrative, criminal and civil liabilities; acceptable forms of identification; and how to identify minors and persons already intoxicated.



- i. Sit down restaurants that continue to serve menu items until closing and whose predominant function is the service of food and where the on-site sale of alcoholic beverages is incidental or secondary are exempt from this training requirement. Fraternal organizations and veterans clubs with the on-sale of alcoholic beverage are exempt from this training requirement. (Establishments which are primarily a bar or lounge or have a bar or lounge area as a principal or independent activity are not included in this exemption.)
- ii. Retail establishment containing 10,000 square feet or more with a maximum of 10 percent of its gross floor area devoted to the sale, storage and/or display of alcohol, and subject to this training requirement may elect to send only supervisory employees to the RBS training or any other ABC approved course. The supervisory employees would then be responsible for training all employees who are involved in the sale of alcoholic beverages.

**F. Violations and Penalties.**

1. **General.** Any person or entity that violates or permits another person to violate any provision of this section is guilty of either an infraction or a misdemeanor.
  - a. Any violation of this section may result in any or all of the following actions and/or fines:
    - i. A misdemeanor punishable by either six (6) months in jail, and/or \$1,000.00 fine;
    - ii. Issuance of administrative citation(s) and/or an order to abate violation(s) of this section with a fine for each and every safety violation of \$1,000.00, plus any administrative expenses incurred in the enforcement of this section;
    - iii. Administrative injunction ordering the action constituting a violation of this section to immediately cease and desist; such an order may require an order that the property be immediately vacated to protect the health, safety and welfare of the community;
    - iv. In addition to all other remedies or penalties provided by law, violation of the provisions contained in this section are punishable in the same manner as set forth in Chapter 1.32, as follows:
      - (A) \$200.00 administrative citation for the first violation;
      - (B) \$500.00 administrative citation for the second and subsequent violations.
  - b. Each day the violation(s) continue shall be deemed a new violation subject to additional citations, penalties, and fines.
  - c. Violation of any provision of this section may be filed as an infraction or a misdemeanor at the discretion of the City Attorney.

d. All fines shall be the obligation of the owner and/or responsible party and are due and payable within 30 days of issuance of the citation, provided that when a request for a hearing is made, the fines and administrative expenses shall be due and payable within 30 days of the date of the Administrative Hearing Officer's written decision. Any fine or administrative expense not paid within the time limits set forth shall be collected pursuant to Title 1 of the Stockton Municipal Code.

e. **Public Nuisance.** In addition to the penalties provided in this section, any use or condition caused or permitted to exist in violation of any of the provisions of these regulations shall be and is declared to be a public nuisance and may be abated as such by the City.

2. **Investigative Procedures of Potential Violations.** Upon the City's receipt of a complaint from a Code Enforcement Officer, Police Officer or any other interested person, that a commission use permit, or land development permit activity is in violation of the operational standards and conditions of approval contained in this section, the following procedures apply:

a. The officials responsible for enforcement of the Development Code, or duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner, whenever they have cause to suspect a violation of any provision of these regulations, or whenever necessary to the investigation of violations to the deemed approved operational standards or conditions of approval prescribed in these regulations. An owner or occupant or agent thereof who refuses to permit such entry and investigation shall be guilty of infringing upon the violations and penalties as outlined in subsection (F)(1), and subject to related penalties thereof.

b. If the officials responsible for enforcement of the Development Code, or their duly authorized representatives, determine that the activity is in violation of the operational standards and/or conditions of approval, the Code Enforcement Officer may issue an administrative citation or an administrative civil penalties notice, which then may be subject to a hearing by the Administrative Hearing Officer, pursuant to Stockton Municipal Code Chapters [1.32](#), [1.40](#), and [1.44](#).

c. Any administrative citation or administrative civil penalties notice issued under this section shall be issued, processed, and enforced in compliance with the provisions of Stockton Municipal Code Chapters [1.32](#), [1.40](#), and [1.44](#), unless otherwise expressly provided herein.

3. **Administrative Hearing Officer.** Upon the filing of an appeal, pursuant to Chapter [1.32](#), the City shall appoint an Administrative Hearing Officer, pursuant to Stockton Municipal Code Section [1.44.030](#), to conduct hearings, make findings, and determine whether violations of the operational standards and conditions of approval, as well as whether undue negative impacts or public nuisance activities have occurred, are occurring, or are likely to occur in the future. The assigned Administrative Hearing Officer shall exercise all powers and authority delegated to him/her by Stockton Municipal Code Chapter [1.44](#).

The Administrative Hearing Officer shall determine whether the activity is in compliance with the operational standards and/or conditions of approval of the commission use permit, land development permit, or deemed approved status.

In reaching a determination as to whether a use has violated the standards or conditions of approval of the commission use permit, land development permit, or deemed approved status, or as to the appropriateness of imposing additional or amended conditions on a use, recommending revocation of a use, or assessing administrative or civil penalties, the Administrative Hearing Officer may consider:

- a. The length of time the activity has been out of compliance.
- b. The impact of the violation on the community.
- c. Any information regarding the owner of the activity's efforts to remedy the violation.

"Efforts to remedy" shall include, but are not limited to:

- a. Timely calls to the Police Department that are placed by the use permit holder or responsible party.
- b. Requesting that those persons engaging in activities causing violations of the operational standards and/or conditions of approval, cease those activities, unless the use permit holder or responsible party.
- c. Making improvements to the property or operations, including, but not limited to, the installation of lighting sufficient to illuminate the area within the property line, the installation of security cameras, the clearing of window obstructions, the cleaning of sidewalks, and the abatement of graffiti.

Based on this determination, the Administrative Hearing Officer may find that the establishment is:

- i. In compliance with the operational standards or conditions of approval of the commission use permit, land development permit, or deemed approved status and dismiss the citation; or
- ii. In violation of the operational standards or conditions of approval of the commission use permit, land development permit, or deemed approved status and impose administrative civil penalties, pursuant to Stockton Municipal Code Chapter [1.40](#); or
- iii. In violation of the operational standards or conditions of approval of the commission use permit, land development permit, or deemed approved status and impose reasonable conditions, similar to those imposed on new alcoholic beverage sales activities or establishments in subsection (D)(5)(a) and (b), to ensure compliance with the operational standards or conditions of approval of the commission use permit, or land development permit, or deemed approved status; or

iv. In violation of the operational standards or conditions of approval of the commission use permit, land development permit, or deemed approved status and refer the matter to the Planning Commission with a recommendation to modify or revoke the commission use permit, land development permit, or deemed approved status, in accordance with Stockton Municipal Code Chapter [16.108](#).

If in the judgment of the Administrative Hearing Officer, the establishment's activities constitute a nuisance, the owner is unable or unwilling to abate the nuisance, and the nuisance is shown to be a threat to the public health and safety of the surrounding neighborhood, the Administrative Hearing Officer may recommend that the Planning Commission modify or revoke the activity's use permit.

The decision of the Administrative Hearing Officer shall become final and conclusive 10 calendar days after the date of decision, unless the decision is appealed in accordance with the procedures for filing and processing of appeals provided in Stockton Municipal Code Section [16.100.040](#). In addition to the requirements in Section [16.100.040](#), any interested party must enter into the record any issues and/or oral, written, and/or documentary evidence for the consideration of the applicable Review Authority. (Ord. 2016-01-26-1601 C.S. § 3; Ord. 011-11 C.S. § 1, eff. 10-27-11; Ord. 015-09 C.S., eff. 12-3-09; prior code § 16-365.035)

---

## Contact:

City Clerk: 209-937-8458

Published by [Quality Code Publishing, Seattle, WA](#). By using this site, you agree to the [terms of use](#).