ORDINANCE NO. 2016-01-26-1601

AN ORDINANCE AMENDING TITLE 16, CHAPTER 16.20, SECTION 16.20.020, CHAPTER 16.80, SECTION 16.80.040, CHAPTER 16.88, SECTION 16.88.030, CHAPTER 16.108, SECTION 16.108.030, CHAPTER 16.168, SECTION 16.168.050, AND CHAPTER 16.240, SECTION 16.240.020 OF THE STOCKTON MUNICIPAL CODE RELATED TO ALCOHOLIC BEVERAGE SALES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. FINDINGS AND INTENT

The City Council of the City of Stockton finds that the current Stockton Municipal Code regulations for Alcoholic Beverage Sales require amendment in order to provide better mechanisms to address problems associated with the sale and consumption alcohol.

The City Council finds that an amendment which provides comprehensive guidelines for the operation of Alcoholic Beverage Sales Activities and Establishments will alleviate and/or mitigate some of the existing issues with the regulation of these activities and establishments and avoid these issues in the future.

SECTION II: AMENDMENT OF CODE

Title 16, Chapter 16.20, Section 16.20.020—Table 2-2 of the Stockton Municipal Code is hereby amended to read as follows:

TABLE 2-2
ALLOWABLE LAND USES AND PERMIT REQUIREMENTS

LAND USES	PERMIT REQUIREMENT BY ZONING DISTRICT															SPECIFIC USE STANDARDS
	RE	RL	RM	RH	CO	CN	CG	CD	CL	CA	IL	IG	PT	PF	OS	
AGRICULTURAL AND RESOURCE-RELATED USES																
Agricultural activities & facilities	P											P	P		A	16.80.060
Conservation areas	L	L	L	L	L		L	L	L	L	L	L	L	L	L	
Mining											A	A	A	A		
BUSINESS AND PROFESSIONAL USES																
Banks and financial services					L	P	P	P	P	L			P			
Business support services						P	P	P	P	L		P	P			
Offices					L	A	P	P	P	L		A	P	L		16.80.240

INDUSTRY, MANUFACTURING & PROCESSING USES

Electricity generating plants/facilities other than nuclear											C	C	P	P		16.80.170
Electronics, equipment & appliance manufacturing											P	P	P			16.80.170
Fabric product manufacturing								P			P	P	P			16.80.170
Food and beverage product manufacturing								P			P	P	P			16.80.170
Furniture and fixtures manufacturing											P	P	P			16.80.170
Handcraft industries, small-scale manufacturing								P			P	P	P			16.80.170
Laundries and dry cleaning plants											P	P	P			16.80.170
Manufacturing																
Light											P	P	P			16.80.170
Heavy												A	P			16.80.170
Metal products fabrication, machine/welding shops											P	P	P			16.80.170
Petroleum storage and distribution												A	P			16.80.170
Printing and publishing								P		L	P	P	P	L		16.80.170

TABLE 2-2
ALLOWABLE LAND USES AND PERMIT REQUIREMENTS

LAND USES	PERMIT REQUIREMENT BY ZONING DISTRICT															SPECIFIC USE STANDARDS
	RE	RL	RM	RH	CO	CN	CG	CD	CL	CA	IL	IG	PT	PF	OS	
Recycling and waste facilities																
Collection facility							L	L	L		P	P	P	L		16.80.290
Redemption centers																
Major							C	C	C		C	C	C	C		16.80.290
Minor							A	A	A		A	A	A	A		16.80.290
Recycling facility												A	P	A		16.80.290
Scrap and dismantling yards												A	P			16.80.170

Transfer stations												C	P	A		16.80.290
Research and development (R&D)								A		L	P	P	P	L		16.80.170
Storage yards											P	P	P	L		16.80.170
Warehouses											P	P	P			16.80.170
Wholesaling and distribution								P			P	P	P			16.80.170

RECREATION, EDUCATION, AND PUBLIC ASSEMBLY USES

Activity centers	A	A	A	A	A	A	A	A	A	L			A	L	C	
Adult related establishments							P	P	P							16.80.030
Auditoriums, meeting halls, and theaters						A	A	A	A	L				L		16.24.080(B)(2),16.24.090(B),16.24.110(D),16.24.180(D)
Bridge clubs and nongambling board games					P	P	P	P	P	L						
Card rooms							C	C	C	L						16.80.04016.80.270
Clubs, lodges, and private meeting halls					A	A	A	A	A	L	A		P	A		
Commercial amusement facilities						A	A	A	A	A	A					
Educational facilities																
Academic schools—Private	A	A	A	A	A		A	A	A							
Academic schools—Public	P	P	P	P										P		
Colleges and universities—Private		C			C											
Equipment repair and maintenance training							P	P		A	P			L		
Specialized education and training					A	A	P	P	P	A	P		P	L		
Vehicle repair and maintenance training								P		A	P	P	P	L		
Truck and heavy equipment education and training											P	P	P	L		
Equestrian facilities	C										A	A		L	C	
Golf courses/country clubs	C	C	C	C	C		A	A			A		P	L	A	
Indoor recreation facilities							A	A	A	A	A		P	L		

Libraries and museums		C	C	C	L	A	P	P	P	L	L			L	A	
Live entertainment						P	P	P	P					P		16.80.180
Marinas							C	C			C		A	A		
Outdoor assembly facilities							A	A	A					L		

TABLE 2-2
ALLOWABLE LAND USES AND PERMIT REQUIREMENTS

LAND USES	PERMIT REQUIREMENT BY ZONING DISTRICT															SPECIFIC USE STANDARDS
	RE	RL	RM	RH	CO	CN	CG	CD	CL	CA	IL	IG	PT	PF	OS	
Outdoor commercial recreation facilities							C	C	C	C	C			A		
Parks and playgrounds	P	P	P	P										P	P	
Pool halls/billiard parlors								C	C	L						16.80.04016.80.270
Private entertainment facilities							C	C	C		C					
Private residential recreation facilities	A	A	A	A												16.80.03016.80.270
Recreational vehicle parks							A	A			A			L		
Religious facilities	A	A	A	A	L	A	L	L	A	L	L			L		16.80.080
Studios					L	P	P	P	P	L						

RESIDENTIAL USES

Caretaker and employee housing					L	A	L	L	P	A	L	L	L	L	L	
Dwelling group			P	P		A		L						L		
Duplexes		A	P	P				A						L		16.24.040
Mobilehome parks		A	A	A			A	A								16.80.210
Multifamily dwellings			A	A	C	C	C	A						L		16.80.220
Organizational houses				A				A								
Residential care facilities																
Assisted living facilities	A		C	A	C			A						L		16.80.300
Care homes, 6 or fewer clients		P	P	P				P						P		
Family care homes, 7 or more clients	C			C				C						L		16.80.300

Senior care facilities, 7 or more clients			A	A	A			A						L		16.80.300
Rooming and boarding houses				A				A						L		
Senior residential projects			A	L	C	C		L						L		16.80.220
Single-family dwellings	P	P	P	P				P						L		
Townhouses		A	P	P	C	C		A						L		
Triplexes			P	P				A						L		

RETAIL TRADE

Agricultural chemical sales											A	L	P			16.36.080
Alcoholic beverage sales																
Bars and nightclubs—On-sale						C	C	C	C							16.80.270
Sale of alcohol—Off-sale						C	C	C	C				C	C		16.80.040
With other establishments—On-sale						L	L	L	L				L	L		16.80.040.D.3.a.i
Full-service restaurants-On-sale						P	P	P	P				P	P		16.80.040.D.3.b.i
Artisan shops					C	P	P	P	P	L	P					
Auto and vehicle sales—New								L		A						16.24.12016.80.07016.80.330
Auto and vehicle sales—Used							L			A	L					16.24.12016.80.07016.80.330
Auto and vehicle leasing/rental							A	L		A	L					16.80.070
Auto parts sales						P	P	P	P	A						

TABLE 2-2
ALLOWABLE LAND USES AND PERMIT REQUIREMENTS

LAND USES	PERMIT REQUIREMENT BY ZONING DISTRICT														SPECIFIC USE STANDARDS
	RE	RL	RM	RH	CO	CN	CG	CD	CL	CA	IL	IG	PT	PF	OS	
Building material stores						A	A	L	P		A					16.80.330
Construction, farm & heavy equipment sales							A			A	P	P	P			16.80.330
Convenience stores						C	C	C	C							16.80.04016.80.14016.80.270
Furniture, furnishings, and appliance stores					C	P	P	P	P	P	P					16.80.330

Mobilehome sales										A	P					16.80.330
Nurseries and garden supply stores	A					A	P	P	P	A	P					16.80.330
Outdoor retail sales and activities								A	A		A					16.80.260
Pet shops						P	P	P	P							
Recreational vehicle & boat sales—New/used								L		A	L					16.80.330
Restaurants					C	P	P	P	P	L			P			16.80.250
Retail stores					C	P	P	P	P	A			P			16.80.330
Secondhand stores/pawn shops							A	A	A							
Shopping centers																
Neighborhood							A	A								16.80.330
Community							A	A								16.80.330
Regional								C	C							16.80.330
Warehouse retail stores							C	C	C							16.80.330

SERVICES

Adult day care facilities					L	A	P	P	P				A	L		
Animal services																
Kennel and boarding facilities	A				A						A	A				
Pet grooming	A				A	P	P	P	P	L						
Training facilities	A				A		L	L		L	L	L				
Veterinary clinics and animal hospitals	A				A	C	L	L	P	L	L					16.80.370
Auto/vehicle services																
Car washes							A	A	A	A	A		P			
Fueling stations						A	L	L	L	A	L		P			16.80.32016.80.340
Inoperable vehicle storage											L	L				
Maintenance/minor repair						A	P	P	P	A	P	P	P			16.80.320
Major repair/body work										A	P	P	P			16.80.340
Parking facilities		C	C	C	A	A	P	P	P	P	P		P	L		16.64.080
Vehicle storage								L		L	L	L	L	P	L	

Child care facilities																
Child care centers	C	C	C	C	C	A	A	A	A	A			A	L		16.80.100
Large family child care homes	A	A	A	A	A	A	A	A						A		16.80.100
Small family child care homes	P	P	P	P	P	P	P	P						P		

TABLE 2-2
ALLOWABLE LAND USES AND PERMIT REQUIREMENTS

LAND USES	PERMIT REQUIREMENT BY ZONING DISTRICT															SPECIFIC USE STANDARDS
	RE	RL	RM	RH	CO	CN	CG	CD	CL	CA	IL	IG	PT	PF	OS	
Equipment rental								L	P	A	P		P			
Funeral facilities and services																
Cemeteries		C	C	C	C		C	C		C	C	C		C	C	
Mortuaries							C	C		C	A	A		A		
Funeral homes					A	A	A	A		A						
Health/fitness facilities						P	P	P	P	L						
Lodging facilities																
Bed and breakfast		C	C	C	A	A	A	A						A		16.80.090
Extended-stay facilities							A	A	A							
Single room occupancy facilities (SROs)							A	A								
Hotels and motels					A		A	A	A				P			
Massage establishment																16.80.190
State certified					P	P	P	P	P							
Non-certified						C	C	A	A							
Medical marijuana dispensaries																16.80.195
Medical services																
Ambulance service					A		P	P	P	L	P		P	L		
Clinics and laboratories					L	A	P	P	P	L			P	L		
Extended care	C	C	C	A	A		A	A						L		
Health-related					A	A	A		A					A		16.80.190
Hospitals					C		C	C						C		
Medical cannabis dispensaries							C		C		C	C				16.80.195
Medical-related facilities					P	P	P	P	P					P		

Personal services—Restricted						C	C	A	A							
Personal services—Unrestricted						P	P	P	P				P			
Personal storage facilities (mini-storage)							A		L	L	P	P	P			16.80.200
Repair services						P	P	P	P	P	P					
Sanitary services											C	A	P	L		16.36.080
Social services facilities																
Drug abuse, alcohol recovery/treatment facility					A		A	A						A		
Feeding centers								C			C	C		A		
Homeless shelters				C	C		C	C			C			A		
Transitional housing				C	C		C	C			C			A		16.80.350

TRANSPORTATION AND COMMUNICATION USES

Broadcasting studios						A		P	P	A	P	P	P	L		
Communications facilities																
Minor		E	E	E	P		P	P	P	P	P	P	P	P	P	Ch. 16.44
Major					A		A	A	A	A	A	P	P	A		Ch. 16.44
Transit stations and terminals							C	C			C	C	P	C		
Vehicle and freight terminals											A	L	P			

TABLE 2-2
ALLOWABLE LAND USES AND PERMIT REQUIREMENTS

LAND USES	PERMIT REQUIREMENT BY ZONING DISTRICT															SPECIFIC USE STANDARDS
	RE	RL	RM	RH	CO	CN	CG	CD	CL	CA	IL	IG	PT	PF	OS	
OTHER USES																
Live-work space					L	P	P	P	P		P					
Major impact facilities												C	C	C		
Motion picture production								P			P	P	P			
Multi-use facilities					A	L	A	A	A		A	A	P			16.80.230
Public and semipublic utility facilities	A	A	A	A	A	A	P	P	P	L	P	P	P	L		

Public institutions	C	C	C	C	C	C	C	C	C		C	C	L	L		
Signs—Off-premises							E	E	E		E	E	E	E		16.76.110

SECTION III: AMENDMENT OF CODE

Title 16, Chapter 16.80, Section 16.80.040 of the Stockton Municipal Code is hereby amended to read as follows:

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 of one 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 this Section in compliance with all deemed approved standards and provisions.

Deemed Approved Status. An Activity or establishment as defined in Stockton Municipal Code Section 16.80.040.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 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 ordinance are intended to compliment 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 and 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; and

(B) Be exempt from location restrictions under subsections 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 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 subsections 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 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 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 (Land Development Permit- 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-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-light 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-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 fifteen 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 this ordinance or within six (6) months of the passage of this ordinance 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 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 percent by volume.

(C) Wine with an alcoholic content greater than 14 percent by volume unless in corked bottles and aged at least two 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-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-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-light 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 fifteen 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-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% 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 this ordinance or within six (6) months of the passage of this ordinance 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 therefore, pursuant to Stockton Municipal Code Section 16.108.030. At least ten (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 ordinance are intended to compliment 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 these regulations 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 or 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 it 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 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 sixty (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 ordinance is guilty of either an infraction or a misdemeanor.

a. Any violation of Section 16.80.040 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) Two hundred dollars administrative citation for the first violation;

(B) Five hundred dollars 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 procedure apply:

a. The officials responsible for enforcement of the Development Code, or their 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 Section 16.80.040.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:

i. Find that the establishment is 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;

ii. Find that the Establishment is 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. Find that the establishment is 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 Section 16.80.040.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. Find that the establishment is 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 ten (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.

SECTION IV: AMENDMENT OF CODE

Title 16, Chapter 16.88, Section 16.88.030 of the Stockton Municipal Code is hereby amended to read as follows:

A. **Content of Notice.**

1. Notice of a public hearing shall include: the date, time, and place of the hearing; the name of the hearing authority; a general explanation of the matter to be considered; a general description, in text and/or by diagram, of the location of the property that is the subject of the hearing; and the phone number and street address of the Department where an interested person could call or visit in order to receive additional information.

2. If a proposed negative declaration or environmental impact report (EIR) has been prepared for the project in compliance with the City's CEQA Guidelines, the hearing notice shall include a statement that the hearing body would also consider approval or recommendation of the proposed negative declaration or certification of the final EIR.

B. **Method of Notice Distribution.** Notice shall be provided as follows:

1. **Published Notice.** A legal notice shall be published at least once in a local newspaper of general circulation within the City at least 10 days before the hearing for:

a. All actions in which the Council is the final Review Authority (e.g., development agreements, Development Code amendments, General Plan amendments, historical landmarks/sites/districts, master development plans, precise road plans, specific plans/amendments, street name changes, and Zoning Map amendments);

b. Tentative maps;

c. Heritage tree permit; and

d. Proposed negative declarations or environmental impact reports.

2. **Mailed Notice.**

a. **Actions.** The following actions shall require a mailed notice:

i. **Council Actions.** For specified actions in which the Council is the final Review Authority; and

ii. **Commission or Director Actions.** For all actions in which:

(A) The Commission is the final Review Authority (e.g., Planned Development Permits, Tentative Maps, Commission Use Permits, and variances), or

(B) The Director is the final Review Authority and a public hearing is required (e.g., Administrative Use Permits), except heritage tree permits.

iii. **Administrative Hearing Officer Actions.** For all actions in which an Administrative Hearing Officer is the final Review Authority and a public hearing is required.

b. **Method.** The notice shall be mailed or delivered:

i. **Timing.** At least 10 days before the hearing.

ii. **Recipients.**

(A) **Subject Owner(s).** The owner(s) of the property being considered or the owner's agent, and the applicant, or responsible party;

(B) **Local Agencies.** Each local agency expected to provide schools, water, or other essential facilities or services to the project, and whose ability to provide the facilities and services may be significantly affected;

(C) **Affected Owners.** All owners of real property as shown on the County's latest equalized assessment roll within a radius of 300 feet of the exterior boundaries of the parcel involved in the application, except for:

(1) Large family child care homes, which shall be 100 feet,

(2) Specific plans and master development plans, which shall be 1,000 feet, and

(3) If the number of property owners to whom notice would be mailed is more than 1,000, the Director may choose to provide notice by placing a display advertisement in at least one (1) newspaper of general circulation within the City at least 10 days before the hearing in compliance with Government Code Section 65091(a)(3);

c. **Cost of Providing Notice.** The applicant for a project shall pay all costs associated with providing required public hearing notices, as determined by the Director.

C. **Additional Notice.** In addition to the types of notice required by subsection B of this section (Method of notice distribution), additional notice that the Director determines is necessary or desirable may be required using the Director's choice of distribution.

SECTION V: AMENDMENT OF CODE

Title 16, Chapter 16.108, Section 16.108.030 of the Stockton Municipal Code is hereby amended to read as follows:

A. **Hearings and Notice.**

1. **Review.** An application, permit, or entitlement may by revoked or modified by the applicable Review Authority utilizing the same procedure used to approve an application, permit, or entitlement granted in compliance with the provisions of this Development Code.

2. **Notice.** 10 days before the revocation/modification process begins, notice shall be:

a. Delivered in writing, via certified mail, return receipt requested to:

i. The owner of the property for which the permit or entitlement was granted, as shown on the County's latest equalized assessment roll; and/or

ii. The project applicant, if not the owner of the subject property; and/or

iii. The responsible party, if not the owner of the subject party.

b. Mailed to all owners of real property as shown on the County's latest equalized assessment roll within a radius of 300 feet of the exterior boundaries of the parcel involved in the application.

3. **Public Hearing.** A public hearing shall be conducted in compliance with Chapter 16.88 (Review Procedures) following the review procedure for the application, permit, or entitlement.

B. **Review Authority Action.**

1. **Permits and Entitlements.**

a. Revocation and/or Modification. A land use permit or entitlement may be revoked or modified by the Review Authority that originally approved the permit or entitlement, or the equivalent City Review Authority, for permits or entitlements originally approved under the County's authority, if any one of the following findings of fact can be made in a positive manner:

i. Circumstances under which the permit or entitlement was granted have been changed by the applicant to a degree that one or more of the findings contained in the original permit can no longer be made in a positive manner;

ii. The permit or entitlement was issued, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the permit or entitlement;

iii. One or more of the conditions of the permit have not been substantially fulfilled or have been violated;

iv. The improvement authorized in compliance with the permit is in violation of a code, law, ordinance, regulation, or statute;

v. The improvement/use allowed by the permit or entitlement has become detrimental to the public health, safety, or welfare or the manner of operation constitutes or is creating a nuisance; or

vi. There is a compelling public necessity.

b. **Modification Only.** In addition to subsection (B)(1)(a) of this section (Revocation and modification procedure), a land use permit or entitlement may be modified by the Review Authority that originally approved the permit or entitlement, without the consent of the property owner or operator, if the Review Authority finds that the use or related development constitutes or is creating a nuisance or that there is a compelling public necessity.

2. **Variances.** A variance may be revoked or modified by the Review Authority which originally approved the Variance, if any one of the appropriate findings of fact can be made in a positive manner, in addition to those outlined in subsection (B)(1) of this section (Permits and entitlements):

a. **Revocation.** Findings for revocation:

i. Circumstances have been changed by the applicant to a degree that one or more of the findings contained in the original approval can no longer be made in a positive manner, and the grantee has not substantially exercised the rights granted by the approval; or

ii. One or more of the conditions of the variance have not been met, or have been violated.

b. **Modification.** Findings for modification:

i. Circumstances have been changed by the applicant to a degree that one or more of the findings contained in the original approval can no longer be made in a positive manner, and the grantee has substantially exercised the rights granted by the approval; or

ii. One or more of the conditions of the variance have not been met, or have been violated.

C. **Resubmittal.** An application may not be resubmitted if revoked during the immediately preceding 12-month period, except with the permission of the Review Authority.

SECTION VI: AMENDMENT OF CODE

Title 16, Chapter 16.168, Section 16.168.050 of the Stockton Municipal Code is hereby amended to read as follows:

Following appropriate review, the applicable Review Authority shall provide the decision with the findings of fact on which the decision is based in writing. It is the responsibility of the applicant to establish evidence in support of the required findings. The use permit (Commission or administrative) shall be approved, with or without conditions, only if all of the following findings of fact can be made:

A. **General Findings.** The following findings shall be made for all use permits:

1. The proposed use is allowed within the subject zoning district with the approval of a use permit and complies with all other applicable provisions of this Development Code and the Municipal Code;

2. The proposed use would maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located;

3. The proposed use would be consistent with the general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan or master development plan;

4. The subject site would be physically suitable for the type and density/intensity of use being proposed including the provision of services (e.g., sanitation and water), public access, and the absence of physical constraints (e.g., earth movement, flooding, etc.);

5. The establishment, maintenance, or operation of the proposed use at the location proposed and for the time period(s) identified, if applicable, would not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, peace, or general welfare of persons residing or working in the neighborhood of the proposed use;

6. The design, location, size, and operating characteristics of the proposed use would be compatible with the existing and future land uses on-site and in the vicinity of the subject property; and

7. The proposed action would be in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines.

B. **Problems Uses.** In addition to the findings in subsection (A) of this section (General findings), the following findings shall be made for all uses defined as "Problem Uses" in Division 8 (Glossary):

1. The proposed use is not likely to interfere with the comfortable enjoyment of life or property in the area;

2. The proposed use will not increase or encourage the deterioration or blight of the area; and

3. The establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation, improvement, or redevelopment, either residential or nonresidential.

C. **Alcoholic Beverages.** In addition to the findings in subsection (A) of this section (General findings) and subsection (B) of this section (Problem uses), the following findings shall be made for all uses which incorporate "Alcoholic Beverage Sales Activity" as defined in Section 16.80.040:

1. The proposed use will not result in repeat nuisance activity on or in close proximity to the premises. Nuisance activity includes but is not limited to: disturbing the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination/defecation, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noise (especially in the

late night or early morning hours), traffic violations, curfew violations, lewd conduct, or police detentions and arrests;

2. The owners and all employees of the establishment would complete an approved course in Licensee Education on Alcohol and Drugs (LEAD), or other "Responsible Beverage Sales" (RBS) or any other California Department of Alcoholic Beverage Control Board (ABC) approved program within sixty (60) days of hire for employees hired after the passage of this Development Code or within 6 months of the passage of this Development Code for existing employees. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board or other certifying/licensing body Service Advisory Board or other certifying/licensing body designated by the State of California.

3. The proposed use will comply with all provisions of local, state and federal laws, rules, regulations, policies, or orders, including but not limited to those promulgated and or enforced by the ABC, California Business and Professions Code sections 24200, 24200.6, and 25612.5, and any condition imposed on any valid permit(s) issued pursuant to applicable laws, regulations or other authority. This includes compliance with annual city business license fees; and

4. If required by Business and Professions Code section 23958.4 (public convenience or necessity would be served by the issuance of this Commission Use Permit or Land Development Permit. In making a determination of public convenience or necessity, the applicable Review Authority may consider criteria, including but not limited to the following:

a. Proximity and number of other establishments selling alcohol;

b. Proximity of the establishment to schools, playgrounds, and other facilities serving young people;

c. Proximity of the establishment to residential neighborhoods;

d. Whether the establishment provides a wide range of desirable goods and services or a unique type of goods or services;

e. Whether the establishment has Building Code and/or Health Code violations; and

f. Whether the establishment will negatively influence the rate of criminal activity in the neighborhood, including but limited to the

following: loitering and vandalism, public drinking and drunkenness, illegal drug usage and sales, theft or violent behavior.

SECTION VII: AMENDMENT OF CODE

The following definitions for Alcoholic Beverage Sales (Land Use), Bars and Nightclubs (On-Sale)(Land Use), Sale of Alcohol (Off-Sale)(Land Use), and With Another Use (On-Sale)(Land use) within the "Definitions of specialized terms and phrases" in Title 16, Chapter 240, Section 16.240.020 of the Stockton Municipal Code are deleted:

† **Alcoholic Beverage Sales (Land Use).** The retail sale of beer, wine, and/or other alcoholic beverages for on- or off-premises consumption.

1. **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).

2. **Sale of Alcohol (Off-Sale)(Land Use).** The sale of alcoholic beverages, beer, wine, and general alcohol, for off-premises consumption. Includes liquor stores (which is 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) and sale of alcohol in grocery stores and large-scale commercial stores of less than 40,000 square feet, mini-marts, or other retail stores. Alcoholic beverage sales shall comply with the standards for problem uses (Section 16.80.270). Does not include convenience stores (see "Convenience Stores").

3. **With Another Use (On-Sale) (Land Use).** The sale of alcoholic beverages for on-premises consumption at a facility other than a bar or nightclub. Includes lodges; restaurants with bars and restaurants serving alcoholic beverages in conjunction with meals prepared on the site and which do not have a separate facility for a bar.

SECTION VIII. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION IX. FINDINGS

The City Council of the City of Stockton finds and determines:

a. The proposed amendment of the SMC's permitting requirements and development standards for the "Alcoholic Beverage Sales" land use is consistent with applicable General Plan land use policies and objectives and has been prepared in a comprehensive manner to maintain the internal consistency of the Development Code. The proposed amendment will serve to reduce nuisance activities and potentially harmful effects associated with alcoholic beverage sales establishments, including violent crimes, vandalisms, and general blight, and be consistent with the following General goals and policies:

(1) LU-4.1 – The City shall encourage the upgrading, beautification, revitalization, and appropriate reuse of existing commercial areas and shopping centers.

(2) ED-1.1 – The City shall continue to promote a healthy image among its citizens and the wider business community, because the proposed code amendment can protect the life and property of residents, businesses, and visitors to the City and reduce illegal activities generated associated with alcoholic beverage sales.

b. The proposed amendment will amend Title 16 of the SMC for alcoholic beverage sales, including Section 16.20.020, Table 2-2 "Allowable Land Uses and Permit Requirements;" Section 16.80.040, "Alcoholic Beverage Sales;" Section 16.88.030, "Public Hearing Notices;" Section 16.108.030, "Revocation and Modification Procedure;" Section 16.168.050, "Findings and Decision;" and Section 16.240.020, "Definitions of Specialized Terms and Phrases". The proposed amendment will allow alcoholic beverage sales establishments to be continuously permitted in the same zoning districts in which they are currently allowed, but with more strict standards and requirements for approval of alcoholic beverage sales, in order to reduce and prevent associated criminal activities and public nuisances.

c. The proposed amendment will not be detrimental to the public in convenience, health, interest, safety, or general welfare of persons residing or working in the City, because the amendment will apply more stringent regulations

to land use activities, and reduce or avoid crimes and public nuisances associated with alcoholic beverage sales. The amendment will enact permitting requirements, location restrictions, and operational standards that will protect sensitive land uses from potential negative impacts of land uses involving alcoholic beverage sales.

d. The proposed amendment is exempt from California Environmental Quality Act (CEQA) under the "general rule" that CEQA applies only to projects which have the potential for causing significant environmental effects, as specified in Section 15061(b)(3). The amendment will result in significantly enhanced review procedures and increase the threshold for approval. All future requests for the approval of a Commission Use Permit or Land Development Permit will be subject to compliance with CEQA at that time, and each location will be evaluated based on its own merit; now, therefore.

SECTION X. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force sixty (60) days after its passage.

ADOPTED: January 26, 2016

EFFECTIVE: March 26, 2016

ANTHONY SILVA
Mayor of the City of Stockton

ATTEST:

BONNIE PAIGE
City Clerk of the City of Stockton