



STAFF REPORT

MEETING DATE: January 25, 2023

PRESENTER: Jesus R. Orozco, Community Development Director

SUBJECT: Ordinance Text Amendment Amending Sections 17.46.030, 17.48.030, 17.50.030, 17.90.020 of Title 17 of the Kerman Municipal Code and Adding Chapter 17.100 to Title 17 of the Kerman Municipal Code Relating to Alcohol Beverage Sales and CEQA Determination (JRO)

RECOMMENDATION: City Council by motion (1) approve finding that this project is not subject to California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15061(b)(3) and (2) waive second reading and adopt an Ordinance Text Amendment amending Sections 17.46.030, 17.48.030, 17.50.030, 17.90.020 of Title 17 of the Kerman Municipal Code and adding Chapter 17.100 to Title 17 of the Kerman Municipal Code related to Alcohol Beverage Sales.

EXECUTIVE SUMMARY:

The Kerman Municipal Code has a limited number of alcohol beverage sales uses (ABC uses) that are subject to the conditional use permit (CUP) process. Currently, “bars, liquor stores, and taverns” are the only ABC uses within the commercial zone district’s use schedules subject to a CUP. ABC uses not subject to a CUP include; grocery stores, supermarkets, mixed-retail pharmacies, restaurants, convenience stores, and service stations among others. As a result, many alcohol-related businesses throughout the years have been approved as “by-right” uses. The ordinance text amendment will strengthen the City’s discretionary and enforcement authority over ABC uses.

At the January 11, 2023 meeting, Council held a public hearing to consider introduction of the ordinance regarding amending Sections 17.46.030, 17.48.030, 17.50.030, 17.90.020 of Title 17 of the Kerman Municipal Code and adding Chapter 17.100 to Title 17 of the Kerman Municipal Code related to Alcohol Beverage Sales (Ordinance Text Amendment). After closing the public hearing and conducting deliberations, the Council introduced the Ordinance Text Amendment with the modifications listed below which resulted in renumbering of said provisions.

- [modified] Section 17.100.020. Applicability (B)(3) *Any existing establishment that requests to reinstate their ABC license from the California Department of Alcohol Beverage Control ~~alcohol or business license types(s)~~ after an expiration or revocation;*
- [deleted] Section 17.100.020. Applicability (D) ~~A conditional use permit shall not be granted for out of county ABC license transfers.~~
- [deleted] Section 17.100.040. Location Restrictions for New Businesses (A)(1) ~~Not more than two (2) on-sale ABC licenses within two hundred (200') feet of another business shall be permitted.~~
- [deleted] Section 17.100.040. Location Restrictions for New Businesses (B)(1) ~~ABC license shall be Fresno County transfer only.~~

- [deleted] Section 17.100.040. Location Restrictions for New Businesses (B)(2) ~~Not more than one (1) off-sale ABC license within two hundred (200') of an existing on-sale business with an ABC license shall be permitted.~~

The Ordinance Text Amendment is attached for Council's consideration and adoption. All other provisions of the ordinance presented to the Council remain unchanged, as furthered described below.

Section 17.46.030 relates to conditional uses within the Neighborhood Commercial zone district. Amendments in this section entail repealing the term "liquor store" as a conditional use and adding the term "Alcohol Beverage Sales" as a conditional use. Adding the term will ensure all alcohol sales-based uses are subject to a CUP and not just liquor stores.

Section 17.48.030 relates to conditional uses within the General Commercial zone district. Amendments in this section entail repealing the term "bar, liquor store, and tavern" as conditional uses and adding the terms "Alcohol Beverage Sales," "Automobile Service Station," and "Drive-Through Facility" as conditional uses. The term "Outdoor sales and storage" is further amended to include "dining". Adding the term "alcohol beverage sales" will ensure all alcohol sales-based uses are subject to a CUP and not just bars, liquor stores, and taverns. Additionally, the terms automobile service station and drive-through facility are being added as conditional uses because said uses have been modernized to be part of a larger business model that includes alcohol sales. As an example, an automobile service stations are often developed with a convenience store with a drive-through facility which may include ABC sales, generally for off-site consumption. The term outdoor sales, dining, and storage has been amended to encompass uses such as restaurants or eateries that may serve alcohol for on-site consumption.

Section 17.50.030 relates to conditional uses within the Service Commercial zone district. Amendments in this section entail the addition of the term "Alcohol Beverage Sales" as a conditional use. Adding the term will ensure all alcohol sales-based uses within the zone district are subject to a CUP.

Section 17.90.020 relates to the definitions of the Kerman Municipal Code. Amendments in this section entail repealing the definitions for "bar, liquor store, and tavern," "off-sale liquor," and "on-sale liquor". Subsequently the term "alcohol use" is further amended to "alcohol beverage sales" to encompass all previously stated terms related to alcohol sales. The new term "alcohol beverage sales" will read as follows: any retail activity which includes the sale or dispensing of alcoholic beverages for consideration of on-sale liquor or off-sale liquor. Alcoholic beverages shall be defined as those beverages requiring licensing for sale by the California State Department of Alcoholic Beverage Control (hereinafter referred to as an "ABC License").

Title 17 of the Kerman Municipal Code has been amended to include a new chapter, Chapter 17.100 relating to Alcohol Beverage Sales Uses. This chapter establishes standards for all retail activity which includes the sale or dispensing of alcoholic beverages for on-sale liquor or off-sale liquor. Having codified standards will assist the City in preventing new ABC sales that may possess certain characteristics that have the potential to cause deleterious effects and nuisances on surrounding neighborhoods and businesses, especially when alcoholic beverage sales are concentrated near one another. Chapter 17.100 addresses existing ABC uses which have been established without a CUP and new ABC uses that may apply to establish within the City. This chapter also stipulates operating standards for all ABC uses including signage, security, and surveillance requirements. Furthermore, new on- and off- ABC sales applications will be evaluated and considered with relation to their

proximity to existing ABC sales and sensitive land uses e.g. schools, daycare facilities, and churches. The ordinance aims to protect the public health and safety of the community while encouraging a “business friendly” approach for new and existing ABC uses. A full version of the ordinance text amendment with amendments per Council direction has been included as Attachment ‘A’.

FISCAL IMPACT:

None

ENVIRONMENTAL REVIEW:

A preliminary environmental assessment has been performed for this project pursuant the California Environmental and Quality Act (CEQA). The City Council finds and determines with certainty that, pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this project may have a significant, adverse, impact on the environment. This is because this project involves purely procedural policies with no impacts on the environment. Therefore, this project is not subject to CEQA.

ATTACHMENTS:

A. Ordinance