



DEVELOPMENT CODE SECTION: **Title 18, Division V, Section 18.200.010**
DESCRIPTION: **Standards for Specific Uses: Alcoholic Beverage Sales**

Alcoholic Beverage Sales Procedures for Finding of Public Convenience and Necessity (FOPCN)

What is an FOPCN?

The Review Authority for approval of Alcoholic Beverage Sales is the California Department of Alcoholic Beverage Control. Their local offices are located at 1515 Clay Street, Suite 2208, Oakland, CA 94612; phone (510) 622-4970. Contact with this agency, should be your first step in obtaining an approval for the sale of alcoholic beverages. You only need to apply for a Finding of Public Convenience and Necessity (FOPCN) if ABC determines that you require one.

When is a FOPCN required?

When the California Department of Alcoholic Beverage Control (ABC) has denied an application for the sale of alcoholic beverages based on an undue concentration of licenses or law enforcement criteria, thereby requiring a Finding of Public Convenience and Necessity (FOPCN) for the sales activity, the applicant may submit an application for a FOPCN, in accordance with procedures for a Minor Use Permit, pursuant to Chapter 18.435 of the Development Code.

What findings are required for approval?

The City may approve a FOPCN if: 1) a business is already licensed at a different location and is relocating within the same census tract; 2) an existing business is changing from one type of license to another; 3) an undue economic hardship would result; **or** 4) the business includes alcoholic beverage sales as an ancillary part of its operation.

- The City may make a Finding in those circumstances where the benefits to the community outweigh law enforcement and concentration criteria.
- In cases which do not fit categories described above, the City will not make a finding of public convenience and necessity.
- In any case where issuance of a license will result in a public nuisance, or otherwise result in adverse impact on public health, safety or welfare, the City shall deny a request for a FOPCN.

What Application do I need to submit

Requests shall be submitted on the City's standard application form with the applicable fee as found in the Master Fees and Charges list, Section D.18a, and a fee for public notification, Section D. 35c. A description of the business and a copy of the ABC determination shall be included. A public hearing may be required based on response to the public notification.

What are the procedures for the FOPCN?

1. Procedures for a Minor Use Permit, pursuant to Title 18, Division VII, Chapter 18.435 (Minor Use Permits and Use Permits shall be followed. All applications shall be referred to the Police Department for review and recommendation, based on law enforcement concerns.

2. At least ten (10) days prior to the date on which the Zoning Administrator will make a decision on the request, public notification shall be provided to all property owners and tenants within a 300-foot radius of the subject property, and the notice shall indicate that the Zoning Administrator will decide whether to approve or disapprove the Minor Use Permit/FOPCN on the date specified in the notice and that a public hearing will be held **only if** requested in writing by any interested person prior to the specified date for the decision. Any conditions of approval requested by ABC will typically be included with the approval letter and the resolution provided to the applicant.

Who is the Review Authority for decisions on approval of the FOPCN?

The Review Authority is the Zoning Administrator, a position typically staffed by a Planning Division staff member, who shall consider the criteria and the recommendation from the Police Department in making a decision. The determination on an FOPCN shall be made within 90 days of a complete application and shall be transmitted to the applicant and ABC.

Any party may appeal the determination on the FOPCN directly to the City Council, and if appealed the City Council shall conduct a public hearing (see Division VIII for further detail on Appeals).



Outdoor Restaurant Dining