

ISSUANCE OF ORIGINAL NEIGHBORHOOD- RESTRICTED SPECIAL ON-SALE GENERAL LICENSES

Instructions: Please read this entire form before filing your application.

INTRODUCTION:

Business and Professions Code (BPC) § 23826.13 authorizes the Department to issue up to five (5) new original neighborhood-restricted special on-sale general licenses each year, until a total of thirty (30) new licenses authorized by this section are issued in the specified census tracts located in the city and county of San Francisco. In issuing these licenses, the statute requires that the department utilize its established procedures for issuing original general licenses, as set forth in BPC § 23961. Neighborhood-restricted special on-sale general licenses are required to be operated as bona fide eating places in compliance with BPC § 23038 but are restricted from any off-sale privileges. In addition, neighborhood-restricted special on-sale general licenses are generally non-transferrable to any other entity or to another location outside the census tracts listed in paragraphs (1) to (7) of subdivision (b) of BPC § 23826.13.

The census tracts listed in subdivision (b)(1) and (b)(6) of BPC § 23826.13 are currently full and the department will not be accepting applications for those neighborhoods. Additionally, if more applications are received for a neighborhood than the number of licenses available, the applicants will be placed in a random drawing to determine the order in which applications will be processed for that neighborhood.

APPLICATION FILING PERIOD:

During the period of **September 11, 2023 through September 22, 2023**, ABC offices will accept applications for new original neighborhood-restricted special on-sale general licenses in San Francisco County.

APPLICATION FEES: \$17,335

The application fee must be paid by certified check, cashier's check, or money order only. Additional fees (i.e.; fingerprint, annual fees, etc.) are to be collected at the time of filing the formal application.

Unsuccessful drawing participants or those who withdraw their interest in a priority license prior to the drawing or prior to filing a formal application, may request a full refund, minus a \$100 service charge.

Refunds will be made payable to the applicant(s) listed on the Neighborhood-Restricted Special On-sale General License application form submitted to the department.

Successful participants who withdraw their interest after filing a formal application for a priority license will be entitled to a refund in accordance with BPC § 23320 and 23959. Pursuant to the provisions of § 12419.5 of the Government Code, once an applicant owes money to the California taxing agencies, a claim against the priority application fee may be made by the taxing agency. If such a claim is made, the amount owed will be deducted from the priority application fee at the time of refund and remitted to the taxing agency.

NAME(S) ON APPLICATION:

The application for an original restricted service special on-sale general license must include the names of all persons or entities who have an ownership interest in the application or in the business to be licensed. *Failure to include all is grounds for disqualification and loss of application status. There can be no "hidden owners" or "silent partners".*

RESIDENCY:

To be eligible to participate in a drawing for a neighborhood restricted on-sale general license, an applicant must have been a resident of California for at least 90 days prior to the date of the drawing. If

a drawing is necessary, an applicant for a neighborhood restricted on-sale general license will be required to prove residency via submission of the below described documents:

- Individuals — Proof of residency can be established via documents such as a California Driver License, utility bills, voter registration, etc.

Partnerships — Each partner must provide proof of residency; see information under “Individuals”, above.

- Corporations — The 90-day residence begins with the date its Articles of Incorporation are filed with the Secretary of State. For out-of-state corporations, the 90-day residency begins with the date registered with the Secretary of State to do business in California.
- Limited Partnerships — The 90-day residency begins with the date the form LP-1 is filed with the Secretary of State. For out-of-state limited partnerships, the 90-day residency begins with the date registered with the Secretary of State to do business in California.
- Limited Liability Companies — The 90-day residency begins with the date the form LLC-1 is filed with the Secretary of State. For out-of-state limited liability companies, the 90-day residency begins with the date registered with the Secretary of State to do business in California.

FILING THE APPLICATION:

Applications may be filed in person by going to the ABC San Francisco District Office, located at 33 New Montgomery Street, Suite 1230, San Francisco, CA 94105 or by mail to that address or any other ABC office. During the drawing period, ABC offices will be open Monday through Friday from 8:00 a.m. until 5:00 p.m. We encourage all applicants to submit their application early.

Deadline:

In person: On **Friday, September 22, 2023**, only those applicants within the doors of an ABC office by 5:00 p.m. may file priority applications.

By mail: An envelope containing Items (1) and (2) below must be **postmarked on or before Friday, September 22, 2023**.

The following items are to be included:

(1) Fee - certified check, cashier's check or money order, payable to: Alcoholic Beverage Control.

(2) Neighborhood-Restricted Special On-sale General License Application – To be completed in full by all applicants, including previously qualified ‘**P-12**’ licensees. **For example, simply noting “P12 licensee” under the officer/shareholder area will not be accepted. P-12 licensees and current/active licensees are not exempt from thoroughly completing the application. An incomplete application will result in disqualification from participating in the priority drawing.** The application requires a single signature on behalf of the applicant entity. If not signed in the presence of an ABC employee, the application must be notarized. In signing, the applicant agrees to comply with conditions and requirements unique to the neighborhood- restricted special on-sale general license application process. Failure to comply with the conditions and requirements may result in automatic withdrawal of the application and cancellation of an applicant’s drawing position.

There are multiple versions of the ABC-522 form. Please complete the version that best relates to the applicant entity.

- ABC-522A (Sole Owner) – For a single individual applying for a license.
- ABC-522B (General Partnership) – For multiple individuals, multiple corporate entities, or a combination of the two, such as an individual partnering with a corporate entity, applying for a license.
- ABC-522C (Limited Partnership) – For a limited partnership with general partners and limited partners applying for a license.
- ABC-522D (Corporations, Trusts and Non-Profits) – For a corporation with officers/directors and stockholders, trusts and non-profit organizations applying for a license.
- ABC-522E (Limited Liability Company) – For a limited liability company with managers and/or members applying for a license.

Any priority license application received by ABC that is incomplete or untimely shall be disqualified.

CONDITIONS AND RESTRICTIONS:

Applicant:

No person or entity who files for a neighborhood-restricted special on-sale general license may have an interest in any other application for the same type of license.

- Applicants may not pool funds to file more than one neighborhood-restricted special on-sale general license application.
- A married couple may file only one neighborhood-restricted special on-sale general license application.
- No corporation, limited partnership or limited liability company may file a neighborhood-restricted special on-sale general license application if it holds the controlling interest in another entity that has filed for the same type of license.
- If more than one corporation, limited partnership or limited liability company is a subsidiary of the same parent, only one may file a neighborhood-restricted special on-sale general license application.
- A person or entity who holds ownership interest in a neighborhood-restricted special on-sale general license applicant entity, or who is a principal (officer, director, LLC manager, general partner, etc.) of an applicant entity, may not hold interest in or be a principal of another applicant entity for the same type of license.

Each neighborhood-restricted special on-sale general license application must show the names of all persons having an interest in the license application and related business, including **all**:

- Partners
- General & limited partners of a Limited Partnership
- Corporate officers and directors
- Stockholders or prospective stockholders
- Limited liability company officers, managers, and members

PRIORITY OF APPLICANTS

If the number of applicants is equal to or less than the number of neighborhood-restricted special on-sale general licenses available, all applicants will be notified that they have 90 days to complete a formal application for their specific premises in the identified, authorized census tracts.

If there are more applicants than neighborhood-restricted special on-sale general licenses available, a public drawing will be held; the time, date, and place of any drawing will be posted on the department's website (www.abc.ca.gov). After the drawing is held, the department will notify each applicant by mail of their position in the drawing.

Successful Drawing Participants:

A successful drawing participant is one whose position (number) is not higher than the number of licenses available. These applicants will be notified that they have 90 days to complete a formal application for their specific premises in an identified, authorized census tract. Completion of all standard application forms for an original retail license is required.

A successful applicant who holds an on-sale general license may not make formal application for a neighborhood-restricted special on-sale general license at the premises where that on-sale general license is held. Any existing on-sale license held at an applicant premises must be canceled upon issuance of a neighborhood-restricted special on-sale general license.

Prior to submitting a formal application for a neighborhood-restricted special on-sale general license, a successful applicant must conduct at least one pre-application public meeting, at a location within one mile of the proposed premises, with neighbors and members of the community within the census tract in which the premises are located. At least 14 days prior to the pre-application meeting, the applicant must mail notification of the meeting to the Chief of Police of the San Francisco Police Department, to residents within a 500 foot radius of the proposed premises and to relevant neighborhood associations as identified by the city's planning department.

Form ABC-522-1, to include signed verification by the San Francisco Board of Supervisors, or their designee, that the applicant completed the required pre-application meeting requirements for the neighborhood-restricted special on-sale general license, is to be included at the time of submission of formal application for the license.

The neighborhood-restricted special on-sale general license application fee, less service charge, will be refunded to successful drawing participants who later withdraw their applications (See Application Fees [page 1]) regarding claims by California taxing agencies.

Unsuccessful Drawing Participants:

An unsuccessful drawing participant is one whose drawing position (number) is higher than the number of licenses available. The neighborhood-restricted special on-sale general license application fee, less a \$100 service charge, will be automatically refunded to each unsuccessful drawing participant. Refund checks will be mailed within 90-120 days of the drawing (See Application Fees [page 1]) regarding claims by California taxing agencies).

Unsuccessful drawing participants on the numeric list in the randomized ordering shall maintain their position by the Department until the following year pursuant to Chapter 1, Title 4 of the California Code of Regulations (CCR) § 69.3 (c). In the event a successful applicant is disqualified or withdraws, the next drawing participant in order of position will be contacted and will have 30 days to repay the previously refunded application fee, and an additional 60 days to file a formal application. In order to maintain drawing position, unsuccessful drawing participants are encouraged to notify ABC of any change in mailing address that occurs while the drawing list is active.

After Issuance of neighborhood-restricted special on-sale general licenses:

- Neighborhood-restricted special on-sale general licenses are restricted from being transferred to any other person or entity. Limited allowance for transfer of ownership of licensed entities exists via BPC § 24071, 24071.1 and 24071.2.
- Neighborhood-restricted special on-sale general licenses are restricted from being transferred to any other premises outside the specified census tracts listed in paragraphs (1) to (7) of

subdivision (b) of BPC § 23826.13. There is an exception when the licensed premises have been destroyed by fire or any act of God or other force beyond the control of the licensee (see BPC § 24081). Additionally, neighborhood-restricted special on-sale general licenses are restricted from being transferred to any other county and from being exchanged for a public premises license.

- If a neighborhood-restricted special on-sale general license is canceled, the department is authorized to issue an additional neighborhood-restricted special on-sale general license pursuant to the above described drawing and application procedures.

References: Article XX, Section 22 of the State Constitution and sections 23038, 23826.13, 23961, 24071, 24071.1, 24071.2 and 24081 of the California Business and Professions Code.