



TO: Planning Commission

File: Code Amendment 23-01

FROM: Molly Marcussen, Associate Planner (879-6808;
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RE: Code Amendment 23-01; Allow New Alcoholic Beverage Establishments in the
Downtown North Zoning District

REPORT IN BRIEF

At its September 5, 2023, meeting, City Council directed staff to amend Title 19 of the Chico Municipal Code (CMC) to remove the prohibition on new Alcoholic Beverage Establishments (ABEs, or bars), in Downtown Chico. To achieve this direction, Council supported staff's recommendation to delete CMC Section 19.44.040, Downtown North (DN) District Special Standards, which would permit new bars in the DN zone, subject to existing City operational standards for businesses which sell alcohol, as well as permitting requirements based on operational details and proximity to residential uses.

Recommendation:

The Community Development Director recommends that the Planning Commission:

- 1) Hold a public hearing regarding the proposed amendment to Title 19 of the Chico Municipal Code; and
- 2) Adopt Resolution 23-10 recommending City Council adoption of an ordinance to amend Title 19 of the Chico Municipal Code to remove the prohibition on new Alcoholic Beverage Establishments in the Downtown North zoning district (see **Attachment A**).

Proposed Motion:

I move that the Planning Commission adopt Resolution No. 23-10 recommending City Council adoption an ordinance to amend Title 19 of the Chico Municipal Code to remove the prohibition on new Alcoholic Beverage Establishments in the Downtown North zoning district.

SUMMARY

Deleting Section 19.44.040 from the Municipal Code would remove the prohibition on new bars in the Downtown allowing the City to rely on existing regulatory mechanisms to approve and condition new bars on a case-by-case basis. Any new bar in the Downtown requires a Determination of Public Convenience or Necessity, which gives Council the ability to approve or deny such requests. Further, the City's existing Alcoholic Beverage Establishment (ABE) Zoning Verification review process, which is required for all new businesses which sell alcohol, affords the ability to incorporate city recommended conditions on an ABC license.

Using these existing processes and requirements will achieve Council's direction, uphold

community safety and minimize adverse impacts, and reduce cost, time, and redundancy for future applicants.

ABE Zoning Verification/Determination of Public Convenience or Necessity

In 2015, City Council adopted an ordinance establishing operational standards for all businesses which sell alcohol as a significant component of the use (see **Attachment B**, CMC Section 19.76.200). These standards serve much like conditions of approval for a use permit and are focused on upholding community safety and minimizing adverse impacts.

All new land uses which sell alcohol are required to obtain an ABE Zoning Verification from the City verifying that the proposed land use activity is allowed in the underlying zoning district (see **Attachment C**, ABE Zoning Verification Review Form). In addition to determining whether the proposed land use and associated sale of alcohol is allowed, the ABE Zoning Verification review process allows the City to add general operational standards, as well as site specific conditions, to an ABC license. This process is closely coordinated between the Planning Department, Chico Police Department and California Department of Alcoholic Beverage Control (ABC).

For ABC license requests in areas that have an oversaturation of licenses, ABC requires the City to make a Determination of Public Convenience or Necessity (PCN) prior to the license being issued. In these cases, an applicant must coordinate with the Chico Police Department who prepares the PCN and supporting findings for Council consideration. The Downtown area is in a census tract (0010.00) that is deemed “oversaturated” -- primarily due to the low number of residents living in the area compared to the high number of businesses which sell alcohol. This means any request for a new Type 48 license (i.e., bar) in Downtown will have to go through the PCN process and receive Council approval.

The City’s existing ABE Zoning Verification and PCN processes combined allow for conditions to be placed on a new bar in the Downtown (similar to a Use Permit process) and require that a proposed license come before Council for approval or denial. This is the appropriate and intended level of review that Council is seeking for new proposed bars in the Downtown.

ABC Limitation on Type 48 Licenses in Butte County

An Alcoholic Beverage Establishment, or bar, is treated differently by ABC than a restaurant or other businesses that sell alcohol. An Alcoholic Beverage Establishment, or bar, is where the sale and on-site consumption of alcohol is the primary use. Bar uses are associated with a Type 48 ABC license (also a Type 42 license for bars that only sell beer and wine).

Planning staff engaged ABC’s Regional Redding Office to gain additional insight into ABC’s permitting process for new Type 48 licenses. First and most importantly, ABC’s Type 48 licenses have very limited availability. In Butte County, the ratio for a Type 48 license is one license for each 2,000 persons, and according to ABC there is already an oversaturation of Type 48 licenses. In other words, no new Type 48 licenses are currently

available in Butte County, and while there is potential for a new Type 48 license to become available via a lottery system in the future, this would only happen only after a significant increase in population.

For businesses in Chico looking to obtain a Type 48 license, the primary avenue involves the acquisition of an existing Type 48 license from an existing bar and typically at a premium cost. Given this context, staff believes that removing the prohibition on new bars in the Downtown will not result in a surge of new bars in the Downtown.

Conclusion

Both the City's ABE Zoning Verification and PCN processes provide mechanisms for City staff and Council to actively oversee and apply conditions to proposed new Type 48 (bar) licenses in the Downtown. Planning and Police staff already conduct reviews for all new businesses which sell alcohol ensuring compliance with operational standards as stipulated in CMC Section 19.76.200. It is current practice for the Police Department to add site- and use-specific conditions to new ABC license requests for business establishing themselves in the Downtown through the ABE review process. For instance, a common condition currently imposed is limiting the hours for alcohol sales to no later than 12:00 a.m. for the initial year of operation, as opposed to 2:00 a.m.

FINDINGS: TITLE 19 AMENDMENTS

Pursuant to Chico Municipal Code Section 19.060.050(B), amendments to the Municipal Code may be approved only if the following findings are made:

A. The proposed amendment is consistent with the General Plan.

The proposed code amendment is consistent with the General Plan, specifically Policy ED-1.3 (Regulatory Environment) that directs that regulations and permitting processes for the conduct of commerce and land development do not unreasonably inhibit local business activity. The amendment is also consistent with General Plan policies that encourage compatible infill development through use restrictions and development standards (LU-2.4, LU-4.2 and LU-4.4).

B. The proposed amendment is consistent with other applicable provisions of the Municipal Code and compatible with the uses authorized in the applicable zoning districts for which it is proposed.

The proposed amendment is consistent with other provisions of the Municipal Code in that it: (1) allows the establishment of alcohol beverage establishments in the Downtown North zoning district, which uses already exist in this zoning district and also allowed in various other commercial and manufacturing districts, (2) imposes similar permitting requirements and operational standards on the new land use that currently apply to other land uses with similar characteristics, and (3) is compatible with the uses authorized in, and the regulations prescribed the Downtown North zoning district.

GENERAL PLAN CONSISTENCY

The proposed Title 19 amendments are consistent with the General Plan's policy framework to simplify and streamline the permitting process and identify opportunities for greater regulatory efficiency.

ENVIROMENTAL REVIEW

The proposed code amendment to allowing alcohol beverage establishments "by right" in the Downtown do not propose any construction, demolition, or other activity that has the potential to negatively impact the environment as alcohol beverage establishments are currently allowed in this and other zoning districts and is subject to general operational standards, as well as site specific conditions, designed to uphold community safety and minimize adverse impacts. The proposed amendment would not result in an increase in development beyond that which was analyzed in the Final Environmental Impact Report (EIR) prepared and certified for the Chico 2030 General Plan update (State Clearinghouse #2008122038). In accordance with CEQA Guidelines Section 15162, the proposed amendments are within the scope of the EIR that was certified for the General Plan.

PUBLIC CONTACT

A display ad for the November 16, 2023, Planning Commission meeting to consider the proposed Title 19 amendment was published in the Chico Enterprise Record.

DISTRIBUTION

PC Distribution

ATTACHMENTS

- A. Resolution 23-10 Recommending Council Adoption of Ordinance to Amend Title 19
Exhibit I - Draft Ordinance to Delete CMC Section 19.44.040
- B. CMC Section 19.76.200 "Businesses which sell alcohol" (operational standards)
- C. ABE Zoning Verification Review Form

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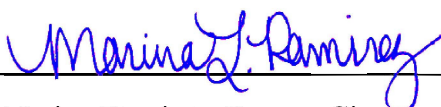
THE FOREGOING RESOLUTION WAS ADOPTED by the Planning Commission at its meeting held on November 16, 2023, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAINED:
- DISQUALIFIED:

ATTEST:

Bruce Ambo
Planning Commission Secretary

APPROVED AS TO FORM:



Marina Ramirez, Deputy City Attorney*
*Pursuant to The Charter of the City of
Chico, Section 906(E)

Exhibit I

Chico, CA Code of Ordinances

Chapter 19.44

COMMERCIAL AND OFFICE ZONES

Section:

- 19.44.010 Purpose, applicability.
- 19.44.020 Commercial/office zone land uses and permit requirements.
- 19.44.030 Commercial and office zone general development standards.
- ~~19.44.040 DN district special standards.~~

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- 19.44.030 Commercial and office zone general development standards.
- ~~19.44.040 DN district special standards.~~

~~—Limitation on Use— Alcoholic Beverage Establishments. No bar or drinking establishment shall be allowed in the DN (Downtown North) zoning district except:~~

~~—A. Continued use of a building or a portion of a building as an alcoholic beverage establishment as defined in Section 19.04.020 of this title, or the resumption of the use of a building or portion of a building as an alcoholic beverage establishment if the building or portion thereof was operated as an alcoholic beverage establishment as of January 1, 1995; and~~

~~—B. Use of a building or portion of a building for fund-raising activities by a non-profit organization, including the use of a building or portion of a building for such purposes where the consumption of beer and/or wine is incidental to the fund-raising activity; and~~

~~—C. The relocation of an existing alcoholic beverage establishment, enlarging the occupied space of an existing alcoholic beverage establishment, and increasing the intensity of use of an existing alcoholic beverage establishment, and/or the structural alteration of the building space containing the alcoholic beverage establishment beyond repairs that are part of normal necessary maintenance, if permitted by use permit.~~

19.76.200 Businesses which sell alcohol.

Where allowed by Division IV (Zoning Districts, Allowable Land Uses, and Zone-Specific Standards), all businesses established or expanded after the adoption of this regulation which sell alcohol as a significant component of the use, including Alcoholic Beverage Establishments, Liquor Stores - Limited Hours, Liquor Stores, Manufacturer Taprooms, Restaurants with Full Bar - Limited Hours, and Restaurants with Full Bar, shall be operated in compliance with the following standards:

A. All servers shall complete responsible beverage service (RBS) training no later than 60 days after the date of hire.

B. The business shall provide sufficient staff to control any queue which forms outside the businesses. The queue shall be managed to allow free passage on sidewalks adjacent to the business at all times.

C. The business shall take action to prevent nuisance activities associated with the sale of alcohol, including: 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, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.

D. The exterior of the business, including the adjacent right-of-way, shall be kept clean. Any litter, detritus, or other mess outside the business shall be cleaned promptly by the business, in no case later than 9 a.m. the following morning.

E. Any music being played outside the business shall comply with the City's noise ordinance.

F. The business shall comply with all applicable federal, state, and local laws.

G. The business shall not sell or serve alcohol earlier than 11 a.m. nor later than 12 a.m. (midnight) on the following days each year:

1. St. Patrick's Day, March 17;
2. Cesar Chavez Day, March 31;
3. The Friday and Saturday of CSU, Chico graduation weekend in May;
4. Thursday through Saturday of Labor Day weekend; and
5. Halloween, October 31.

H. Alcoholic beverages to be consumed on-site shall be served in standard sizes that are consistent with the industry.

Any business listed above which does not comply with these operational standards may be subject to citations, fines, and other actions by the City, including abatement, pursuant to the provisions of CMC [1.14](#) and [1.15](#).

(Ord. 2461 §6, Ord. 2504 §6)



City of Chico

**CITY OF CHICO
ZONING VERIFICATION AND
ALCOHOLIC BEVERAGE ESTABLISHMENT REVIEW**



City of Chico

(Please Print or Type)

Alcoholic Beverage Establishment Proposal *(to be completed by business owner and mailed or delivered to the Community Development Department/Planning Division at 411 Main Street, PO Box 3420, Chico, CA 95927 with a check made payable to the City of Chico for current fees due please check our Planning Fees Brochure)*

Date:

Business Owner's Name:

E-mail:

Phone Number:

Mailing Address:

Name of Business:

Business Location Address:

Type of ABC License (Include License# and Description):

Complete Description of Business Operation (type of business, including any proposed modifications; days and hours of operation; merchandise/services provided, etc.) *Additional information may be attached.*

City Comments

Based on the information submitted by the applicant, the following comments are provided:

Distribution of Completed Review:

- Applicant
- Police Department
- Community Development Department (File, Electronic)
- California Department of Alcoholic Beverage Control (Redding Office)