



**CITY OF YUBA CITY  
PLANNING COMMISSION  
STAFF REPORT**

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**Date:** June 23, 2021  
**To:** Chairwoman and Members of the Planning Commission  
**From:** Development Services Department  
**Presentation by:** Benjamin Moody, Development Services Director

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**Subject:** **Outdoor Dining Ordinance Adoption**

**Recommendation:** A. Initiate Outdoor Dining Ordinance Adoption  
B. Conduct a public hearing, and then  
C. Adopt a Resolution recommending the City Council of the City of Yuba City adopt an Ordinance to update the Yuba City Municipal Code to allow for continued use of Outdoor Dining by adding Article 49, Chapter 5 of Title 8, and amending Section 8-5.6102 of Article 61 of Chapter 5 of Title 8, of the Yuba City Municipal Code.

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**Purpose:**

To update the Yuba City Municipal Code to allow for continued outdoor dining by adding Article 49, Chapter 5 of Title 8 to the Municipal Code and associated amendments.

**Background:**

During the COVID-19 pandemic the City utilized its emergency powers to temporarily allow expanded outdoor dining for local businesses on an emergency basis under an Outdoor Dining Policy. The Outdoor Dining Policy was successful and well received by the community. However, with the pending end of the of the City's declaration of a local emergency, outdoor dining would no longer be allowed under the City's emergency powers. Additionally, even with the formal end of the declaration of a local emergency, the economic and social impacts are still being felt by local businesses and the community, including those impacts that could be mitigated by the continued use of outdoor dining. To help address these issues, staff are proposing to formally codify the Outdoor Dining Policy by adding Article 49 (Outdoor Dining) to the Yuba City Municipal Code.

The proposed ordinance allows expanded outdoor dining for eating and drinking establishments including but not limited to restaurants, coffee shops, bars, ice cream, lounges, or similar uses as determined by the City's Development Services Director.

Outdoor dining would be permitted on the dining establishment's private property, such as in parking lots. Outdoor dining would also be allowed in certain public areas, such as portions of sidewalks, if in compliance with ordinance requirements. The ordinance includes protections to ensure parking and traffic standards, fire safety, ADA access, compliance with ABC licensure, and other public health and safety considerations. The proposed ordinance will apply City-wide where dining is an authorized use consistent with the City's zoning ordinance.

**Proposed Ordinance:**

The proposed ordinance outlines the process for utilizing outdoor dining on private and public property. All business who wish to have outdoor dining facilities must obtain an Administrative Permit through the Planning Division. Those who wish to have outdoor dining in public spaces (i.e. sidewalk areas) would also be required to obtain an encroachment permit through the Public Works Department.

Outdoor dining would be permitted subject to the following parameters:

- An over-the-counter application for ministerial approval of an administrative permit;
- Review would include pedestrian and vehicle access and safety;
- Outdoor dining space of up to 1,000 square feet. Larger spaces will require a conditional use permit and Planning Commission review;
- The space must be located within 30 feet of the business;
- Operations must be consistent with the hours of operation for the existing business, and must be between the hours of 7:00 am to 10:00 pm (11:00pm on Thursday, Friday, and Saturday if 400 feet or more from a residential district);
- No additional parking requirements if standards are met;
- Site furnishing design review, including materials and lighting;
- Requirements for site cleanliness and public health compliance;
- Semi-permanent structures, facilities, fixtures or buildings may be allowed in a portion of the public right of way (i.e., sidewalk area) upon approval. Permanent structures only allowed through separate review via applicable building codes;
- Obligations to repair and maintain use of public right of way, and to provide protection for City interests and immediate access for public utility and related uses;
- Compliance with all applicable federal, state, and local laws, including the Building, Fire, and Electrical Codes; Americans with Disabilities Act (ADA) regulations; California Department of Alcoholic Beverage Control (ABC) regulations; regulations governing the sale and service of food and beverages to the public; and nuisance and threat to public health and safety prohibitions; and
- Mechanisms to ensure compliance, including suspension, termination, and revocation proceedings.

Applicants who wish to have more outdoor dining space than permitted can do so through the Use Permit process as outlined in the Yuba City Municipal Code. In addition, applicants who wish to have temporary or permanent structures (tents, awnings, etc) must obtain a Yuba City building permit.

**Environmental Determination:**

City staff has performed a preliminary environmental assessment and have determined that the adoption of this Ordinance is not a “project” for the purposes of the California Environmental Quality Act (CEQA) Guidelines Section 15378, as the proposed ordinance maintains the current practice and regulations regarding outdoor dining, and as such does not result in either in direct or indirect physical changes in the environmental baseline. Further, even if this matter were a “project” for the purposes of CEQA, it would be exempt per CEQA Guidelines Section 15061(b)(3) as there is not a reasonable possibility that this project may have a significant adverse effect on the environment given the current baseline and allowed use. Therefore, this matter is not subject to CEQA.

**Alternatives:**

1. Deny recommendation of the Outdoor Dining Ordinance.
2. Provide staff with direction on modifications to the proposed Ordinance.

**Recommended Action:**

- A. Initiate Outdoor Dining Ordinance Adoption
- B. Conduct a public hearing, and then
- C. Adopt a Resolution recommending the City Council of the City of Yuba City adopt an Ordinance to update the Yuba City Municipal Code to allow for continued use of Outdoor Dining by adding Article 49, Chapter 5 of Title 8, and amending Section 8-5.6102 of Article 61 of Chapter 5 of Title 8, of the Yuba City Municipal Code.

**Attachments:**

1. Resolution of the Planning Commission of the City of Yuba City Recommending the City Council Adopt an Ordinance to Update the Yuba City Municipal Code to Allow for Continued Use of Outdoor Dining by Adding Article 49, Chapter 5 Of Title 8, and Amending Section 8-5.6102 of Article 61 of Chapter 5 of Title 8, of the Yuba City Municipal Code.

*Exhibit A: An Ordinance of the City Council of the City of Yuba City for Outdoor Dining*

## ATTACHMENT 1

PLANNING COMMISSION RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF YUBA CITY RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE TO UPDATE THE YUBA CITY MUNICIPAL CODE TO ALLOW FOR CONTINUED USE OF OUTDOOR DINING BY ADDING ARTICLE 49, CHAPTER 5 OF TITLE 8, AND AMENDING SECTION 8-5.6102 OF ARTICLE 61 OF CHAPTER 5 OF TITLE 8, OF THE YUBA CITY MUNICIPAL CODE**

**WHEREAS**, the City periodically assesses the Yuba City Municipal Code to ensure efficient use of City resources and streamlining to promote the public health, safety and welfare; and

**WHEREAS**, in response to the COVID-19 pandemic, the City enacted emergency orders and policies to minimize impacts on the community and local businesses, including those related to outdoor dining; and

**WHEREAS**, the City's outdoor dining policy and other measures to help protect local businesses and provide them with flexibility given mandatory State and other regulations outside of the City's jurisdiction and control; and

**WHEREAS**, with the local emergency drawing to a close, the City is proposing to continue to allow for expanded outdoor dining for eating and drinking establishments including but not limited to restaurants, coffee shops, bars, ice cream, lounges, or similar uses as determined by the City's Development Services Director; and

**WHEREAS**, with this additional flexibility, there will remain protections to ensure parking and traffic standards, fire safety, ADA access, compliance with ABC licensure, and other public health and safety considerations as set forth in the proposed ordinance; and

**WHEREAS**, outdoor dining will continue to promote the economic viability of local businesses, which are essential to maintain the City's financial ability to provide emergency, first responder, and other services, thereby benefiting the public health, safety, and welfare; and

**WHEREAS**, as part of this process, on June 23, 2021, the Planning Commission initiated an amendment to the Yuba City Municipal Code to allow for outdoor dining ("proposed Ordinance" or "Outdoor Dining Ordinance"); and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on June 23, 2021, to consider the update to the Yuba City Municipal Code initiated by Planning Commission, including whether the project was subject to the California Environmental Quality Act (CEQA); and

**WHEREAS**, after considering all information provided to it, and providing an opportunity to the public to provide public testimony, the Planning Commission recommends the City Council adopt the proposed Ordinance and make an associated determination the proposed Ordinance is not a “project” for the purposes of the California Environmental Quality Act (CEQA) or is otherwise exempt per CEQA Guidelines Section 15061(b)(3).

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Yuba City as follows:

1. Recitals: The Planning Commission hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.
2. CEQA Findings: The Planning Commission recommends the City Council find that the adoption of this Ordinance is not a “project” for the purposes of the California Environmental Quality Act (CEQA) Guidelines Section 15378, as the proposed Ordinance maintains the current practice and regulations regarding outdoor dining, and as such does not result in either direct or indirect physical changes in the environmental baseline. Further, even if this matter were a “project” for the purposes of CEQA, it would be exempt per CEQA Guidelines Section 15061(b)(3) as there is not a reasonable possibility that this project may have a significant adverse effect on the environment given the current baseline. Therefore, this matter is not subject to CEQA.
3. General Plan Consistency. The Planning Commission finds the proposed Outdoor Dining Ordinance complies with the policies of the City’s General Plan.
4. Public Benefits. The Planning Commission finds the proposed Outdoor Dining Ordinance is a public benefit.
5. No Detrimental Impact. The Planning Commission finds that with the protections provided within the Outdoor Dining Ordinance, the proposed Ordinance will not be detrimental, or cause adverse effects, to adjacent property owners, residents, or the general public.
6. Recommendation of Approval of Outdoor Dining Ordinance. Based on the information provided above, the Planning Commission recommends to the City Council of Yuba City adopt an Outdoor Dining Ordinance as set forth in Exhibit “A.”
7. Effective Date of Resolution. This Resolution shall become effective immediately.

The foregoing Resolution was duly and regularly introduced, passed and adopted by the

Planning Commission of the City of Yuba City at a regular meeting thereof held on June 23, 2021 by the following vote:

Ayes:

Noes:

Absent:

Recused:

By order of the Planning Commission of the City of Yuba City.

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Michele Blake, Planning Commission  
Chair

ATTEST:

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Benjamin Moody, Secretary to the Planning Commission

Exhibit A: An Ordinance of the City Council of the City of Yuba City updating the Yuba City Municipal Code to allow for continued use of outdoor dining by adding Article 49, Chapter 5 of Title 8, and amending Section 8-5.6102 of Article 61 of Chapter 5 of Title 8, of the Yuba City Municipal Code

## Exhibit A



**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUBA CITY  
UPDATING THE YUBA CITY MUNICIPAL CODE TO ALLOW FOR  
CONTINUED USE OF OUTDOOR DINING BY ADDING ARTICLE 49,  
CHAPTER 5 OF TITLE 8, AND AMENDING SECTION 8-5.6102 OF  
ARTICLE 61 OF CHAPTER 5 OF TITLE 8, OF THE YUBA CITY  
MUNICIPAL CODE**

WHEREAS, the City Council periodically assesses the Yuba City Municipal Code to ensure efficient use of City resources and streamlining to promote the public health, safety and welfare; and

WHEREAS, in response to the COVID-19 pandemic, the City enacted emergency orders and policies to minimize impacts on the community and local businesses, including those related to outdoor dining; and

WHEREAS, the City's outdoor dining policy and other measures to help protect local businesses and provide them with flexibility given mandatory State and other regulations outside of the City's jurisdiction and control; and

WHEREAS, with the local emergency drawing to a close, the City is proposing to continue to allow for expanded outdoor dining for eating and drinking establishments including but not limited to restaurants, coffee shops, bars, ice cream, lounges, or similar uses as determined by the City's Development Services Director; and

WHEREAS, with this additional flexibility, the City Council desires to add protections to ensure parking and traffic standards, fire safety, ADA access, compliance with ABC licensure, and other public health and safety considerations as set forth in the proposed ordinance; and

WHEREAS, the City Council desires to continue to promote the economic viability of local businesses, which are essential to maintain the City's financial ability to provide emergency, first responder, and other services, thereby benefiting the public health, safety, and welfare; and

WHEREAS, the City Council desires to provide additional outdoor dining opportunities to its citizens, which can promote public health, safety, and welfare; and

WHEREAS, as part of this process, on June 23, 2021, the Planning Commission initiated an amendment to the Yuba City Municipal Code to allow for outdoor dining (proposed Ordinance); and

WHEREAS, after initiation, the amendments were assessed by City Staff and provided to the Planning Commission for review and assessment; and

WHEREAS, the Planning Commission held a public hearing on June 23, 2021, to consider the update to the Yuba City Municipal Code initiated by Planning Commission, including whether the project was subject to the California Environmental Quality Act (CEQA); and

WHEREAS, after considering all information provided to it, and providing an opportunity to the public to provide public testimony, the Planning Commission [did OR did not] find i) the proposed amendments were consistent with the General Plan; ii) the amendments were in the public interest; and iii) the amendments were not a “project” under CEQA Guidelines Section 15378(b)(3), as the proposed ordinance maintains the current practice and regulations regarding outdoor dining such that it will not result in direct or indirect physical changes in the environmental baseline; and

WHEREAS, after due consideration of all the items before it, the Planning Commission then [did OR did not] recommend the City Council adopt the proposed Ordinance and make an associated determination the proposed Ordinance was not a “project” for the purposes of CEQA; and

WHEREAS, the proposed Ordinance was presented to the Council for a public hearing and consideration at its regular meeting of July 6, 2021; and

WHEREAS, after receiving the recommendation of the Planning Commission and considering all public testimony and presentation by City Staff, the City Council waived the first reading and introduced the proposed Ordinance by title only; and

WHEREAS, the proposed Ordinance was again presented to the City Council for a public hearing and consideration at its regular meeting of \_\_\_\_\_, 2021; and

WHEREAS, the City Council now desires to waive the second reading and adopt this Ordinance by title only.

NOW, THEREFORE, the City Council of the City of Yuba City does ordain as follows:

Section 1. The City Council of the City of Yuba City finds that the adoption of this Ordinance is not a “project” for the purposes of the California Environmental Quality Act (CEQA) Guidelines Section 15378, as the proposed ordinance maintains the current practice and regulations regarding outdoor dining, and as such does not result in either direct or indirect physical changes in the environmental baseline. Further, even if this matter were a “project” for the purposes of CEQA, it would be exempt per CEQA Guidelines Section 15061(b)(3) as there is not a reasonable possibility that this project may have a significant adverse effect on the environment given the current baseline. Therefore, this matter is not subject to CEQA.

Section 2. The Council further finds and determines that adoption of the Ordinance is in the public interest, is consistent with the City's General Plan, and promotes the public health, safety and welfare.

Section 3. Article 49 (Outdoor Dining) of Part III (Special Provisions) of Chapter 5 (Zoning) of Title 8 (Planning and Zoning) of the Yuba City Municipal Code is added to read as follows:

Sec. 8-5.4901. – Outdoor Dining.

This Article shall be known as the "Outdoor Dining Ordinance." The purpose of this Article is to allow for the expansion and use of certain outdoor dining areas, without requiring a special permit, to promote business, revitalization, and public safety.

Sec. 8-5.4902. – Definitions.

For the purpose of this Article:

- (a) "Encroachment Area" shall mean that portion of the Outdoor Dining area authorized to use a portion of the City's public right of way.
- (b) "Sidewalk Area" shall mean that portion of the City's right of way typically located between the building wall and the curb and gutter.
- (c) "Outdoor Dining" shall refer to a delineated area within a parcel, including patios and similar areas, located outside of and adjacent to a building used for consuming food or beverages at a table with chairs, a portion of which must be within 20 feet of said building, or up to 30 feet if there are unusual circumstances as determined by the Development Services Director. "Outdoor Dining" shall not include food preparation areas, but may include outdoor spaces including parking areas.

Sec. 8-5.4903. – Applicability.

This Article shall apply to restaurants, coffee shops, delicatessens, cafeterias, bars and drinking establishments (including sport bars, taverns, pubs, brew pubs, and similar establishments per Section 8-5.8004a), lounges (including cocktail lounges), ice cream stores, food courts, bakeries, eating and drinking establishments (including nightclubs) and similar uses as may be determined by the Development Services Director. This Article shall also apply to nightclubs with dancing prohibited in the Outdoor Dining area. This Article shall not apply to mobile and open air vending operations.

Sec. 8-5.4904. – General Requirements for Outdoor Dining Areas.

- (a) No site plan, conditional use permit, or amendment to an existing permit is required for expansion into an Outdoor Dining area if the proposed use is existing and authorized for any portion of the applicant's property, use of the Outdoor Dining area does not obstruct vehicular circulation, and Outdoor Dining use is not expressly prohibited by a condition of an existing site plan, conditional use permit, approved parcel or tract map, zoning action, or other entitlement. Instead, an over-the-counter application shall be submitted to the Development Services Director for ministerial approval of an administrative permit consistent with this Article prior to use of the Outdoor Dining area. The application shall include a scaled exhibit depicting the location of the Outdoor Dining area (including proposed structures and barriers, locations of tables and chairs, and existing structures on the parcel), designate access points for unimpeded ingress and egress, be signed by one or more of the record owners of the parcel of property, and contain any other information required by the Development Services Director. The Development Services Director shall provide a copy of approved applications to the Police Department and Fire Department. Semi-permanent and permanent structures, facilities, fixtures or buildings are allowed consistent with Title 7 (Building Regulations) and may require a building or other permit.
- (b) Use of the Outdoor Dining area shall be subject to the same hours of operation as the existing authorized use for the property.
- (c) If an Outdoor Dining use offers alcoholic beverage service, such use operator shall be duly licensed by the State Department of Alcoholic Beverage Control and shall conform to the requirements of such license. Notwithstanding Section 5-6.02, it shall not be unlawful to consume alcoholic beverages within the designated Outdoor Dining area where expressly permitted pursuant to the terms of a license issued by the ABC and consistent with the administrative permit and requirements of this Article.
- (d) Multiple Outdoor Dining areas may be used. The total area of the Outdoor Dining area shall not exceed 1,000 square feet. Additionally, the total Outdoor Dining area cannot exceed the total size of the existing buildings on the property for an over the counter (administrative) application. A conditional use permit is required for all other Outdoor Dining uses.
- (e) The Outdoor Dining area must maintain and allow for at least four feet of available and usable travel space for all walkways, sidewalks, entrances and exits. The Outdoor Dining area must not obstruct direct access or egress from any entrance or exit. Travel space between the Outdoor Dining area and the building used for consuming food and beverages cannot cross an area where vehicular traffic is allowed, and a 10-foot visibility triangle must be maintained at all driveways and vehicular entrances. An Outdoor Dining area adjacent to a roadway or vehicular

travel area must be located at least six feet from the edge of curb. If the Outdoor Dining area would cause the total building occupancy to exceed 49 people, the building must have at least two unobstructed exits consistent with the Building Code.

- (f) No additional parking is required when the Outdoor Dining area is less than 1,000 square feet as long as either i) the on-site parking requirements of Section 8-5.6102 are met before the addition of the Outdoor Dining area; and ii) there is enough parking remains to facilitate parking needs as determined by the Development Services Director.
- (g) Use of the Outdoor Dining area shall comply with the Noise Ordinance per Chapter 17 of Title 4 of this Code. Use of the Outdoor Dining area is prohibited before 7:00 a.m. and after 10:00 p.m. For locations located more than 400 feet from residential or other sensitive uses, Outdoor Dining may occur on Thursday, Friday and Saturday nights until 11:00 p.m.
- (h) Barriers around Outdoor Dining areas are not required, but are allowed subject to this Code if not more than four feet in height and maintain at least 50% transparency to the outdoor elements. Barriers cannot block or enclose existing ingress or egress to a structure absent prior authorization from the Building Official or designee. Barriers can be permanent or temporary, and may include moveable stanchions and similar items. All barriers must have at least one direct exit made by either providing a gap in the barrier, or with a door or gate that swings in the direction of egress travel equipped with panic hardware and having an operating force of no more than five pounds, or as otherwise required by accessibility regulations. Door or gate swing shall not intrude into any travel or related area, nor shall it intrude into any parking space. An Outdoor Dining area, where alcoholic beverages are consumed, must comply with barrier requirements as may be established by the California Department of Alcoholic Beverage Control.
- (i) Furnishings and structures shall comply with the following:
  - (1) Furnishings and material are required to be sturdy, durable, and attractive.
  - (2) Allowed furnishings may include tables, chairs, umbrellas (including table center and free-standing umbrellas), landscape pots, wait stations, planters, benches, waste receptacles, and similar items that help to define pedestrian and other use of the outdoor dining areas. Materials must be of wood, metal, stone, terra cotta, cast stone, hand-sculpted concrete, a solid surfacing material, or plastic. Plastic resin furnishings are prohibited unless made of commercial-grade materials; chain linked fencing is prohibited.

- (3) No signs shall be affixed to or supported by the furnishings or fixtures except as authorized by Article 63 (Signs), Chapter 5, of Title 8.
  - (4) Permanent fencing, barriers, lighting, heating, cooling or other fixtures are allowed with a building permit; portable heaters are subject to review and approval by the Fire Department.
  - (5) Individual table umbrellas may be used; roof coverings, canopies, tents, structures, or similar items require a building permit and are subject to approval by the Fire Department.
  - (6) Table coverings must be in compliance with public health regulations. Vinyl tablecloths are not permitted. Tablecloths shall be brought indoors nightly and shall be clean when placed outside each day.
  - (7) All Outdoor Dining area and furnishings shall be kept clean and litter-free, and must be kept in a safe condition at all times.
  - (8) Furnishings such as tables and chairs, and fixtures such as portable heaters, shall not be stored in such a way as to be visible from the street for more than 72 hours. Furnishings and fixtures ready for use may remain in the outdoor dining area at all times even if visible from the street.
  - (9) Lighting is permitted during hours of operation to provide for a warm glow (2700 to 3200 degrees Kelvin), and not result in offsite glare.
  - (10) Furnishings and decorations shall not encroach beyond the designated area or overhang pedestrian or vehicular paths of travel outside of the Outdoor Dining Area.
- (j) Outdoor Dining shall comply with all applicable federal, state, and local laws, including Title 7 (Building Regulations), including the Building, Fire, and Electrical Codes; Americans with Disabilities Act (ADA) regulations; California Department of Alcoholic Beverage Control regulations; regulations governing the sale and service of food and beverages to the public; and shall not be a nuisance or constitute a threat to public health and safety.
- (k) Suspension, termination, and revocation:
- (1) The administrative permit issued pursuant to this Article may be suspended by the Development Services Director for up to 30 days for each occurrence of the following i) failure to comply with the requirements of this Article; or ii) failure to comply with the requirements of the administrative permit. Unless the failure to comply poses an immediate risk to public health and safety, an oral or written warning of the violation may be provided by the Director. The Director's determination of suspension must be in writing, list the specific violation, identify the duration of the suspension, when it will go into effect, and provide notice of the opportunity to appeal. The affected party may file a written appeal to the Director within five business days. The Director shall then review the initial

determination, and then issue a final decision on the appeal within three business days.

- (2) The administrative permit issued pursuant to this Article shall automatically terminate and be of no further force or effect upon the occurrence of any of the following: i) the failure to maintain a business license for more than 60 days; ii) transfer or sale of more than 50% of ownership; iii) cessation of operations for 90 days; or iv) modification of an approved site plan or layout of the property that is not reflected in the application for the administrative permit.
- (3) In addition to any other remedies authorized by law, including citation, the City may revoke the approval following the process set forth in Section 8-5.7109, except that the matter shall be heard by the Planning Commission instead of the Council. Any subsequent appeal of the determination of the Planning Commission shall be filed with the City Clerk within 10 days, after which the City Council shall consider the appeal and approve, approve with modifications, or deny the appeal.

#### Sec. 8-5.4905. – Use of City Right of Way.

Use of City street easement or right-of-way (such as a sidewalk area) for Outdoor Dining purposes may be approved at the discretion of the Development Service Director after consultation with the Department of Public Works. Said use shall be subject to the following requirements in addition to those required by Section 8-5.4904 except as noted:

- (a) A valid encroachment permit is required as defined by Section 7-16.58, and a zoning clearance as required by Section 8-5.7002.
- (b) Use of the encroachment area for Outdoor Dining shall be subject to the following:
  - (1) No rent shall be charged for use of the encroachment area.
  - (2) The applicant, at applicant's sole cost, expense, and liability, shall use the encroachment in the Outdoor Dining area solely for purposes of this Article.
  - (3) Use of the encroachment area shall not cause the encroachment area, or adjacent property or right-of-way to become out of compliance with any applicable federal, state or local law including this Code.
  - (4) Applicant shall maintain the encroachment area, promptly dispose of trash and keep it in a clean at all times, and repair it consistent with City standards and at applicant's sole cost and expense. If the applicant fails to reasonably repair any damage to the encroachment area or caused by the applicant or applicant's use of the encroachment area, the City may repair at the sole cost, expense, and liability of applicant.

- (5) To minimize litter and debris, where table wait service is provided or food is served to the customer on a tray to be taken and eaten on site in the outdoor dining area, the plates, glasses, cups, and utensils must be made of permanent (non-disposable) materials such as glass, ceramic, and metal, and high-quality (non-disposable) napkins used.
  - (6) Applicant's use of the encroachment area shall be secondary and subject to any other use of the encroachment area by the City, any easement holder, or provider of utilities including those for water, sewer, electricity, communications, etc. Upon oral or written request by the City, any easement holder, or any provider, applicant shall immediately move or remove any furnishings or structures from any portion of the encroachment area as requested.
  - (7) Applicant shall defend, hold harmless, and indemnify the City regarding applicant's use of the encroachment area.
  - (8) Upon any revocation or termination of the encroachment permit, applicant shall, at its sole cost, expense and liability, remove the any and all furnishings and appurtenant structures and equipment located in the encroachment area, restore the encroachment area to substantially the same condition it was in prior to applicant's use, and surrender to the City all possession, use and occupation of the encroachment area. Upon any revocation or termination of the encroachment permit, applicant shall, at its sole cost, expense and liability, remove the any and all furnishings and appurtenant structures and equipment located in the encroachment area, restore the encroachment area to substantially the same condition it was in prior to applicant's use, and surrender to the City all possession, use and occupation of the encroachment area.
- (c) Semi-permanent structures, facilities, fixtures or buildings are allowed consistent with Title 7 (Building Regulations), but are not required. Such semi-permanent items in the Outdoor Dining area shall be subject to this Code and require an encroachment permit, and potentially a building permit, as well as approval by both the Development Services Director and the Public Works Director. Permanent changes to any sidewalk or public right of way shall require prior approval from either the Development Services Director or Public Works Director. Permanent structures within the City's right of way are not allowed.
- (d) Furnishings and structures shall comply with the following:
- (1) All outdoor dining furnishing shall be of high quality, commercial grade, and designed for outdoor use, and must be approved by the Development Services Director prior to use.
  - (2) Tables and seating shall comply with the following standards:
    - (i) Table and seating framework shall be wrought iron, fabricated steel, cast aluminum, cane or teak.



- (ii) The seat of chairs and other seating shall be wrought iron, fabricated steel, cast aluminum, cane, teak or rattan.
  - (iii) Table tops shall be slate, marble, granite, faux stone, wrought iron, embossed aluminum, teak, tempered glass, and mesh tops of wrought iron and aluminum are permitted. Plastic, resin, and plain metal table tops are not permitted.
  - (iv) Tables and seating shall be of the same or of consistent and compatible design. All furnishings shall be properly maintained and cleaned regularly.
- (3) The following standards shall apply to umbrellas and similar shading furnishings:
  - (i) Umbrellas must be removed from the encroachment area when windspeed or gusts speeds are greater than or equal to 20 mph.
  - (ii) The canopy must be made of canvas; vinyl or plastic umbrellas are prohibited.
  - (iii) Stands must be made of cast aluminum, wrought iron, fabricated steel, or wood.
  - (iv) All umbrella panels shall be of the same solid color. A complementary solid color may be used for trim (such as piping). Patterns (floral, stripes, etc.) and fluorescent colors are prohibited.
- (4) Standing portable propane heaters are permitted, subject to review and approval by the Fire Department. All other types of heaters, including electric or fuel heaters other than propane, are prohibited.
- (5) Sidewalk furnishings that are permitted to be stored outside include planters, casters, and counter-top tables. All furnishings being stored outside shall be locked together each evening and stored in front of the business in a way that does not affect ingress/egress to the building. Any other furnishings must be stored indoors at close of business or 10 p.m. each day, whichever is earlier.
- (6) Furnishings shall be removed immediately upon the change or use or permanent closure of the associated business.
- (e) An applicant shall be required by the permit to maintain the encroachment area free of any nuisance in fact or in law. The applicant shall also be solely responsible for operation, maintenance and repair of the encroachment area, and shall at all times provide and maintain insurance acceptable to the City. Use of the encroachment on the City's property is a non-exclusive, revocable use. The City, in its sole discretion, may revoke the encroachment permit upon determination by the Public Works Director that the use of any portion of the encroachment area is required for any municipal or public utility purpose, or is detrimental to or not in furtherance of the public health, safety, welfare and interest. The encroachment permit may also be revoked, upon determination by the Public Works Director, that the applicant has failed to comply with one or more of the terms, conditions, or restrictions of the encroachment permit

or this Article. The revocation of an encroachment permit issued under this Section is not subject to Section 8-5.7109.

- (f) The addition of lighting shall require approval of Development Services Director or Public Works Director. Permitted lighting is to provide for a warm glow, light sources shall be of warm white light (2700 to 3200 degrees Kelvin). Lighting not approved by the City shall be removed immediately.
- (g) No additional parking shall be required for use of the encroachment area for Outdoor Dining; the parking requirements of Section 8-5.4904g and 8-5.6102 are not applicable to this Section.

Sec. 8-5.4906. – Termination.

No vested or any other property right is created by the approval of this Article or by any use, or construction of any structures, facilities, fixtures, or buildings, authorized by this Section. Should the City repeal or amend this Article, no claim for loss of property rights or due process of any kind shall be maintained against the City.

Section 4. Section 8-5.6102 (Number of parking spaces required) of Article 61 (Off-Street Parking and Loading) of Chapter 5 (Zoning) of Title 8 (Planning and Zoning) of the Yuba City Municipal Code is amended to read as follows:

Sec. 8-5.6102. Number of parking spaces required.

- (a) On-street parking adjacent to commercial and industrial properties in the C and M Districts may be counted towards the amount of required on-site parking. If provided parking exceeds by 10% or more the amount of parking required for the use then orchard parking at a ratio of one tree for each four parking spaces shall be installed. Fractional space requirements shall be rounded to the nearest whole space. The following minimum number of on site parking spaces shall be provided for each use.

Note: "sf." refers to square ft. and "gfa." refers to gross floor area.

<i>Residential</i>	<i>Number of Spaces</i>
One-family residence	2 spaces per unit.
Two-family residence	2 spaces per unit.
Mobile home parks	2 spaces (may be tandem) per unit. Plus 1 space for each 5 units for guest parking.
Multiple-family residences	1 space per studio apartment or 1 bedroom dwelling unit; 1.5 spaces per 2 bedroom dwelling unit; and 2 spaces per 3 or more bedroom dwelling unit. Plus 1 guest space for each 10 units.

Rooming houses, boarding houses, and bed and breakfast facilities	2 spaces, plus 1 space per room for rent.
Second one-family residence in the R-1 District:	
Housing with at least 1 resident required to be 62 years of age or older	1 space.
Containing only 1 bedroom	1 space.
Containing two or more bedrooms	2 spaces.
Senior citizen housing projects	.6 of a space per dwelling unit for those projects restricted to tenants who are either 62 years of age or older, or are handicapped; or Senior citizen congregate care facility parking requirements may be adjusted on an individual project basis, subject to a parking study based on project location and proximity to services for senior citizens, including, but not limited to, medical offices, shopping areas, transit availability, etc.
<i>Commercial</i>	<i>Number of Spaces</i>
Amusement/recreational facilities:	
Billiard/pool parlor	2 spaces for each table.
Bowling alley	3 spaces for each lane, plus as required for incidental uses (i.e., pro shop, coffee shop, etc.).
Miniature golf course	1 space per hole, plus as required for incidental uses (i.e., food services, game room, etc.).
Movie theater	1 space for each 4 seats.
Tennis/racquetball/health club	1 space for each 400 sf. of gfa., plus 1.5 spaces per tennis court.
Theme/amusement park, recreational, go carts, etc.	To be determined at time of project review.
Video game arcade	1 space for each 200 sf. of gfa.
Automotive related repair shops	1 space for each 400 sf. of gfa.
Bank	1 parking space for each 175 sf. of gfa. or 1 parking space for each employee at maximum

	employment plus 1 parking space for each 250 sf. of gfa., whichever is greater.
Dance halls and exhibition halls	1 parking space for each 100 sf. used for assembly, skating or dancing area.
Day care center	1 space for each teacher, plus 1 space for each 400 sf. of the structure used by the children.
Laboratory, medical and dental	1 space for each 400 sf. of gfa.
Mortuaries and funeral homes	1 parking space for each 40 sf. of gfa. for assembly rooms used for services, but in no case less than 10 spaces.
Motels and hotels	1 parking space per unit, plus 1 space for each 2 employees, plus as required for associated facilities.
Office, business	1 parking space for each 300 sf. of gfa.
Office, medical and dental	1 space for each 200 sf. of gfa. or 5 spaces for each doctor, whichever is the greater.
Outdoor sales (auto sales, boat sales, and other uses not contained in a building or structure, except for equipment storage yards)	1 space for each 500 sf. of gfa. for office, showroom, vehicle repair and parts department, plus 1 space per 10,000 sf. of outdoor display area.
Personal services (beauty parlor, barber shop, dog grooming, nail care, tanning salon, massage parlor, etc.)	1 space for each 150 sf. of gfa.
<b>Retail</b>	
Food stores	1 space for each 150 sf. of retail floor area, plus 1 space for each 500 sf. of storage, office space, etc.
Large appliance/furniture stores	1 space for each 1,000 sf. of sale floor display area, office, etc., plus 1 space for each 2,000 sf. of warehouse storage.
Retail stores and shopping centers	1 space for each 250 sf. of gfa., excluding food stores, see above.
Retail nursery/garden shop	1 space for each 250 sf. of indoor retail sales area, office, etc., plus 1 space for each 500 sf. of indoor plant display area, plus 1 space for each 2,500 sf. outdoor plant display area.
Restaurant, <u>coffee shops</u> , and cocktail lounges <sup>(1)</sup>	1 space for each 3 seats, plus 1 space for 50 sf. of dance floor or assembly area without fixed seats. No parking is required for outdoor

	seating when seats provided equal 50% or less of total indoor seating.
Service stations	1 space for every 3,000 sf. of land area.
Schools (business and trade)	1 space for each 150 sf. of gfa., or 1 space per 1.5 students and staff at design capacity, whichever is greater.
<i>Institutional</i>	<i>Number of Spaces</i>
Churches, stadiums, arenas, assembly halls, clubs and auditoriums	1 parking space for each 4 fixed seats. Where fixed seats consist of pews or benches, seating capacity shall be computed at 20 in. of lineal length for each seat. For those uses without fixed seats, 1 space for each 40 sf. of assembly seating area.
Hospitals	1 space for each bed, plus 1 space for each 300 sf. of area used for office, clinics, testing, research, administration and similar activities associated with the principal use.
Libraries, museums, art galleries	1 space for each 300 sf. of gfa.
Rest rooms, residential care facilities for 7 or more individuals, convalescent hospitals, and sanitariums	1 space for each 2 beds.
Schools:	
Nursery/pre-school	1 space for each staff member, plus 1 space for each 10 children.
Elementary/junior high	2 spaces for each classroom.
High School	7 spaces for each classroom.
Community college/university	10 spaces for each classroom.
<i>Industrial</i>	<i>Number of Spaces</i>
Auto dismantling/junkyards/recycling centers	1 space for each 500 sf. of gfa., plus 1 space for each .5 acre of gross outdoor use area.
Manufacturing	1 parking space for each 2 workers, based on the work shift with the largest number of expected employees.
Mini-storage facilities	1 space per 300 sf. of office area, plus 4 spaces for customer parking.
Warehouse and wholesale storage	1 parking space for each 2,000 sf. of gfa.

(1) Outdoor dining allowed in accordance with the Outdoor Dining Ordinance per Article 49 (Outdoor Dining) of Chapter 5 (Zoning) of Title 8 (Planning and Zoning).

- (b) Requirements for uses not specifically set forth in the article shall be determined by the Planning Director based upon the requirements for comparable uses.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

Section 6. The City Clerk shall certify to the adoption of this Ordinance and cause it to be published, in accordance with Government Code, Section 36933, or as otherwise required by law.

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Section 7. This ordinance shall take effect and be in full force and effect from and after 30 days after its final passage and adoption.

Introduced and read at a regular meeting of the City Council of the City of Yuba City on the 6<sup>th</sup> day of July, 2021, and passed and adopted at a regular meeting held on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2021.

AYES:

NOES:

ABSTAIN:

ABSENT:

By: \_\_\_\_\_  
Marc Boomgaarden, Mayor

ATTEST:

\_\_\_\_\_  
Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM  
COUNSEL FOR YUBA CITY:

By: \_\_\_\_\_  
Shannon Chaffin, City Attorney  
Aleshire & Wynder, LLP