

ORDINANCE NO. 008-10

AN ORDINANCE OF THE CITY OF YUBA CITY AMENDING ARTICLES 80, 13, AND 14 OF THE CITY'S ZONING ORDINANCE; SPECIFICALLY ENACTING NEW DEFINITIONS AND DEVELOPMENT STANDARDS/RESTRICTIONS FOR "EATING AND DRINKING ESTABLISHMENTS", "BARS AND DRINKING PLACES", AND "NIGHTCLUBS"

THE CITY COUNCIL OF THE CITY OF YUBA CITY DOES ORDAIN AS FOLLOWS:

WHEREAS, on August 5, 2008 the City Council approved an Urgency Ordinance to adopt new definitions and development standards in the City of Yuba City's Zoning Code and *Central City Specific Plan* relating to eating and drinking establishments; bars and drinking places; and, nightclub use types to address community concerns regarding the location of bars and drinking establishments and nightclub uses and the potential for public safety and nuisance impacts including: noise; parking and traffic; public disturbances and loitering, new development standards are necessary; and,

WHEREAS, the City Council approved an extension of the Urgency Ordinance as allowed by Government Code Section 65858 on September 16, 2009 meeting to extend the provisions of the Urgency Ordinance relating to eating and drinking establishments; bars and drinking places; and, nightclub use types; and,

WHEREAS, there is concern that the city does not have sufficient definitions and development standards in place that can prevent an existing eating and drinking establishment business from expanding into a nightclub use that could be incompatible with surrounding properties without a formal public review process without the formal amendments to the Zoning Ordinance and *Central City Specific Plan*; and,

WHEREAS, the City Council of the City of Yuba City wishes to implement new development standards for bars and drinking places and nightclubs that ensures compatibility between these use types and surrounding land uses within the city so that the public health, safety, or welfare, is protected, and the market values and aesthetic and visual qualities of the city are protected from impairment through the formal adoption of permanent definitions and development standards in the Zoning Ordinance and *Central City Specific Plan*.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF YUBA CITY DOES ORDAIN AS FOLLOWS:

Section 1: Yuba City Zoning Ordinance, Article 80. Definitions, is hereby amended to include the following modifications:

Section 8-5.8004(a) is added as follows: "Bars and drinking places" – includes establishments within a building where alcoholic beverages are sold for on-site

consumption, that are not a part of a restaurant. Includes bars, sport bars, taverns, pubs, brew pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages.

Section 8-5.8020(a) is added as follows: "Eating and drinking establishments – full service restaurant" – includes establishments primarily engaged in the preparation and retail sale of food and beverages, where food is ordered and served at a table, and which may include sales of alcoholic beverages as an accessory or secondary service. A full service restaurant does not include a place where food service is incidental to the service of alcoholic beverages, constituting less than 60 percent of sales. Upon request by City officials, the owner/operator of a business shall submit evidence of total food service sales to the City to verify compliance with this definition. In the event that it is determined that food service is less than 60 percent, the subject business/use shall be considered a "bar and drinking place" as defined in Section 8-5.8004(a). For purposes of this chapter, to the extent that a restaurant is open after 11:00 p.m. on Sundays through Thursdays and/or after 12:00 a.m. on Fridays and Saturdays and is incorporating any components of "entertainment" as defined herein, the restaurant shall be considered a nightclub and a Use Permit shall be required.

Section 8-5.8040(a) is added as follows: "Nightclubs" – includes establishments or places of entertainment within a building, open primarily at night, usually but not necessarily serving alcohol, and providing amplified live or recorded music, and/or a space reserved for dancing. Does not include adult entertainment businesses which are prohibited. Nightclub uses shall not be located within 500 feet of a residential zone district as measured from the residential zone district boundary to the structure where the nightclub use is proposed.

Section 2: Articles 13 and 14 of the Yuba City Zoning Ordinance are hereby amended to include the following modifications:

Section 8-5.1302. "C-2 Uses" is modified so that "Bars and drinking places" and "Nightclubs" require a Use Permit in the C-2 zone district. Additionally, note number 8 shall be added to the above referenced section which states that: "Nightclub uses shall not be located within 500 feet of a residential zone district as measured from the residential zone district boundary to the structure where the nightclub use is proposed."

Section 8-5.1402. "C-3 Uses" is modified so that "Bars and drinking places" is a Permitted Use in the C-3 zone district and "Nightclubs" requires a Use Permit in the C-3 zone district. Additionally, note number 7 shall be added to the above referenced section which states that: "Nightclub uses shall not be located within 500 feet of a residential zone district as measured from the residential zone district boundary to the structure where the nightclub use is proposed."

Section 3: Severability

The provisions of this Ordinance are declared to be severable and if any section,

sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4: CEQA

The City Council hereby determines that this ordinance is exempt from environmental review under the California Environmental Quality Act because it can be seen with certainty it will not have a significant effect on the environment. (CEQA Guideline 15061(b)(3).)

Section 5: Effective Date

This ordinance shall become effective 30 days after its adoption and within fifteen (15) days of the passage of this ordinance, a copy shall be published once in the Appeal Democrat, a newspaper of general circulation in the City of Yuba City.

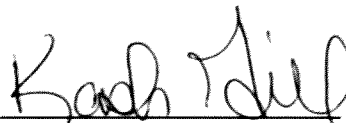
Pass and adopted this 17th day of August, 2010, by the following vote:

AYES: Councilmember Dukes, Maan, McBride, Miller and Mayor Gill


NOES: None

ABSENT: None

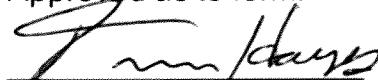
ABSTAIN: None


Kash Gill, Mayor

Attest:


Terrell Locke, City Clerk

Approved as to form:


Tim Hayes, City Attorney