

CITY OF YUBA CITY
STAFF REPORT

Date: February 20, 2018
To: Honorable Mayor & Members of the City Council
From: Police Department
Presentation By: Brian Baker, Lieutenant

Summary

Subject: Public Consumption and Possession of Alcoholic Beverages
Recommendation: Introduce an Ordinance repealing and re-enacting Chapter 6 of Title 5 of the Yuba City Municipal Code regarding Public Consumption and Possession of Alcoholic Beverages, and waive the first reading.
Fiscal Impact: None

Purpose:

In an effort to better address liquor violations on licensed premises, the proposed ordinance would give law enforcement the ability to take enforcement action for individuals consuming an alcoholic beverage in parking lots that are open to the public. The ordinance will also address the possession of open containers of alcoholic beverages on the posted premises of a licensed off-sale retailer.

Background:

The current Chapter 6 of Title 5 of the Yuba City Municipal Code, only prohibits the public consumption of an intoxicating liquor on a public street or sidewalk, but does not address the issue of individuals consuming alcoholic beverages in public parking lots such as the Yuba Sutter Fairgrounds, and other retail parking lots in the community. This action will address individuals consuming alcoholic beverages on the premises of a licensed alcoholic beverage retailer.

Analysis:

Staff has researched what local municipalities have done to address the issue of individuals consuming alcoholic beverages in public places. Several local municipalities have ordinances similar to the one that is proposed. While there are already sections in the California Business and Professions Code that address the consumption of an alcoholic beverage on the premises of a properly licensed retailer, this provision is difficult to enforce in the parking lot areas of retailers that share a common parking area with other retailers. An example of this situation would be the convenience store in a retail shopping center located at the corner of Live Oak Boulevard and Queens Avenue.

In addition, the proposed ordinance prohibits the possession of an open alcoholic beverage on the posted premises of a licensed off-sale retailer.

There have several exemptions written into the proposed ordinance, those exemptions include:

1. City sponsored events where the City has authorized the consumption of alcoholic beverages in designated areas.
2. Sidewalk areas adjacent to restaurants on Plumas Street if the City has granted a permit for outdoor dining on the sidewalk area and the ABC [spell out acronym the first time] has issued a license which permits the sidewalk consumption of alcoholic beverages.
3. Areas specifically permitted pursuant to the terms of a license issued by the ABC.

Fiscal Impact:

None

Alternatives:

Retain the current ordinance or direct staff to research additional alternatives.

Recommendation:

Introduce an Ordinance repealing and re-enacting Chapter 6 of Title 5 of the Yuba City Municipal Code Public Consumption and Possession of Alcoholic Beverages, and waive the first reading.

Attachment:

A. Ordinance

Prepared By:

/s/ Brian Baker
Brian Baker
Lieutenant

Submitted By:

/s/ Steven C. Kroeger
Steven C. Kroeger
City Manager

Reviewed By:

Department Head
Finance
City Attorney

RL
RB via email
TH via email

ATTACHMENT A

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF YUBA CITY
REPEALING CHAPTER 6, TITLE 5 AND RE-ENACTING
CHAPTER 6, TITLE 5 OF THE YUBA CITY MUNICIPAL CODE
REGARDING PUBLIC CONSUMPTION AND POSSESSION
OF ALCOHOLIC BEVERAGES**

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

Section 1. Repeal Chapter 6, Title 5 of the Yuba City Municipal Code.

The existing Chapter 6, Title 5 of the Yuba City Municipal Code regarding intoxicants is hereby repealed.

Section 2. Addition of Chapter 6, Title 5 to the Yuba City Municipal Code.

Chapter 6, Title 5 is hereby re-enacted and added to the Yuba City Municipal Code to read as follows:

Chapter 6
**Public Consumption and Possession
Of Alcoholic Beverages**

Sections

- 5-6.01 Definitions
- 5-6.02 Consumption of alcoholic beverage
- 5-6.03 Possession of alcoholic beverage
- 5-6.04 Exceptions

5-6.01 Definitions

For purposes of this chapter:

(a) "Alcoholic beverage" is as defined in Business and Professions Code Section 23004.

(b) "ABC" means the Alcoholic Beverage Control Board for the State of California.

5-6.02 Consumption of alcoholic beverages

It is unlawful for any person to consume any alcoholic beverage:

(a) On any public street, sidewalk, alley, walkway, parking lot.

(b) On private property open to the public, including but not limited to parking lots and shopping centers except where expressly permitted pursuant to the terms of a license issued by the ABC.

5-6.03 Possession of alcoholic beverages

(a) It is an infraction for any person to have in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, to enter, be, or remain on the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code, or on any public sidewalk immediately adjacent to the licensed and posted premises.

(b) As used in subdivision (a), "posted premises" means those premises which are subject to licensure under any retail package off-sale alcoholic beverage license, the parking lot immediately adjacent to the licensed premises and any public sidewalk immediately adjacent to the licensed premises on which clearly visible notices indicate to the patrons of the licensee and parking lot and to persons on the public sidewalk, that the provisions of subdivision (a) are applicable.

5-6.04 Exceptions

The prohibitions in this chapter shall not apply to:

(a) City sponsored events where the City has authorized the consumption of alcoholic beverages in designated areas.

(b) Sidewalk areas adjacent to restaurants on Plumas Street if the City has granted a permit for outdoor dining on the sidewalk area and the ABC has issued a license which permits the sidewalk consumption of alcoholic beverages.

(c) Areas specifically permitted pursuant to the terms of a license issued by the ABC.

Section 3. Effective Date

This ordinance shall become effective thirty (30) days after its adoption. A summary of this ordinance shall be published once at least five (5) days prior to the adoption of this ordinance and once within fifteen (15) days after its adoption, in the Appeal Democrat, a newspaper of general circulation in the City of Yuba City.

Introduced and read at a regular meeting of the City Council of the City of Yuba City the 20 day of February, 2018, and adopted at a regular meeting thereof held on the ____ day of _____, 2018.

#####

AYES:

NOES:

ABSENT:

ABSTAIN:

Preet Didbal, Mayor

ATTEST:

Patricia Buckland, City Clerk

Approved as to form:

Tim Hayes, City Attorney