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ORDINANCE NO. 2462
(Codified)

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICO
ADDING CHAPTER 19.09 “DEEMED APPROVED ALCOHOLIC BEVERAGE
SALE REGULATIONS” TO TITLE 19 OF THE CHICO MUNICIPAL CODE**

BE IT ORDAINED by the Council of the City of Chico as follows:

Section 1. That Chapter 19.09 entitled “Deemed Approved Alcoholic Beverage Sale Regulations” is added to the Chico Municipal Code to read as follows:

Chapter 19.09

DEEMED APPROVED ALCOHOLIC BEVERAGE SALE REGULATIONS

19.09.010 Title, purpose, and applicability.

19.09.020 Definitions.

19.09.030 Deemed approved performance standards.

19.09.040 Deemed approved status procedure.

19.09.010 Title, purpose, and applicability.

A. Title of Deemed Approved Alcoholic Beverage Sale Regulations. The provisions of this chapter shall be known as the “deemed approved alcoholic beverage sale regulations.”

B. Purpose of Deemed Approved Alcoholic Beverage Sale Regulations. The general purposes of the deemed approved alcoholic beverage sale regulations are to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare by requiring that specified commercial activities involving alcoholic beverage sales that were established without use permit approval prior to the effective date of the deemed approved alcoholic beverage sale regulations comply with the deemed approved performance standards of Section 19.09.03017.11.030 and to achieve the following objectives:

1. To protect residential, commercial, industrial, and public/quasi-public areas and minimize the adverse impacts of nonconforming and incompatible uses;
2. To provide opportunities for those land uses involved in alcoholic beverage sales to operate in a mutually beneficial relationship to each other and to other commercial and

- 1 public/quasi-public services;
- 2 3. To provide mechanisms to address problems often associated with the public
- 3 consumption of alcoholic beverages, such as litter, loitering, graffiti, unruly behavior and
- 4 escalated noise levels;
- 5 4. To provide that businesses which sell alcohol specified in this chapter are not the source
- 6 of undue public nuisances in the community;
- 7 5. To provide for properly maintained businesses which sell alcohol so that negative
- 8 impacts generated by these activities are not harmful to the surrounding environment; and
- 9 6. To monitor that deemed approved activities do not substantially change in mode or
- 10 character of operation.

11 C. Applicability of Deemed Approved Alcoholic Beverage Sale Regulations. This chapter shall

12 apply to the following land uses in the city which were established without use permit

13 approval prior to the effective date of the ordinance codified in this chapter, and as defined in

14 Chapter 19.0417.100: alcoholic beverage establishments, liquor stores, nightclubs, and

15 restaurants with full bar.

- 16 1. Duplicated Regulation. Whenever any provision of this chapter and any other provision
- 17 of law, whether set forth in this code, or in any other law, ordinance, or resolution of any
- 18 kind, impose overlapping or contradictory regulations, or contain restrictions covering
- 19 any of the same subject matter, that provision which is more restrictive or imposes higher
- 20 standards shall control, except as otherwise expressly provided in this chapter.

21 **19.09.020 Definitions.**

22 A. The meaning and construction of words and phrases as hereinafter set forth shall apply

23 throughout this chapter, except where the context of such words or phrases clearly indicates a

24 different meaning or construction.

25 As used in this chapter:

26 “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid

27 containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of

1 alcohol by volume and which is fit for beverage purposes either alone or when diluted,
2 mixed, or combined with other substances, and sales of which require a State Department of
3 Alcoholic Beverage Control license.

4 "Condition of approval" means a requirement which must be carried out by a business in
5 order to retain its deemed approved status.

6 "Deemed approved activity" means operation of the stated uses applicable to this chapter as
7 defined.

8 "Deemed approved status" means the status conferred upon a deemed approved activity.

9 "Illegal activity" means an activity which has been finally determined to be in
10 noncompliance with the deemed approved performance standards in Section
11 19.09.03017.11.030. Such an activity shall lose its deemed approved status and shall no
12 longer be considered a deemed approved activity.

13 "Performance standards" means regulations prescribed in the deemed approved performance
14 standards in Section 19.09.03017.11.030.

15 "Premises" means the actual space within a building or outdoor seating area devoted to
16 alcoholic beverage sales and consumption.

17 "Restaurant" means an eating establishment as defined in Chapter 19.04.020.

18 **19.09.030 Deemed approved performance standards.**

19 A. Title and Purpose. The provisions of this section shall be known as the "deemed approved
20 performance standards." The purpose of these standards is to control the potentially
21 detrimental or objectionable environmental effects of alcoholic beverage sales by specified
22 land uses applicable to this chapter.

23 B. Applicability. These standards shall apply to the following land uses listed in Section
24 19.09.010: alcoholic beverage establishments, liquor stores, nightclubs, and restaurants with
25 full bar, all as defined in Chapter 19.04.020. This section is applicable to these uses under the
26 following circumstances:

27 1. Alcoholic beverage establishments, liquor stores, nightclubs, and restaurants with full bar

1 which were established without use permit approval prior to the effective date of the
2 ordinance codified in this chapter.

- 3 2. Alcoholic beverage establishments, liquor stores, nightclubs, and restaurants with full bar
4 which are inconsistent with the land use tables in Division IV of this title, and were
5 established prior to the effective date of the ordinance codified in this chapter.

6 C. Performance Standards and Deemed Approved Activities. An activity shall retain its deemed
7 approved status only if it conforms with all of the following deemed approved performance
8 standards:

- 9 1. That it does not result in adverse effects to the health, peace, or safety of persons residing
10 or working in the surrounding area;
- 11 2. That it does not jeopardize or endanger the public health or safety of persons residing or
12 working in the surrounding area;
- 13 3. That it does not result in repeated nuisance activities within the premises or in close
14 proximity of the premises, including but not limited to disturbance of the peace, illegal
15 drug activity, public drunkenness, drinking in public, harassment of passersby, gambling,
16 prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of
17 vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises,
18 especially in the late night or early morning hours, traffic violations, curfew violations,
19 lewd conduct, or police detentions and arrests;
- 20 4. That it does not result in violations to any applicable provision of any other city, state, or
21 federal regulation, ordinance, or statute;
- 22 5. That its upkeep and operating characteristics are compatible with and do not adversely
23 affect the livability or appropriate development of abutting properties and the
24 surrounding neighborhood.

25 **19.09.040 Deemed approved status procedure.**

26 A. Deemed Approved Status Procedure. The provisions of this section shall be known as the
27 "deemed approved status procedure." The purpose of these provisions is to: (1) provide

1 notice of deemed approved status upon those land use categories applicable to this chapter;
2 (2) prescribe the procedure for the imposition of conditions of approval upon these activities;
3 and (3) prescribe the procedure for appealing conditions of approval or the revocation of a
4 deemed approved status.

5 B. Automatic Deemed Approved Status. All land use categories applicable to this chapter per
6 Section 19.09.030.B. shall automatically become deemed approved activities as of the
7 effective date of the ordinance codified in this chapter. Each such deemed approved activity
8 shall retain its deemed approved status as long as it complies with the deemed approved
9 performance standards in Section 19.09.030.C.

10 C. Notification to Owners of Deemed Approved Activities. The Community Development
11 Director shall notify the owner of each deemed approved activity, and also the property
12 owner if not the same, of the activity's deemed approved status. Such notice shall be sent via
13 certified return receipt mail and shall include a copy of the performance standards of Section
14 19.09.030.C. with the requirement that these be posted in a conspicuous and unobstructed
15 place visible from the entrance of the establishment for public review; notification that the
16 activity is required to comply with all these same performance standards; and that the activity
17 is required to comply with all other aspects of this chapter.

18 D. Procedure for Consideration of Violations to Performance Standards. Upon receiving a
19 complaint from the public, police department, code enforcement officer, or any other party
20 that a deemed approved activity is in violation of the performance standards of Section
21 19.09.030.C., the Community Development Director shall determine whether violations
22 appear to be occurring. If it is determined that violations are occurring, the Community
23 Development Director shall provide written notice to the owner of the deemed approved
24 activity regarding the violations, and provide the owner a reasonable opportunity to institute
25 measures to avoid future violations. If violations continue to occur after such notice and
26 reasonable opportunity, then a public hearing will be scheduled before the Planning
27 Commission, as follows:

1 1. The Community Development Director will provide the complainant, the business owner
2 of the deemed approved activity, the property owner, if not the same as the business
3 owner, and other interested parties with at least thirty calendar days' advance notice of
4 the public hearing. Interested parties are defined as those that have made a request with
5 the city clerk to be notified of these proceedings, and shall include the Chamber of
6 Commerce, and the Downtown Chico Business Association or its successor agency in all
7 instances involving an establishment within the boundaries of the Downtown Chico
8 Business Association or its successor agency.

9 2. The purpose of the hearing is to receive evidence and testimony on whether the deemed
10 approved activity is operating in compliance with the deemed approved performance
11 standards established in 19.09.030.C. At the public hearing, the Planning Commission
12 shall determine whether the deemed approved activity conforms to such standards and to
13 any other applicable criteria. At the conclusion of the hearing, the Planning Commission
14 may continue the deemed approved status for the activity in question or require such
15 changes, or impose such reasonable conditions of approval as are necessary, to ensure
16 conformity to said criteria. The decision of the Planning Commission shall be based upon
17 information compiled by staff and evidence and testimony from the complainant, the
18 business owner, the property owner if not the same, and all other interested parties. New
19 conditions of approval may be made a part of the deemed approved status and the
20 deemed approved activity shall be required to comply with these conditions. Should the
21 Commission act to evoke a deemed approved status, the Director shall issue to the
22 appropriate parties an Administrative Citation pursuant to Municipal Code Chapter 1.15
23 immediately upon the effective date of such action by the Commission. The
24 determination of the Planning Commission shall become final ten calendar days after the
25 date of decision unless appealed to the City Council in accordance with Chapter 2.80.

26 E. Procedure for Consideration of Violations of Standards or Conditions of Approval. In the
27 event of a violation of any condition of approval or of further violations of the provisions set

1 forth in Sections 19.09.010 through 19.09.030, the Planning Commission shall hold a noticed
2 public hearing. The purpose of this public hearing is to receive testimony and determine
3 whether violations of conditions of approval or of Sections 19.09.010 through 19.09.030
4 exist. The Planning Commission may add to or amend the existing conditions of approval
5 based upon the evidence presented, or alternatively may revoke the deemed approved
6 activity's deemed approved status. The determination of the Planning Commission shall
7 become final ten calendar days after the date of decision unless appealed to the City Council
8 in accordance with subsection F of this section.

9 F. Appeal to City Council. Appeals of the decisions of the Planning Commission may be filed
10 in accordance with Chapter 2.80, Appeals From a Decision, Determination, or Order Made
11 or Issued By a City Board, Commission, Officer or Employee. In considering the appeal, the
12 City Council shall determine whether the established use conforms to the applicable deemed
13 approved performance standards and may continue or revoke a deemed approved status; or
14 require such changes in the existing use or impose such reasonable conditions of approval as
15 are, in its judgment, necessary to ensure conformity to said performance standards.

16 This ordinance was adopted by the City Council of the City of Chico at its meeting held on
17 May 19, 2015, by the following vote:

18 AYES: Coolidge, Fillmer, Ritter, Schwab, Stone, Morgan, Sorensen

19 NOES: None


20 ABSENT: None


21 ABSTAIN: None

22 DISQUALIFIED: None

23 ATTEST:

APPROVED AS TO FORM AND CONTENT:

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25
26 
27 Deborah R. Presson, City Clerk


Vincent C. Ewing, City Attorney